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CHAPTER 28

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Amendments and the Germaneness Rule

A. GENERAL PRINCIPLES

§ 1. Introduction

A House rule[1] provides that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

The rule states the requirement of "germaneness," which pertains to the relationship between an amendment and the matter sought to be amended.[2] The "germaneness" rule, as it is known, contains one of the most important principles affecting legislative proceedings, and has been adopted by the House in every Congress since 1789. Moreover, since the requirement of germaneness of amendments is an integral part of the legislative process, the issue of germaneness may properly be raised in the House even prior to the adoption of the rules.[3]

The rule of germaneness applies to amendments and not to language of the bill as introduced.[4] Thus, while a committee may re-

1. Rule XVI clause 7, *House Rules and Manual* § 794 (1991). *Note:* This chapter provides complete coverage of precedents through the 100th Congress, 2d session, and discusses significant precedents from the 101st Congress. For earlier coverage of the subject of germaneness, see 5 Hinds' Precedents §§ 5801–5924; 8 Cannon's Precedents §§ 2908–3064.

2. See § 2, infra, for general discussion of the determination of the proposition to which an amendment must be germane.

3. See § 1.1, infra.

4. See the ruling of Chairman Eugene J. Keogh (N.Y.) at 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955, with regard to a point of order raised by Mr. H.R. Gross (Iowa). The Chair indicated that a point of order will not lie if based on the contention that provisions contained in a bill as introduced are not within the jurisdiction of the committee reporting the bill.

See also the remarks of Chairman Frank H. Buck (Calif.) at 83 CONG. REC. 2174, 75th Cong. 3d Sess., Feb. 18, 1938. In response to a point of order raised by Mr. John W. McCormack (Mass.), the Chairman noted that the question of germaneness was not in issue, since "This is a provision in the bill as reported by the committee, and not an amendment to it."

A point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill. See § 17.1, infra.

port a bill embracing different subjects, it is not in order during consideration of the bill to introduce a new subject by way of amendment. The rule, however, applies to amendments offered by the committee as well as to amendments offered from the floor.[5]

The concept of germaneness implies more than the mere "relevance" of one subject to another. It is frequently stated that the fact that two subjects are related does not necessarily render them germane to each other.[6] The germaneness of an amendment, for example, may depend on the relative scope of the amendment and the proposition sought to be amended. Thus, a proposition of narrow or limited scope may not be amended by a proposition of a more general nature.[7]

One important purpose of the germaneness rule is to prevent the House from having to consider matters for which it is not fully prepared. Thus, an amendment may be held to be germane only if its subject bears a certain relationship to that of the proposition sought to be amended. An informal criterion that appears from the rulings discussed in this chapter may be that if the subject of a proposed amendment to a bill is not one that would reasonably be expected to be within the contemplation of those considering that bill, the amendment is probably not germane. Conversely, if consideration of the general subject matter of the amendment would naturally arise during consideration of the bill itself, it may be germane. Accordingly, one frequently cited test of the germaneness of an amendment to a bill is whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill.[8]

Mr. Carl Albert, of Oklahoma, then Majority Leader, once stated with respect to the rule requiring germaneness of amendments:[9]

> [The rule of germaneness] is a rule which this Congress has followed since 1789. . . .
>
> It is the rule without which this House could never complete its legislative program if there happened to be a substantial minority in opposition. . . .
>
> No legislative body of this size could ever operate unless it did comply with the rule of germaneness. . . .

The germaneness of an amendment should be determined from provisions of its text rather than

5. See, for example, § 42.5, infra. See, generally, § 22, infra.

6. See, for example, § 3.57, infra.

7. See § 9, infra.

8. See § 4, infra.

9. See § 17.2, infra.

from the purposes which circumstances may suggest.[10]

Other factors may determine issues of germaneness. For example, a proposition to expel a Member would not be germane to a proposition to censure, since a different requirement as to the voting margin is mandated.[11]

The only challenge to a ruling of the Chair or the content thereof lies through an appeal. Appeals from germaneness rulings are not traditional in the practices of the House, and when made go to the propriety of the Chair's ruling and not to the substance of the subject of the amendment. The germaneness rule itself, for example, applies only to amendments and cannot be used to challenge a ruling of the Chair.[12]

10. 5 Hinds' Precedents, §§ 5783, 5803.

11. See the proceedings of July 30, 1979, at 125 CONG. REC. 21297, 21298, 96th Cong. 1st Sess., in which a privileged resolution was offered to expel a Member, in preference to reserving the question for consideration in later connection with a proposal to censure the Member.

12. See, for example, the response of the Chair at 124 CONG. REC. 23108, 95th Cong. 2d Sess., July 27, 1978, to a parliamentary inquiry made by Mr. Robert E. Bauman, of Maryland, perhaps facetiously, as to whether one could "make a point of order against the ruling . . . for not being germane to the point of order."

While numerous precedents (rulings of the Chair) have been chronicled with respect to the germaneness of amendments in a wide variety of contexts, it is essential to note that the Chair, in determining which of the tests of germaneness discussed in this chapter is most applicable, must first understand the nature and scope of the pending portion of the proposition being amended, and then the relationship of the offered amendment to that pending text. By initially achieving such a textual understanding, the Chair is then advised to follow the most appropriate line of precedent in rendering a ruling. It is therefore possible for the reader to avoid the misperception that an equally compelling and valid germaneness test can be applied and precedent cited to support either side of a germaneness point of order, by examining in full the pending bill and amendment text either where it is printed in this chapter or in the permanent *Congressional Record* where cited.

Application of Rule Before Adoption of Rules

§ 1.1 Prior to the adoption of the rules, when the House is operating under general parliamentary law, an amend-

ment may nevertheless be subject to a point of order if it is not germane to the proposition to which offered.

In the 91st Congress, during consideration of a resolution providing that the Speaker administer the oath of office to a Member-elect,[13] an amendment was offered[14] which provided that the Speaker should administer the oath, but which also added several conditions by way of punishment of the Member-elect for acts committed in a prior Congress. Such punishment included a fine and loss of seniority. In ruling on a point of order raised by Mr. Emanuel Celler, of New York, against the amendment, the Speaker[15] stated:[16]

> The Chair will state . . . that while we are operating under general parliamentary law . . . volume VIII, section 3384 of Cannon's Precedents states:
>
> > While the House is governed by general parliamentary usage prior to the adoption of rules, the Speakers have been inclined to give weight to the precedents of the House in the interpretation of that usage. . . .
>
> [I]t appears to the Chair that the punishment of Mr. Powell for acts committed in the 88th or 89th Congresses, or declaring his seat vacant in the 91st Congress, is not germane to the proposition that he be now sworn in.
>
> The Chair sustains the point of order.[17]

Relationship Between Amendment and Text To Be Amended

§ 1.2 The germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest, nor by the fact that the amendment, offered to a public bill, may in substance be characterized as private legislation benefiting individuals.

The proceedings of May 30, 1984, relating to H.R. 5167, the

13. Under consideration was H. Res. 1, providing for administration of the oath of office to Representative-elect Adam Clayton Powell.

14. 115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969.

15. John W. McCormack (Mass.).

16. 115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969.

17. As a further example, see the remarks of Speaker McCormack at 113 CONG. REC. 15, 90th Cong. 1st Sess., Jan. 10, 1967, in response to a parliamentary inquiry by Mr. Joseph D. Waggonner, Jr. (La.). The Speaker's statement was to the effect that, where a resolution is being considered in the House prior to adoption of the rules, the rule applies that, after rejection of a motion for the previous question, the resolution is open to "any germane amendment."

Defense Department authorization for fiscal 1985, are discussed in § 3.45, infra.

Point of Order Based on Committee Jurisdiction But Without Reference to Germaneness Issue

§ 1.3 The point of order that a section in a committee amendment in the nature of a substitute was not within the jurisdiction of that committee does not lie when that section is read for amendment, where no question of germaneness is presented.

The proceedings of July 16, 1974, during consideration of H.R. 15560 (a bill concerning loans to livestock producers) are discussed in § 43.8, infra.

§ 2. Proposition to Which Amendment Must Be Germane

The requirement of germaneness pertains to the relationship between an amendment and the particular proposition sought to be amended. For example, the issue has been raised with respect to an amendment to a particular part of a bill,[18] amendments to amendments[19] and amendments affecting specified provisions of existing law where the bill itself amends such law.[20]

It is well established that the subject matter of an amendment must relate to the portion of the bill to which it is offered.[1] If offered to a specific section of a bill, the amendment should be germane to that section. If the amendment is offered as a new section or title, its germaneness may depend upon its appropriateness at that point in the bill at which it is offered,[2] or, if diverse portions of the bill have been read or the bill is open to amendment at any point, may depend upon its relationship to the bill as a whole.

The rule of germaneness applies to the relationship between a pro-

18. See, for example, § 18, infra, discussing amendments offered to a particular paragraph, section, or title of a bill.

19. See § 21, infra.

20. See §§ 35–42, infra, for discussion of issues of germaneness as affected by the relation of the bill or amendment to existing law.

1. See, for example, § 18.7, infra.

On one occasion, the Chairman remarked, in the course of ruling on the propriety of an amendment to a supplemental appropriation bill that, "If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered." See § 15.3, infra. The Chairman probably intended his remarks to have reference only to the particular context in which he made his ruling.

2. See § 19, infra.

posed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend.[3] At the same time, whether an amendment affecting existing law is germane may depend upon the extent to which it proposes to change such law, and in some instances upon whether the bill under consideration so vitally affects the whole law as to bring the entire act under consideration.[4]

Where a perfecting amendment to text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out.[5]

In passing on the germaneness of an amendment, the Chair considers the relationship of the amendment to the bill as it may have been modified by the Committee of the Whole at the time the amendment is offered.[6] Thus, where matter has been stricken from a bill, an amendment that might have been germane to such matter may be ruled out as not germane to the bill.[7]

An amendment that might be considered germane if offered at the end of the reading of the bill for amendment may not be germane if offered during the reading, before all the provisions of the bill are before the Committee of the Whole for consideration.[8] Thus, on one occasion, during consideration of a bill relating to procurements by the Department of Defense, an amendment concerned with duties of the Comptroller General in connection with defense contracts was at first ruled out as not germane to the part of the bill to which offered, since at that point in the reading of the bill no reference had been made to any agency of government other than the Department of Defense.[9] Subsequently, however, when the scope of the bill had been broadened by additional paragraphs passed in the reading, a similar amendment was held to be in order.[10]

The title of a bill is not determinative on the question of whether a proposed amendment is germane to the bill.

An amendment may be germane to more than one portion of a bill.[11]

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3. See § 18.7, infra.

4. See § 35, infra.

5. See § 18.2, infra.

6. See §§ 12.10, 19.14, 35.8, and 35.49, infra.

7. See § 35.32, infra. As to principles applicable where it is sought to amend a Senate amendment which strikes portions of a House bill, see § 27.10, infra.

8. See § 18.1, infra.

9. See § 18.1, infra.

10. See § 18.2, infra.

11. See § 2.2, infra.

The general rule that an amendment must be germane to the portion of the bill to which offered is limited by the proposition that an amendment in the form of a new section or paragraph need not necessarily be germane to the section or paragraph immediately preceding it.[12] Each precedent should be examined separately to determine the structure of the bill to which the new section or paragraph is offered. See, for example, the proceedings of June 19, 1939,[13] where an amendment offered as a new section to a tax bill (to a title dealing with transfers of securities), was held not germane, since there was already a section dealing with the subject matter to which the amendment would have been germane (in a preceding title) and this section had been passed in reading for amendment.

An amendment need only be germane to the pending portion of a bill as that portion has been perfected by prior amendment.[14]

An amendment to an amendment in the nature of a substitute must be germane to the portion of the substitute to which offered.[15]

The test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to that substitute, and not to the original bill.[16]

An amendment must be germane to the title of the bill to which offered.[17]

An amendment adding a new title to a bill being read for amendment by titles must be germane to the titles considered up to that point.[18]

The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the entire bill as perfected.[19]

The test of the germaneness of an amendment is its relationship to the pending text of the bill as

12. 8 Cannon's Precedents §§ 2932, 2935.

13. 84 CONG. REC. 7500, 7501, 76th Cong. 1st Sess.

14. See § 2.5, infra.

15. See the proceedings of Dec. 14, 1973, relating to H.R. 11450 (the Energy Emergency Act), as discussed in § 41.20, infra.

16. See § 21.22, infra.

17. See, for example, the proceedings of Sept. 19, 1986, relating to H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide amendment of 1986, discussed in § 4.76, infra.

18. See, for example, the proceedings of Oct. 18, 1979, relating to H.R. 3000, the Department of Energy Authorization Act for fiscal 1980 and 1981, discussed in § 10.7, infra.

19. See the proceedings of Aug. 2, 1978, relating to H.R. 12514, the International Security Assistance Authorization for fiscal 1979, discussed in § 19.24, infra.

already amended in Committee of the Whole, and cannot be based upon the hypothetical adoption of other amendments not yet offered.[20]

The test of germaneness to a pending title of a bill is the relationship of the amendment and the law being amended therein to the law being amended by that title, and not to other portions of the bill not then pending for amendment.[1]

Amendment Germane to More Than One Portion of Bill

§ 2.1 To the last title of a general appropriations bill, containing general provisions applying to funds carried throughout the bill, an amendment limiting the use of funds by an agency funded in a previous title of the bill was held germane.

An amendment limiting the use of funds by a particular agency funded in a general appropriations bill may be germane if offered at more than one place in the bill; thus, the amendment may be offered when the paragraph carrying such funds is pending, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill. An illustration of this principle can be found in the proceedings of July 16, 1979,[2] during consideration of H.R. 4393, Treasury, Postal Service and General Government Appropriations for fiscal 1980.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:
>
> Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I reserve a point of order.

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

MR. STEED: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .

MR. SYMMS: Mr. Chairman, the amendment [is] only a limitation of

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20. See, for example, the proceedings of July 8, 1987, relating to H.R. 2342, the Coast Guard Authorization for fiscal 1988, discussed in § 4.46, infra.

1. See the proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, discussed in § 4.58, infra.

2. 125 CONG. REC. 18807, 96th Cong. 1st Sess.

3. Richardson Preyer (N.C.).

spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.

THE CHAIRMAN: The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

§ 2.2 To a portion of a bill amending several miscellaneous laws on a general subject, an amendment to another law relating to that subject is germane; thus, to a title of an amendment in the nature of a substitute amending several diverse educational assistance laws, an amendment affecting laws relating to federal impact school assistance was held germane, even though that subject matter had been contained in another title already passed in the reading for amendment.

On Mar. 27, 1974,[4] during consideration of a bill to amend and extend the Elementary and Secondary Education Act[5] in the Committee of the Whole, the proceedings were as follows:

THE CHAIRMAN:[6] The Clerk will read.

The Clerk read as follows:

TITLE X—MISCELLANEOUS AMENDMENTS

AMENDMENT OF EMERGENCY SCHOOL AID ACT

Sec. 901. (a) Section 706(a) of the Emergency School Aid Act is amended (1) by striking out paragraph (3), (2) by striking out the period at the end of paragraph (1)(D) and inserting, "; or" and (3) by adding at the end of such paragraph (1) the following:

"(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

"(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

"(ii) has agreed to apply for an equal amount of assistance under subsection (b).". . .

Sec. 902. (a)(1) Sections 134(b) (as redesignated by sections 109 and 110(h) of this Act), 202(a)(1), and 302(a)(1) of the Act are each amended by striking out "Puerto Rico,". . . .

(b)(1) Section 612(a)(1) of the Education of the Handicapped Act is amended by striking out "Puerto Rico,"

(2) Sections 612(a)(2) and 613(a)(1) of the Education of the Handicapped Act are each amended by striking out "the Commonwealth of Puerto Rico,". . . .

MR. [ROBERT J.] HUBER [of Michigan]: Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

4. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess.

5. H.R. 69.

6. Charles M. Price (Ill.).

Amendment offered by Mr. Huber to the committee substitute; Page 131, immediately after line 15, insert the following new section:

AMENDMENT TO PUBLIC LAW 874

Sec. 906. Section 403(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"(3) The term 'parent' means any parent, stepparent, legal guardian, or other individual standing in loco parentis, whose income from employment on Federal property is more than 50 percent of the total combined income of such individual and the spouse of such individual.".

Points of order against the amendment were reserved and subsequently discussed by Mr. Carl D. Perkins, of Kentucky, and Mr. Gerald R. Ford, of Michigan:

MR. PERKINS: I insist on the point of order. This is an impact amendment and we have already passed that title.

THE CHAIRMAN: Is that the position of the gentleman from Michigan?

MR. FORD: Yes, Mr. Chairman. I insist on the point of order. I did not press the point of order before the gentleman had an opportunity to explain what he was trying to do. I think his motives are fine, but I disagree with the result it would have. I wanted him to have an opportunity to do that; but clearly his amendment comes too late, since we have already concluded title III of the act which dealt with impact aid.

The amendment the gentleman now offers is not a peripheral or general amendment. It is a substantive amendment of the definition of a child qualifying for impact aid under the basic act covered in title III of this bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair holds that while an examination of the amendment shows it would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as Miscellaneous Amendments and it amends several other acts, the Emergency School Aid Act, the Education of the Handicapped Act and others; so in view of these circumstances, the Chair is constrained to overrule the point of order.

Accompanying Report Not Relied on in Determining Germaneness

§ 2.3 In determining the germaneness of an amendment, the Chair considers its relationship to the text to which offered and does not rely on accompanying report language not contained in the pending text.

The proceedings of Oct. 6, 1978, relating to H.R. 13750, the Sugar Stabilization Act of 1978, are discussed in § 4.73, infra.

Content of Bill, Not Title Headings, as Determinative

§ 2.4 The scope of a title of a bill is determined by the provisions contained therein and not by the phraseology of the formal heading of the

title; thus, to a title of a bill reported from the Committee on Interstate and Foreign Commerce entitled "Conversion from Oil or Gas to other fuels," but referring only to industrial conversion from oil or gas to coal, an amendment adding a new section increasing the authorization of the Energy Research and Development Administration to promote the practical application of fusion energy (a matter within the jurisdiction of the Joint Committee on Atomic Energy and not within the scope of the title of the bill), was held to be not germane.

On Sept. 18, 1975,[7] during consideration of the Energy Conservation and Oil Policy Act of 1975[8] in the Committee of the Whole, Chairman Richard Bolling, of Missouri, sustained a point of order against an amendment to the pending title of the bill:

TITLE VI—CONVERSION FROM OIL OR GAS TO OTHER FUELS

Sec. 601. Extension of authority to issue orders.

Sec. 602. Extension of enforcement authority. . . .

Sec. 606. Incentives to open new underground mines producing low sulfur coal. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Gonzalez: On page 338, after line 25, insert a new section.
>
> "Sec. 607. An additional $100,000,000 is authorized for the Energy Research and Development Administration for a high priority program exclusively geared to the practical application of fusion energy."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Michigan reserves a point of order.

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Washington reserves a point of order. . . .

MR. MCCORMACK: Mr. Chairman, my point of order is that the amendment comes to the wrong bill and to the wrong committee. The authorization for nuclear research should come to the Joint Committee on Atomic Energy and the Energy Research and Development Administration. . . .

I make my point of order, Mr. Chairman, on the ground that this amendment is out of order because the jurisdiction falls exclusively with the Joint Committee on Atomic Energy and the Energy Research and Development Administration.

THE CHAIRMAN: The gentleman from Michigan (Mr. Dingell) also reserved a point of order against the amendment.

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7. 121 CONG. REC. 29333–35, 94th Cong. 1st Sess.

8. H.R. 7014.

Does the gentleman wish to be heard on his point of order?

MR. DINGELL: . . . I would like to commend my good friend, the gentleman from Texas (Mr. Gonzalez) for offering what I think is a very well written amendment. Unfortunately, no hearings have been held on it, and it has not been considered.

I would point out to the body that the germaneness rule requires that the character of the amendment be such that the membership would have reasonably been apprised that amendments of that sort might be placed before the body. Unfortunately, the character of the amendment is such that it provides certain authorities for ERDA, the Energy Research and Development Agency.

Unfortunately, I do not think there is any way that anyone here could have anticipated amendments dealing with adding authorities or changing authorities within ERDA. . . .

MR. GONZALEZ: . . . In arguing the point of germaneness, I will address myself first to the remarks of the gentleman from Washington (Mr. McCormack). . . .

If we are going to debate on a point of order the merits of the amendment, it is contrary to the clear indication in Deschler's Procedure, one of which decisions I quoted yesterday, on page 73, which says that one does not look to the material content of the general purposes of the bill to determine the specificity—there is a good Watergate word—the specificity of the pending amendment.

The gentleman says, "This is the wrong church, the wrong pew. It ought to go over here into another bill.". . .

Facetiously, let me say that we can make that comment about the last 6 months and say that this bill before the committee has been in the wrong committee and in the wrong place for the last 6 months.

Let me say, however, that in Deschler's Procedure, both cases that I cited yesterday in the Record clearly control the situation here.

I cannot think of anything more germane than this amendment to the section of the bill that is talking about research and development. It is actually authorizing moneys for that purpose. . . .

As to the point of the second gentleman, the gentleman from Michigan (Mr. Dingell), his contention again comes repetitiously as yesterday. He talks about the sanctity of committee jurisdiction. Deschler's Procedure and particularly that citation I quoted yesterday clearly says that that shall not be a governing factor in determining whether or not an amendment is germane to a pending bill. The jurisdiction of a committee is not the controlling factor with respect to germaneness. . . .

THE CHAIRMAN: The Chair is ready to rule.

The title of title VI is exceptionally broad, in the opinion of the Chair.

If the content of title VI were as broad as the title, the Chair believes that the arguments of the eloquent gentleman from Texas (Mr. Gonzalez) might bear more weight. But it is the content of the pending title and not its heading against which the germaneness of the amendment must be weighed.

The Chair has had the opportunity to examine with some care all of title

VI and also language on pages 17 and 18 of the committee report which deals with title VI. The Chair will not read from those words except to say that the Chair only refers to those words in that they support his view that title VI actually deals with the conversion from oil or gas to coal and thus the scope of the title is quite narrow. The amendment therefore does not fit the rule of germaneness despite the eloquence of the gentleman from Texas and the Chair feels compelled to rule that the amendment is not germane to title VI and therefore sustains the various points of order.

§ 2.5 While the heading of a title of a bill as "miscellaneous" does not necessarily permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title may permit further amendment which in effect need only be germane to the bill as a whole.

Where the final title of a foreign aid bill, as perfected, contained a variety of unrelated provisions such as effective dates for all the provisions of the bill, requirements that authority to make payments in the bill be subject to advance appropriations, delay of the submission date for a report on foreign service personnel, provisions relating to human rights reports, imposition of language requirements for personnel in the foreign service, and prohibition of foreign aid to certain countries, an amendment limiting the expenditure of funds authorized in each title of the bill to a certain percentage was held to be germane. Amendments offered on Apr. 10, 1979,[9] to Title VI of the bill H.R. 3324,[10] were as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

Sec. 601. The amendments made by titles I, II, III, and V and the provisions of title IV shall take effect on October 1, 1979.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 46, immediately after line 9, insert the following new section:

UNIFIED PERSONNEL SYSTEM

Sec. 602. Section 401(a) of the International Development and Food Assistance Act of 1978 is amended by striking out "March 15" and inserting in lieu thereof "May 1".

(b) The amendment made by subsection (a) shall be effective as of March 15, 1979. . . .

Amendment offered by Mr. Zablocki: Page 46, immediately after section 601, insert the following new section:

9. 125 CONG. REC. 8032, 8034–37, 96th Cong. 1st Sess.

10. The International Development Cooperation Act of 1979.

BUDGET ACT REQUIREMENTS

Sec. 603. (a) The authority to make payments which is provided in sections 405(a), 406(a), 406(c), 407(e), 408(d), and 412 of this Act shall be effective only to the extent that the budget authority to make such payments is provided for in advance by appropriation Acts.

(b) Appropriations may not be made for the fiscal year 1979 under the authority of section 501(d). . . .

The Clerk read as follows:

Amendment offered by Mr. [Leon E.] Panetta [of California]: Page 46, after section 604, insert the following:

FOREIGN LANGUAGE AND AREA KNOWLEDGE REQUIREMENT

Sec. 605. The heads of affected departments and agencies, in consultation with the Secretary of State, shall review every personnel position in the U.S. Government involving service in foreign countries which are authorized by this Act, the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Arms Export Control Act, whose incumbent should have a useful knowledge of the language or dialect and the history and culture common to such country. Each position reviewed and designated as requiring language competence and area knowledge shall, within two years after enactment of this Act, be filled only by an individual with appropriate language and area knowledge. . . .

[The Zablocki and Panetta amendments were adopted.]

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 46, immediately after line 9, insert the following new section:

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 602. Notwithstanding any other provision of law or of this Act, none of the funds authorized to be appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly, to the Socialist Republic of Vietnam, Cambodia, or Cuba. . . .

MR. ZABLOCKI: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki as a substitute for the amendment offered by Mr. Ashbrook: Page 46, immediately after line 9, insert the following new section:

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 606. Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature to the Socialist Republic of Vietnam, Cambodia, or Cuba.

[The Zablocki substitute was adopted, and the Ashbrook amendment adopted as amended.]

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 46, line 7 after Sec. 601 insert (a) and add the following new paragraph:

"(b) *Provided,* That, No more than 90 percent of the funds authorized to be appropriated by each title of this act shall be expended, excluding those funds authorized to be appropriated in section 111, all of title II and section 302."

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

Mr. Chairman, as the gentleman from Wisconsin listened to the Clerk read the amendment, and I read the amendment, it appears that the amendment provides a limitation on authorization of funds in section 111, all of title II, and section 302.

I believe the gentleman's amendment, therefore, is not in order and is subject to a point of order since he is authorizing to be appropriated by each title no more than 90 percent of the funds.

THE CHAIRMAN:[11] Does the gentleman from Maryland (Mr. Bauman) desire to be heard?

MR. BAUMAN: I do, Mr. Chairman, but I am not quite sure on what grounds the gentleman from Wisconsin made a point of order.

He simply described the amendment. The amendment is germane to title VI. Title VI clearly refers to the effective dates of all titles, and this amendment simply has the effect, with three exceptions, of cutting by 10 percent the amount of the funds made effective on those dates.

Mr. Chairman, it is a simple cut in funding. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Maryland provides a percentage limitation on funds authorized to be appropriated by the bill now pending, with the exception of certain specified sections of authorized funds. Title VI of the bill, entitled "Miscellaneous Provisions" has by amendment already been substantially expanded in its scope, and the amendment offered by the gentleman from Maryland need be germane only to the title as a whole, since the bill is being read by title.

Therefore, it is the opinion of the Chair, and the ruling of the Chair, that the amendment is germane to title VI, and the point of order is overruled.

Where Bill Is Open to Amendment at Any Point

§ 2.6 The test of the germaneness of an amendment is its relationship to the pending portion of a bill to which offered, and where a bill is by unanimous consent considered as read and open to amendment at any point, the germaneness of an amendment thereto is determined by its relationship to the entire bill rather than to the particular section to which offered.

A proposition amending the Postal Reorganization Act in several diverse respects, considered as read and open to amendment at any point by unanimous consent, was considered sufficiently

11. Elliott Levitas (Ga.).

comprehensive in scope to admit as germane an amendment to another subsection of that Act to render the entire Postal Service operation subject to the annual appropriation process, although the section of the proposition to which offered contained an annual authorization only for a limited (public service) aspect of the Postal Service operation. The proceedings of Sept. 29, 1975,[12] were as follows:

THE CHAIRMAN:[13] . . . Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Reorganization Act Amendments of 1975".

Sec. 2. Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) There is authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, and for each of the fiscal years ending September 30, 1977, 1978, and 1979, an amount equal to $35 multiplied by the number of delivery addresses estimated by the Postal Service to be served during the fiscal year involved. There is authorized to be appropriated to the Postal Service for the period commencing July 1, 1976, and ending September 30, 1976, an amount equal to one-fourth the amount authorized under this subsection for the fiscal year ending June 30, 1976. . . .

MR. [JAMES M.] HANLEY [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

There was no objection. . . .

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. Alexander: Page 12, strike out line 20 and all that follows through page 13, line 6, and insert in lieu thereof the following:

Sec. 2. (a)(1) Section 2401(a) of title 39, United States Code, is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, such sums as may be necessary to enable the Postal Service to carry out the purposes, functions, and powers authorized by this title. . . .

(b) Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere. . . .

12. 121 CONG. REC. 30761, 30764, 30767, 30768, 94th Cong. 1st Sess.

13. Walter Flowers (Ala.).

MR. HANLEY: Mr. Chairman, I raise (a) point of order on the grounds that the matter contained in the amendment is in violation of clause 7, rule XVI of the rules of the House, which provides in part that—

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The bill under consideration, H.R. 8603, is narrow in scope since it relates only to the following specific subject matters.

First, it provides authorization for increased public service appropriations by changing the statutory formula currently in existence.

Second, it would limit the amount of the next temporary rate increase and would establish new procedures and limitations for the implementation of other future temporary postal rates.

Third, it would amend the law with respect to the Postal Rate Commission by changing its procedures to expedite rate and classification cases; by subjecting the Commissioners to Senate confirmation; and by expanding the powers of the Chairman in administering the Commission. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York (Mr. Hanley) has made a point of order to the amendment offered by the gentleman from Arkansas (Mr. Alexander) to section 2 of the bill. The gentleman's point of order relates, in the Chair's judgment, primarily to the germaneness based upon the scope of the gentleman's amendment and as it relates to the scope of the bill, which bill is open to amendment at any point.

The amendment offered by the gentleman from Arkansas (Mr. Alexander) actually amends section 2(a) of the bill, although section 2(a) of the Postal Act is not amended in the bill before the Committee here this afternoon.

The Chair notes, however, as conceded by the chairman of the subcommittee, there are several enumerated purposes which touch upon many different ramifications and aspects of the postal law. These purposes are diverse in nature.

Since all of the bill is before the Committee at this point, the Chair, reluctantly, comes to the conclusion that the position of the gentleman from New York (Mr. Hanley) in his point of order is not well founded and, therefore, the Chair must overrule the point of order made by the gentleman from New York.

§ 2.7 Where a bill is by unanimous consent being considered as read and open to amendment at any point, the germaneness of an amendment to a portion of that bill may be judged by its relationship to the bill as a whole rather than merely to the section of the bill to which offered; thus, to a bill open to amendment at any point containing protections of the rights of mentally ill institutionalized persons and also a separate title promoting support groups for persons suffering a certain memory disorder (Alz-

heimer's disease) whether or not institutionalized, an amendment expanding the bill's protections to include non-institutionalized mentally ill persons who are in need of such institutionalization was held germane to the bill as a whole, since the bill already covered some persons who were not confined.

On Jan. 30, 1986,[14] the Committee of the Whole had under consideration H.R. 4055, relating to protection of and advocacy for mentally ill persons. Pursuant to a unanimous consent agreement, the bill was being considered as read and open to amendment at any point. The bill stated in part:[15]

> (4) The term "neglect" means a negligent act or omission by any person responsible for providing services in a hospital nursing home, board and care home, or community facility for mentally ill individuals which caused or may have caused injury to a mentally ill individual or which placed a mentally ill individual at risk of injury, and includes the failure—
>
> (A) to establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,
>
> (B) to provide adequate nutrition, clothing, or health care for a mentally ill individual. . . .

An amendment was offered, as follows:[16]

> MR. [STEWART B.] MCKINNEY [of Connecticut]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. McKinney: Page 4, strike out lines 10 through 12 and insert in lieu thereof the following:
>
> "(A)(i) in the case of individuals who need to be placed in inpatient mental health facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals level of functioning.
>
> "(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic setting and to provide mental health treatment and related support services appropriate to such individuals' level of functioning.
>
> "(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and
>
> "(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,
>
> Page 4, insert after line 21 the following:
>
> For purposes of clauses (i) and (ii) of subparagraph (A), the term "opti-

14. 132 CONG. REC. 1045–52, 99th Cong. 2d Sess.

15. *Id.* at p. 1045.

16. *Id.* at p. 1051.

mum therapeutic setting" means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of services necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility.

A point of order was made against the amendment on the grounds that it sought to broaden the coverage of the bill to include a class of persons not within the scope of the proposition sought to be amended. The Chair,[17] however, overruled the point of order, stating that the bill as a whole was broad enough to encompass the class of persons that was the subject of the amendment. Title II of the bill stated in part:[18]

TITLE II—FAMILY SUPPORT GROUPS

SEC. 201. ALZHEIMER'S DISEASE.

(a) Family Support Groups.—The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary"), acting through the National Institute of Mental Health, the National Institutes on Health, the National Institute on Aging, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. Such groups shall be established in university medical centers and in other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease.

The point of order, made by Mr. William E. Dannemeyer, of California, and the ensuing discussion and ruling thereon, were as follows:[19]

MR. DANNEMEYER: Mr. Chairman, the bill in the form before us deals with people in mental health facilities in the States of the Union, people who are already there. This amendment, offered by the gentleman from Connecticut [Mr. McKinney], deals with people who are not in mental health facilities but people who may be eligible to be there, a completely different subject. The discussion of whether or not somebody should be in a mental health facility is a subject and an issue that is separate and distinct from the status and the custody and the care of those who are already located in a mental health facility. It is on that distinction that I think the amendment of the gentleman from Connecticut is subject to a point of order which should be sustained. . . .

MR. MCKINNEY: Mr. Chairman, speaking on the point of order, I would suggest that in fact my amendment

17. William J. Hughes (N.J.).

18. 132 CONG. REC. 1047, 99th Cong. 2d Sess.

19. *Id.* at pp. 1051, 1052.

simply changes some language in the existing bill and that I very appropriately state that optimum therapeutic care is as important for the person on the sidewalk as it is for the person in the institution. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair, in reviewing the amendment offered by the gentleman from Connecticut [Mr. McKinney], would observe that, basically, the gentleman's effort is to broaden the definition of "neglect" and to make that somewhat more elaborate.

It still pertains to persons needing inpatient mental health facilities, in any event.

So the Chair would have to conclude that the amendment only covers a class already covered by the bill as a whole and that the amendment is germane.

New Title Germane to Bill as a Whole Though Subject is Within Another Committee's Jurisdiction

§ 2.8 While ordinarily an amendment waiving provisions of law within another committee's jurisdiction is not germane to a bill reported by a different committee, where the bill as amended already contains diverse provisions relating to the subject of the amendment, a waiver of other provisions of law on that subject may be germane; thus, to a bill reported from the Committee on Agriculture relating to registration of pesticides but also including provisions on liability under other federal law and on judicial review of regulations and pesticide use, an amendment in the form of a new title included in a motion to recommit waiving any other law otherwise requiring payment of attorneys' fees for civil actions brought under the law being amended was held germane to the bill as a whole, committee jurisdiction no longer being the exclusive test of germaneness since the bill as a whole and as amended contained matters within another committee's jurisdiction.

On Sept. 19, 1986,[20] during consideration of the Federal Insecticide, Fungicide and Rodenticide Act[1] in the House, Speaker Pro Tempore Steny A. Hoyer, of Maryland, overruled a point of order against the amendment described above. The proceedings were as follows:

SEC. 811. REVIEW OF REGULATIONS.

20. 132 CONG. REC. 24741, 24742, 24746, 24747, 24769, 99th Cong. 2d Sess.

1. H.R. 2482.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

"(e) Review of Regulations.—

"(1)(A) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 shall be reviewable only as provided by this subsection. Any person may obtain judicial review of the regulation by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Any petition under this paragraph for review of a regulation shall be filed within 120 days after the date of promulgation of the regulation as designated by the Administrator in the Federal Register.". . .

SEC. 821. LIABILITY.

(a) Pesticide Use.—An agricultural producer shall not be liable in any action brought after the effective date of this Act under any Federal statute for damages caused by pesticide use unless the producer has acted negligently, recklessly, or intentionally. Proof that the agricultural producer used the pesticide in a manner consistent with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently. . . .

An amendment was offered as follows:

Amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts: Section 821(a) of the text of H.R. 5440 (the Amendment in the nature of a substitute to H.R. 2482), is amended (page 138, lines 2 through 10) to read as follows:

SEC. 821. LIABILITY FOR LAWFUL APPLICATION.

(a) Pesticide Use and No Private Right of Action.—(1) Liability under Federal environmental statutes for the costs of response or damage incurred with respect to a release or threatened release into the environment of a pesticide shall, in any case where the application was in compliance with label instructions and other applicable law, be imposed on the registrant or other responsible parties, not the agricultural producer, unless the producer has acted negligently, recklessly, or with the intent to misuse such pesticide. There shall be a rebuttable presumption that the application was in compliance with label instructions and otherwise lawful. . . .

THE CHAIRMAN: The question is on the amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts.

The amendment offered as a substitute for the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Kansas [Mr. Roberts], as amended.

The amendment, as amended, was agreed to. . . .

MR. [RON] MARLENEE [of Montana]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Marlenee moves to recommit the bill, H.R. 2482 (as amended by H.R. 5440) to the Committee on Agriculture with the instructions that it adopt the following amendment and forthwith report it back to the House:

Amendment to the text of H.R. 5440 (the amendment in the nature of a substitute to H.R. 2482), after page 163, line 21, insert the following new title:

TITLE XII—LIMITATION ON USE OF FUNDS

FEES AND EXPENSES IN CIVIL ACTIONS

Sec. 1201. The Act is amended by inserting the following new section after section 31:

"Sec. 32. Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under section 3(a) of this Act for failure to meet deadlines.". . .

MR. [DAN] GLICKMAN [of Kansas]: Mr. Speaker, I make a point of order on the motion to recommit that the motion is not germane under clause 7 of rule XVI of the rules of the House. . . .

MR. MARLENEE: . . . Mr. Speaker, my amendment, I submit, is germane for the following reasons:

The title of the bill is for "other purposes" than amending FIFRA.

Other examples of enactments amended by this bill or by the underlying FIFRA Act are the Federal Food, Drug and Cosmetics Act.

The bill authorizes a program and funding for the pesticide program. It also adds a new program, reregistration, new section 3(a) of FIFRA. Both this section and the bill relate to fees and funding for the Reregistration Program. Some of that funding for the Reregistration Program will come from fees assessed against registrants (see page 42 of H.R. 5440) and some will come from appropriated funds.

My amendment would state how some of those funds could not be utilized, and I submit does not violate the rules of the House on that germaneness.

The bill (title VIII) is rife with references to courts and court review. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Kansas [Mr. Glickman] makes a point of order that the amendment proposed by the instructions in the motion to recommit offered by the gentleman from Montana [Mr. Marlenee] is not germane. Volume III, section 2709 of Cannon's Precedents indicates that it is not in order to include in a motion to recommit instructions to insert an amendment not germane to the section of the bill to which offered. While an earlier version of this amendment was held not germane when offered as an amendment to title I of the bill being read title by title, this amendment proposes to add a new title at the end of the bill limiting the award of attorneys' fees in certain civil actions brought under section 16 of the FIFRA law. The test of germaneness is now properly measured against the bill taken as a whole. The Chair notes that section 202 of the bill deals with civil actions against the United States for just compensation, and that the bill extensively amends other sections of the FIFRA law in titles VIII and IX. In the opinion of the Chair, since the bill already deals with issues relating to adminis-

trative procedure and judicial review of actions taken under this act, the amendment is germane to the bill as a whole, and the point of order is overruled.

Amendment Adding New Section at End Required To Be Germane to Perfected Bill as a Whole

§ 2.9 The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the Whole.

On Aug. 1, 1979,[2] during consideration of the Emergency Energy Conservation Act of 1979[3] in the Committee of the Whole, Chairman Dante B. Fascell, of Florida, ruled that to a bill authorizing the imposition of rationing plans by the President to conserve energy, providing mechanisms to avoid energy marketing disruptions, and broadened by amendment to provide for monitoring of middle distillates and supplies of diesel oil, an amendment adding a new section to require a set-aside program to provide middle distillates for agricultural production was germane. The proceedings were as follows:

Amendment offered by Mr. [Thomas J.] Tauke [of Iowa]: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

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2. 125 CONG. REC. 21964–68, 96th Cong. 1st Sess.

3. S. 1030.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

After some debate, Mr. Tauke made a request, as follows, and the amendment was agreed to, as modified: (4)

MR. TAUKE: Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Iowa (Mr. Tauke), as modified.

The amendment, as modified, was agreed to.

Thereafter, Mr. Tauke offered the following amendment: (5)

Amendment offered by Mr. Tauke: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

4. 125 CONG. REC. 21966, 96th Cong. 1st Sess.

5. *Id.* at p. 21967.

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve a point of order against the amendment. . . .

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

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

MR. DINGELL: Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the Chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the question before the Chair. The question before the Chair is: Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products?

The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the chair that this amendment is not germane. I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation Act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was. . . .

MR. TAUKE: . . . Mr. Chairman, in this particular measure that we are

considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that this amendment be considered a part of this measure. . . .

MR. [CHARLES] PASHAYAN [Jr., of California]: The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order. . . .

MR. BROWN of Ohio: . . . One other point that omitted my attention until

the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The [test of the germaneness of a new section is its relationship] to the bill as read to this point and in that case we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

Senate Amendment Adding New Section to House Bill Must Be Germane to Bill as a Whole

§ 2.10 The test of the germaneness of that portion of a Senate amendment in the nature of a substitute adding a new section to a House bill is the relationship of that section to the subject of the House bill as a whole.

On Mar. 26, 1975,[6] during consideration of a conference report on H.R. 2166 (Tax Reduction Act of 1975), it was held that to a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a part of a Senate amendment in the nature of a substitute which added a new section relating to tax credits for new home purchases and amending a portion of the law amended by the House bill was germane:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes,

6. 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess.

to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES . . .

Sec. 208. Credit for purchase of new principal residence. . . .

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME . . .

Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders. . . .

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.

Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs. . . .

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE

(a) Allowance of Credit.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) General Rule.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of provision 1, clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It appears in section 208 of the conference report, on page 14, as reported by the Committee on Conference. . . .

[A] careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types of tax measures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER:[7] The Chair is ready to rule.

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation . . . an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House bill, and was not an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

§ 2.11 Where conferees report a conference substitute, in-

7. Carl Albert (Okla.).

cluding provisions of the House bill and of the Senate amendment in conference, the test of germaneness to be applied when a point of order is raised under Rule XXVIII, clause 4, is the relationship of the language derived from the Senate amendment to the House-passed bill as a whole, and not to a portion of that bill.

To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report, which added a new section to the House bill and which dealt with earnings and profits of controlled foreign corporations and included limitations on the use of foreign tax credits from foreign oil-related income was held germane. The portion of the conference substitute in question on Mar. 26, 1975,[8] was as follows:

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) Repeal of Minimum Distribution Exception to Requirement of Current Taxation of Subpart F Income.—

(1) Repeal of Minimum Distribution Provisions.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

(2) Certain Distributions by Controlled Foreign Corporations to Regulated Investment Companies Treated as Dividends.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included.". . .

The pertinent part of the statement of the managers was as follows:

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

8. 121 CONG. REC. 8909, 8915, 8933, 8934, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166, the Tax Reduction Act of 1975.

Conference substitute.—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with taxation of earnings and profits of controlled foreign corporations and their shareholders, in section 602 as reported by the committee of conference. . . .

As the Speaker well knows, I am sure, from listening carefully to the explanations regarding previous points of order, at no point during the consideration of the House-passed bill is there any mention of foreign taxation and the dealings of foreign taxes insofar as American corporations and their subsidiaries are concerned.

Title I of the 1975 tax bill dealt with the refund for 1974 taxes. Title II dealt with reductions in individual income taxes. Title III dealt with certain changes in business taxes, the title which dealt with the investment tax credit or income tax total, particularly as related to small businesses.

This particular provision, Mr. Speaker, in no way deals with a matter that was covered, mentioned, or dealt with by the bill that is presented to the House, or voted upon by the House. . . .

MR. [AL] ULLMAN [of Oregon]: . . . Mr. Speaker, the bill that the House passed had a great many diverse sections in it; it had credits. The matter that has been raised is an amendment to the Internal Revenue Code very clearly, and much of it is in the way of a credit. We have dealt with credits here both for individuals and for corporations in the bill that the House passed.

It seems to me that in a bill of this scope and in a bill that deals as broadly with tax credits and matters such as this that does involve an amendment to the Internal Revenue Code, it is very clearly within the province of the bill, and should be ruled germane.

THE SPEAKER:[9] The Chair is prepared to rule.

For the reasons stated in the opinion of the Chair on a similar point of order made by the gentleman from New York (Mr. Conable) and for the reasons stated by the gentleman from Oregon, the Chair overrules the point of order.[10]

Germaneness of Amendment in Nature of Substitute Determined by Relationship to Bill as a Whole

§ 2.12 The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which if offered separately, might not be germane to the por-

9. Carl Albert (Okla.).

10. See also § 26, infra.

tion of the bill to which offered.

On July 8, 1975,[11] the Committee of the Whole, during proceedings relating to H.R. 49 (a bill concerned with national petroleum reserves on public lands), had under consideration amendments recommended by the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on naval petroleum reserve number 4 with annual reports to Congress. An amendment in the nature of a substitute was offered which contained similar provisions and also required a task force study of the values and best uses for subsistence, scenic, historical, and recreational purposes, and for fish and wildlife, of the public lands in that naval petroleum reserve was held germane despite the inclusion of that incidental portion which, if considered separately, might not have been germane. The proceedings were as follows:

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:

That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States (except lands in the National Park System, the National Wildlife Refuge System, the Wild and Scenic Rivers System, the National Wilderness Preservation System, areas now under review for inclusion in the Wilderness System in accordance with provisions of the Wilderness Act of 1964, and lands in Alaska other than those in Naval Petroleum Reserve Numbered 4). . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided*, That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve: *Provided further*, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish & Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic,

11. 121 CONG. REC. 21631–34, 94th Cong. 1st Sess.

historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years, submit to Congress his recommendations for such designation of areas of those lands as may be appropriate and, *Provided further,* that oil and gas exploration within the Utukok River and Teheshepuk Lake areas and others containing significant subsistence, recreational, fish and wildlife, historical or scenic values, shall be conducted in a manner so as to preserve such surface values.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I have a point of order. . . .

The bill, H.R. 49, authorizes as follows:

> To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

Mr. Chairman, if we refer to the bill in toto, nowhere will we find in that bill language relating to subsection (f) of the amendment submitted to us. I regret that I cannot give the Chair the precise citation.

I will state that the point of order goes to the section relating to the words,

> Provided further, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish and Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years submit to Congress his recommendations for such designation of areas of those lands as may be appropriated. . . .

Mr. Chairman, a fundamental rule of the House of Representatives is that the burden of establishing the germaneness of an amendment falls upon the offeror and does not fall upon the Member challenging the germaneness. I would point out that nowhere else in the bill is there a proviso for a provision for a study involving groups, and nowhere in the title of the legislation is there anything that would justify or authorize a study of the kind that is set forth here in the amendment.

As a matter of fact, nowhere in the amendment that was reported by the Committee on Interior and Insular Affairs to the House of Representatives is there anything which would relate to a study. A study of the kind that is before us is totally different and alien.

The purpose of the legislation is to establish a program of national strategic reserves and for the development of the petroleum reserves and not for the establishment of a study. It is not for the establishment of a study relating to fish and wildlife values, historical values, and matters of that sort.

So since the burden falls upon the offeror of the amendment, the gentleman from Montana (Mr. Melcher), I would point out that he has assumed for himself a burden which is impossibly heavy, and that is to provide a study of such sweeping import relating to totally different matters than those which are contained in the bill.

For that reason, Mr. Chairman, the point of order should be sustained.

MR. MELCHER: Mr. Chairman, I rise in opposition to the point of order.

Mr. Chairman, I think the point is covered in rule XVI at section 798c where it says as follows:

> . . . the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

Mr. Chairman, I think that about settles the point.

THE CHAIRMAN:[12] The Chair is prepared to rule.

The proviso cited by the gentleman from Michigan (Mr. Dingell) is on page 8 of the mimeographed form of the Melcher amendment.

Had this proviso been presented separately, the germaneness would have been measured against the portion of the Interior Committee amendment to which offered. However, having been presented as a part of an overall substitute, the Chair would rule that the provision objected to is merely incidental to the fundamental purpose of the amendment, and that under the precedent cited by the gentleman from Montana (Mr. Melcher), in section 798(b) of the Manual the amendment is germane to the text when viewed as a whole.

The Chair therefore overrules the point of order.

12. Neal Smith (Io.).

Germaneness Determined by Form of Bill as Modified by Prior Amendment

§ 2.13 In passing on the germaneness of an amendment, the Chair considers the relationship of the amendment to the bill as modified by the Committee of the Whole.

See, for example, the proceedings of Apr. 23, 1975, relating to H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act, discussed in § 3.51, infra.

Germaneness Determined by Form of Bill at Time Amendment Offered

§ 2.14 The germaneness of an amendment is determined by its relationship to the form of the bill at the time the amendment is offered and is not affected by prior adoption of a special rule permitting consideration of a nongermane committee amendment, where the committee amendment has not yet been considered.

The proceedings of Sept. 25, 1975, relating to H.R. 1287, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome, are discussed in § 31.23, infra.

Amendment to Amendment Must Be Germane Thereto

§ 2.15 The germaneness of an amendment to an amendment is determined on the basis of the relationship between the two amendments.

The proceedings of Oct. 2, 1975, relating to S. 2230, authorizing appropriations for the Board for International Broadcasting for 1976, and to Promote Improved Relations Between the United States, Greece and Turkey, are discussed in § 8.23, infra.

Amendment Offered to Amendment in Nature of Substitute Must Be Germane Thereto Rather Than to Bill

§ 2.16 The test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between the amendment and the bill for which the amendment in the nature of a substitute has been offered.

During proceedings relating to a bill (H.R. 8860) to amend and extend the Agricultural Act of 1970, the Committee of the Whole had under consideration an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture. An amendment to such amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals notwithstanding the Occupational Safety and Health Act (a matter within the jurisdiction of the Committee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered. The proceedings of July 19, 1973, [13] were as follows:

> MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:
> >
> > Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown

13. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess.

(such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

[MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

[MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

Substitute Must Be Germane to Amendment for Which Offered

§ 2.17 The test of the germaneness of a substitute amendment is its relationship to the amendment for which offered and not its relationship to the pending bill.

On June 1, 1976,[15] during consideration of a bill[16] extending the Federal Energy Administra-

14. William H. Natcher (Ky.).

15. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.

16. H.R. 12169.

tion Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

"Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

" 'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' ". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the

filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan . . .

THE CHAIRMAN:[17] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

§ 2.18 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill; accordingly, where an amendment denied eligibility for certain higher education assistance benefits to persons refusing to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.

On July 28, 1982,[18] during consideration of H.R. 6030 (military procurement authorization for fiscal 1983), Chairman Les AuCoin, of Oregon, held that to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others was germane:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment which is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50

17. William H. Natcher (Ky.).

18. 128 CONG. REC. 18355–58, 18361, 97th Cong. 2d Sess.

U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3. . . .

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon as a substitute for the amendment offered by Mr. Solomon: At the end of the bill add the following new section:

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"(A) submit to the institution of higher education which the person intends to attend, or is attending, proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under section 3, and for collecting statements described in paragraph (1)(C) from such institutions.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Edu-

cation Act for periods of instruction beginning on or after July 1, 1983. . . .

MR. SOLOMON: Mr. Chairman, I raise a point of order. . . .

[T]he amendment which I offered and was printed in the Record was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. Simon) is offering, in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that. . . .

MR. SIMON: . . . Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

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

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is germane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

§ 2.19 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill.

The proceedings of July 28, 1982, relating to H.R. 6030, the military procurement authorization for fiscal 1982, are discussed in § 29.11, infra.

Amendment to Substitute Need Not Affect Same Page and Line Numbers

§ 2.20 An amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute. Accordingly, to a substitute to require that certain emer-

gency energy conservation plans (entailing the use of auto stickers indicating certain days an auto would not be operated) be established (1) only after consultation with state governors, and (2) only after consideration of rural and suburban needs, an amendment striking out and inserting language elsewhere in the bill which also related to the use of auto stickers as part of the energy conservation plans, was held germane to the two diverse conditions already required by the substitute.

During consideration of the Emergency Energy Conservation Act of 1979[19] in the Committee of the Whole on Aug. 1, 1979,[20] Chairman Dante B. Fascell, of Florida, overruled a point of order against an amendment to a substitute and held that the amendment was germane to the substitute. The amendment and proceedings were as follows:

MR. [TOBY] MOFFETT [of Connecticut]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: Page 45, after line 9, insert the following new subsection:

"(d) Needs of Rural and Certain Other Areas.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in suburban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. Maguire) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

19. S. 1030.

20. 125 CONG. REC. 21939, 21944–47, 96th Cong. 1st Sess.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [JOHN D.] DINGELL [of Michigan]: I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. Maguire) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected. . . .

MR. MAGUIRE: Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

Instructions in Motion to Recommit

§ 2.21 Instructions included in a motion to commit or recommit the pending proposition must be germane thereto; to a concurrent resolution expressing Congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, an amendment, contained in a motion to commit with instructions, urging the President to undertake specified diplomatic actions as a con-

sequence of that foreign government's policies, was held to be not germane.

The proceedings of July 12, 1978, relating to S. Con. Res. 95 (expressing the sense of Congress regarding trials of dissidents in the Soviet Union), are discussed in Sec. 23.2, infra.

Amendment Must Be Germane to Section to Which Offered—Amendment Proposing To Change Same Section of Existing Law as Section to Which Offered Ruled Out as Different Subject Matter

§ 2.22 To a section of a bill narrowly amending one section of existing law dealing with procedural rules governing labor elections and organization, an amendment changing the same section of law to require promulgation of rules defining unfair labor practices, a subject covered in another section of the law but not addressed in the pending section of the bill, was held to be not germane.

During consideration of the Labor Reform Act of 1977 (1) in the Committee of the Whole on Oct. 5, 1977,(2) the Chair, in sustaining a point of order against the amendment described above, reiterated the proposition that an amendment must be germane to the section of the bill to which it is offered. The proceedings were as follows:

> MR. [JOHN M.] ASHBROOK [OF OHIO]: Mr. Chairman, I offer an amendment. . . .
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Ashbrook: Page 19, after line 5, insert the following new paragraph (c):
> >
> > "(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board).
>
> MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .
>
> Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. Ashbrook), although in some ways meritorious, is offered to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

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1. H.R. 8410.

2. 123 CONG. REC. 32507, 32508, 95th Cong. 1st Sess.

The amendment offered, in effect, changes section 8 of the act relating to unfair labor practices. It is directed, therefore, at a subject not contemplated in the bill and establishes a new unfair labor practice, and is not germane to the committee bill or to section 3. . . .

MR. ASHBROOK: . . . I believe this does come under the general rulemaking. It is in section 6. Furthermore, when we refer to willful violations, on page 22, in section 7, this bill does refer to unfair labor practices, and I think under the previous precedents established, where we open up a section referring to unfair labor practices, it is now not timely for the chairman to say that this bill does not amend unfair labor practices. Section 7 clearly refers to unfair labor practices, as does my amendment to section 3, and I would hope the Chair would overrule the point of order.

THE CHAIRMAN:[3] The Chair is ready to rule.

The gentleman from Ohio (Mr. Ashbrook) has offered an amendment that, while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations. The amendment would really reach issues of substantive law, since the regulations would conclusively pronounce that certain union conduct shall constitute an unfair labor practice under section 8. In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of conduct which for the first time would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

The reference of the gentleman from Ohio to the provisions of section 7 does not alter the fact that an amendment must be germane to the pending section.

For that reason, the Chair must sustain the point of order.

3. William H. Natcher (Ky.).

Germaneness Determined Without Reference to Subjects of Titles Not Yet Read

§ 2.23 An amendment should be germane to the particular paragraph or section to which it is offered without reference to the subject matter of other titles not yet read.

The proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, are discussed in § 4.58, infra.

Amendment Offered to Amendment Made in Order by Special Rule

§ 2.24 The test of germaneness of an amendment to a pending amendment is its relationship to the pending amendment and not to the bill to which that pending amendment has been offered; thus, where a special rule

waives points of order against the consideration of a designated amendment which might otherwise not be germane if offered to a bill, and does not specifically preclude the offering of amendments thereto, germane amendments that are germane to that amendment may be offered, and, if adopted, may not be subsequently challenged as not coming within the coverage of the waiver.

On July 22, 1975,[4] during consideration of the Energy Conservation and Oil Policy Act of 1975[5] in the Committee of the Whole, it was held that where points of order have been waived against a specific amendment which has then been altered by amendment, a point of order will not lie against the modified amendment as not coming within the coverage of the waiver:

MRS. [PATRICIA] SCHROEDER [of Colorado]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. Schroeder to the amendment offered by Mr. Krueger: In section 8(d)(2)(E)(ii)(a)(1) of the Emergency Petroleum Allocation Act of 1973 as amended by Mr. Krueger's amendment, strike the words "(including development or production from oil shale," and insert a comma after "gas".

In section 8(d)(2)(E)(ii)(a)(2) of the Emergency Petroleum Allocation Act of 1973 (as amended by Mr. Krueger's amendment) strike the words "oil shale,".

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I reserve a point of order, and pending that I have a parliamentary inquiry.

THE CHAIRMAN:[6] The gentleman from Texas reserves a point of order, and the gentleman will state his parliamentary inquiry.

MR. ECKHARDT: The parliamentary inquiry is what determines germaneness of this amendment, if it is germane, to the Krueger amendment? It would then be admissible at this time as germane, as I understand it. In other words, the relation to the Krueger amendment would determine germaneness in this instance, I would assume.

THE CHAIRMAN: If the gentleman is asking whether the amendment offered by the gentlewoman from Colorado has to be germane, the answer, of course, is "yes". Is the gentleman contending that it is not germane?

MR. ECKHARDT: No. The gentleman merely asks whether or not on the question of germaneness with respect to this amendment, the question is determined on whether or not this amendment is germane to the Krueger amendment.

THE CHAIRMAN: That is correct. . . .

MR. ECKHARDT: Mr. Chairman, if the Chair would permit me, I should make

4. 121 CONG. REC. 23990, 23991, 94th Cong. 1st Sess.

5. H.R. 7014.

6. Richard Bolling (Mo.).

a point of order now if I must do so or I will at such time as the vote arises on the Krueger amendment on the ground that the Krueger amendment is now outside the rule.

If the Chair will recall, I queried of the Chair whether or not the question of germaneness on the amendment offered by the gentlewoman from Colorado was based upon its germaneness to the Krueger amendment or if that were the standard. The Chair answered me that it was. Therefore, the amendment offered by the gentlewoman from Colorado was not subject to a point of order at that time and I point out to the Chair that the question of germaneness rests upon whether or not the amendment is germane to the amendment to which it is applied.

At that time it was not in order for me to urge that the amendment offered by the gentlewoman from Colorado was not germane because it was indeed germane to the Krueger amendment, but the rule protects the Krueger amendment itself from a point of order on the grounds of germaneness and specifically says that it shall be in order to consider without the intervention of any point of order the text of an amendment which is identical to the text of section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record on Monday and it is described.

The Krueger amendment upon the adoption of the Schroeder amendment becomes other than the identical amendment which was covered by the rule. At this point the question of germaneness of the Krueger amendment rests on the question of whether or not it is at the present time germane to the main body before the House.

It is not germane to the main body before the House because of the—and I cite in this connection Deschler on 28, section 24 in which there are several precedents given to the effect that an amendment which purports to create a condition contingent upon an event happening, as for instance the passage of a law, is not in order. For instance 24.6 on page 396 says:

> To a bill authorizing funds for construction of atomic energy facilities in various parts of the Nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was ruled out as not germane.

There are a number of other authorities in that connection, that is, an amendment postponing the effectiveness of legislation pending contingency.

Now, with respect to the question of timeliness, the gentleman from Texas could not have raised the point of order against the Schroeder amendment because of the fact that the Schroeder amendment was, in fact, germane to the Krueger amendment. It is clearly stated that the test of germaneness must rest on the question of the body upon which the amendment acts, and as I queried the Chair at the time, I asked that specific question, would the germaneness of the Schroeder amendment rest upon the question whether it is germane to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I only state that it seems to me that the rule makes the Krueger amendment in order by its text, but it does not prohibit it being amended by subsequent action of this

body and that if the text had been changed by the gentleman from Texas (Mr. Krueger) in its introduction, the point of order might have been appropriate; but the point of order that is attempted to prohibit this body from amending the text of the Krueger amendment after it has been properly introduced and been made germane by the rule would prohibit those others in the majority of this body from acting on any perfection of the Krueger amendment. I do not think that is the purpose of the rule. . . .

THE CHAIRMAN: The Chair is ready to rule.

The rule under which the matter is being considered did in fact make in order the so-called Krueger amendment, and any amendment to that amendment which is germane to that amendment was thus, at the same time, made in order. There was no need for special provision to make amendments germane to the Krueger amendment in order, and the argument made by the gentleman from Ohio (Mr. Brown) is very much to the point.

The Chair, therefore, overrules the point of order.

Amendment Modifying a Law Being Extended by Bill

§ 2.25 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended.

On June 1, 1976,[7] the Committee of the Whole had under consideration a bill (H.R. 12169) reenacting a law, to extend the existence of the Federal Energy Administration. That law provided, in the absence of such extension, for termination of the agency and a consequent transfer of its functions to other agencies. An amendment in the nature of a substitute was offered which itself provided for termination of the agency and the transfer of certain of its functions to other agencies—matters deemed to be within the jurisdiction of committees other than that which reported the bill:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs . . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and

7. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission. . . .

Mr. John D. Dingell, of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor. . . .

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. . . .

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute,

which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: Mr. Chairman, the rules of the House under rule X(i)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore, the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us, both as it was originally drawn and as it is amended, does only two things, and as amended it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the language of the bill. Therefore the bill before the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations. . . .

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and mod-

ify certain functions within the jurisdiction of the committee dealing with the bill on the floor. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: . . . The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514, of the Rules of the House of Representatives:

> . . . Thus 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. . . .

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

Several days ago the gentlewoman from Colorado (Mrs. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—Public Law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

8. William H. Natcher (Ky.).

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

§ 2.26 To a bill extending the Federal Energy Administration Act, including the Administrator's authority under that Act to conduct energy programs delegated to him, an amendment seeking to restrict the manner in which the Administrator was to submit energy action proposals to Congress was held germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill.

On June 1, 1976,[9] during consideration of H.R. 12169 (Federal Energy Administration extension), it was held that to a bill continuing and reenacting an existing law, a germane amendment modifying the provisions of the law being extended was in order:

The Clerk read as follows:

9. 122 CONG. REC. 16045, 16046, 94th Cong. 2d Sess.

Amendment offered by Mr. Eckhardt: Page 10, after line 4, insert the following:

LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS

Sec. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act.". . . .

MR. [CLARENCE J.] BROWN [of Ohio]: Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).

Mr. Chairman, the Dingell bill's fundamental purpose is to authorize appropriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.

Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.

The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.

Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:

> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.

Then I cite section 5.11, Mr. Chairman, which says the following:

> To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. . . .

[T]he amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169. . . .

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c)(1):

> Any such amendment which, with respect to a class of persons or class of transactions (including trans-

actions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c)(1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the nation. To that end, they shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. . . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment offered by the gentleman from Texas (Mr. Eckhardt) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Administration Act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

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10. William H. Natcher (Ky.).

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman Flynt ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

Senate Amendment Striking Language in House Bill—Motion To Recede and Concur With Amendment

§ 2.27 Where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment.

The proceedings of Dec. 12, 1974, relating to H.R. 16901, the agriculture, environment and consumer appropriations bill for fiscal 1975, are discussed in Sec. 27.14, infra.

Germaneness of Senate Amendment That Was Amended by House

§ 2.28 The test of germaneness under Rule XXVIII, clause 4, of a portion of a conference report originally contained in a Senate amendment is its relationship to the final House version of the bill committed to conference, and not to the original House-passed bill which may have been superseded by a House amendment to the Senate amendment prior to conference; thus, where the House (by unanimous consent) amended a Senate amendment to include matter germane to the Senate amendment although not germane to the original House-passed bill, the Chair stated that a germaneness point of order would not lie against the Senate amendment as so modified in a conference report.

The proceedings of July 28, 1983, relating to the conference report on H.R. 2973 (interest and

dividend tax withholding repeal), are discussed in Sec. 26.3, infra.

Amendments Stating Congressional Policy Offered to Substitute Providing Humanitarian Assistance

§ 2.29 To a substitute providing humanitarian and evacuation assistance to victims of war in South Vietnam, two amendments containing Congressional foreign policy declarations with respect to the roles of other nations in causing and ending that war were held to go beyond the scope of the purpose of the bill and were held to be not germane.

On Apr. 23, 1975,[11] during consideration of H.R. 6096, the Vietnam Humanitarian Assistance and Evacuation Act, amendments expressing the sense of Congress relative to the causes of circumstances addressed by the bill's provisions, and including broad declarations of foreign policy, were ruled out of order as not germane, the bill being limited to relief for a specific situation. The first of the amendments was offered by Mr. Robert E. Bauman, of Maryland:

> MR. BAUMAN: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Bauman to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar: At the end of the substitute and renumber accordingly; add the following new section:
> >
> > "Sec. —. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement; and further, the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China towards this aggression as a critical test of good faith, and calls upon them immediately to use their influence to end the aggression by the North Vietnamese and the Viet Cong.". . .
>
> MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I raise the point of order that the amendment is not germane to the bill; that it includes information that does not have any indication that it relates to the object of what is being done in the substitute amendment.
>
> THE CHAIRMAN:[12] Does the gentleman from Maryland desire to be heard?

11. 121 CONG. REC. 11510, 11511, 94th Cong. 1st Sess.

12. Otis G. Pike (N.Y.).

MR. BAUMAN: . . . I would say that while this amendment may not be pleasing to the 71 Members who voted against the Ashbrook amendment, it goes to the very heart of the matter which is contained in this bill, which deals with humanitarian aid and evacuation procedures. By reason of the amendment offered by the gentleman from Mississippi (Mr. Montgomery) it now includes the problem of prisoners of war and missing in action and accountability.

In fact, it deals with policy in that matter. The scope of the bill has broadened considerably, and it is all within the jurisdiction of the Committee on International Relations and deals directly with the reason that this legislation must be offered today and acted upon. In fact, that is the very reason for this amendment. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I seek recognition on the point of order.

Mr. Chairman, the amendment offered by the gentleman from Maryland (Mr. Bauman) does this: It intends to direct international policy, to direct the State Department to provide general provisions controlling the policy of the United States in matters far beyond the Vietnamese question.

The substitute on the floor does none of these things. It essentially provides, in its major provisions, which are similar to the committee bill, means by which certain persons may be removed from Vietnam, that is, citizens of the United States and dependents, persons entitled to come over because of their connection with the U.S. nationals. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment and in the opinion of the Chair, the amendment, particularly the language, "the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China toward this aggression as a critical test of good faith," does, in fact, go far beyond the scope of the legislation before us.

The point of order is sustained.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Buchanan to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:
>
> "Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement." . . .

MR. EDGAR: Mr. Chairman, I make the point of order on the same grounds I stated before. This amendment is not germane. This piece of legislation raises issues which should not be dealt with in this fashion. . . .

MR. BUCHANAN: . . . I have stricken from the original amendment the language to which the Chair earlier referred. I believe all the remaining language deals specifically with what the provisions of this legislation do and why they are necessary. . . .

THE CHAIRMAN: The Chair is ready to rule.

While it is true that the Chair did refer particularly to certain language in the earlier amendment, the Chair does not indicate that if that particular language had not been there, the amendment would have been found to be in order.

The language of the amendment still goes far beyond the scope of the bill.

The point of order is sustained.

§ 2.30 To a substitute dealing with humanitarian and evacuation assistance to war victims in Vietnam, perfected by amendment to prohibit such assistance to specified groups, a further amendment stating that the necessity for the relief provided has been caused by the actions of the groups denied assistance was held germane as an expression of foreign policy not extending beyond the purposes of the perfected proposition.

On Apr. 23, 1975,[13] the Committee of the Whole had under consideration H.R. 6096, the Vietnam Humanitarian Assistance and Evacuation Act. An amendment was offered by Mr. John M. Ashbrook, of Ohio, and the proceedings were as follows:

MR. ASHBROOK: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Insert new section 8 and renumber following sections:

"Sec. 8. To insure that the assistance is provided to such persons throughout South Vietnam no funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG." . . .

[The amendment was agreed to.]

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Rousselot to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:

"Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the

13. 121 CONG. REC. 11507, 11508, 11511, 94th Cong. 1st Sess.

military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam.

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. . . . I object to this amendment because it is not germane. . . .

MR. ROUSSELOT: . . . (The amendment) does very much refer to this legislation. It discusses the Paris peace agreements and the necessity for the use of military forces. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair finds that the present amendment is narrowly drawn. It refers to the situation in Vietnam to which this substitute in its perfected form is directed, and the Chair overrules the point of order.

New Title Dealing With Energy Used in Production of Beverage Containers Offered to Energy Conservation Bill

§ 2.31 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new title dealing with energy use in the production of certain non-energy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate energy production requirements of such products.

On Sept. 18, 1975,[15] it was demonstrated that the test of germaneness of an amendment adding a new title to a bill being read by titles is the relationship between the amendment and the bill as a whole. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[16] in the Committee of the Whole were as follows:

TITLE V—IMPROVING ENERGY EFFICIENCY OF CONSUMER PRODUCTS

PART A—AUTOMOBILE FUEL MILEAGE

Sec. 501. Definitions.

Sec. 502. Average fuel economy standards applicable to each manufacturer. . . .

PART B—ENERGY LABELING AND EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 551. Definitions and coverage.

Sec. 552. Test procedures.

Sec. 553. Labeling.

14. Otis G. Pike (N.Y.).

15. 121 CONG. REC. 29322–25, 94th Cong. 1st Sess.

16. H.R. 7014.

Sec. 554. Energy efficiency standards. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 331, after line 10, add the following:

TITLE VI—ENERGY LABELING AND EFFICIENCY STANDARDS FOR BEVERAGE CONTAINERS

DEFINITIONS AND COVERAGE

Sec. 601.—For purposes of this part—

(1) The term "beverage container" means a bottle, jar, can, or carton of glass, plastic, or metal, or any combination thereof, used for packaging or marketing beer or any other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form which is intended for human consumption. . . .

(4) The term "energy efficiency" means the ratio (determined on a national basis) of: The capacity of the beverage container times the number of times it is likely to be filled, to the units of energy resources consumed in producing such container (including such container's raw materials) and in delivering such container and its contents to the consumer.

The Commissioner, in determining the energy efficiency shall adjust any such determination to take into account the extent to which such containers are produced from recycled materials. . . .

LABELING

Sec. 603. The provisions of section 553, except paragraph (B) of subsection (a)(1), shall be applicable to beverage containers as defined in section 601. In addition, if the Commissioner determines that a beverage container achieves the energy efficiency target described in section 604, then no labeling requirement under this section may be promulgated or remain in effect with respect to such type. . . .

REQUIREMENTS OF MANUFACTURERS AND PRIVATE LABELERS

Sec. 605. The provisions of section 555 of this act with respect to consumer products to which a rule under section 553 applies shall be applicable to beverage containers as defined in section 601. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the point of order [is] on the ground that the amendment is not germane to the bill before us. The amendment seeks to impose efficiency standards on the manufacture of beverage containers. There is nothing in the bill relating to beverage containers. The amendment seeks to change efficiency standards imposed upon beverage containers themselves. There is nothing in this bill relating to beverage containers.

Furthermore, Mr. Chairman, not only is the amendment not germane to the bill but it also fails because it is not germane to the bill as amended because as the Chairman recalls all references to the efficiency standards have been removed from the bill with respect to industrial processes. If the amendment were to be offered relating to efficiency in manufacturing processes, it more appropriately should have been offered in sections relating to efficiency in manufacturing.

Those have now been deleted, of course. The amendment is not germane because it comes too late in the bill, for that matter, after it has been considered and acted upon in the House.

The amendment is very, very complex, setting up standards for efficiency in a whole series of devices. With regard to the mechanism we are under, this efficiency is judged and it goes into a lengthy complex set of judgments that must be exercised by the administrators with regard to this efficiency; but dealing solely with the question of bottles and containers. As I pointed out, there is no reference in the bill to bottles and containers. For that reason, the amendment is not germane. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . In Cannon's Procedures of the House of Representatives, the rule of germaneness occurs at section 794. It says that while the committee may report a bill embracing different subjects, it is not in order during the consideration of a bill to introduce a new subject. . . .

Mr. Chairman, the nature of the new subject in this legislation, it seems to me, is embraced in section 604 of the amendment as submitted by the gentleman from Vermont [Mr. Jeffords], in which we are not dealing with the set of standards of the operation of appliances as we were in the appliance section, or automobiles, as we were in the automobile standards section; but rather in the design of a nonenergy consuming product which the author of the amendment seeks to prohibit with reference to its possibilities of reuse. It gives the authority to the Secretary to prohibit a product on the basis of its design. So we are, in effect, impacting on the product with reference to the manufacture of the product in some mechanical or energy-consuming way. That, it seems to me, is a new direction or a new subject under the rule of germaneness, as opposed to the other approaches which the bill as reported out of the committee has taken. It is an area which I rather doubt comes under the purview of our committee, in that the purview of the committee relates to the consumption of energy as such and the licensing of that energy and the pricing of it and so forth. . . .

MR. [PHILLIP H.] HAYES of Indiana: Mr. Chairman, I simply wanted to add in regard to the standard . . . of looking to the fundamental purpose of an amendment in qualifying its germaneness, that this particular amendment would seek to add for the first time in the bill a class of product which does not in and of itself consume an average annual per household energy factor, nor does it consume in and of itself energy at all. . . .

MR. JEFFORDS: Mr. Chairman, never have I had an opportunity to tell so many distinguished gentlemen that they are wrong at the same time. First, let us go back to the basics here. What are we concerned with when we talk about the germaneness? Let us look at the legislative manual.

The fundamental purpose of an amendment is that it must be germane to the fundamental purpose of the bill. What is the fundamental purpose?

Let us take a look at the title, "Energy Conservation and Oil Policy Act of 1975." Look what we are trying to do. We are trying to conserve energy. Let us take a look at title III, with its broad powers over the whole area of development of petroleum. There are tremendous powers over the whole industry in allocation, production, as to where the industry goes. . . .

Let us get to the argument made by many, and that is it is different be-

cause we are talking about energy consumed in the production of the consumer product rather than the consumer himself.

The FEA is not going to go around this country chasing after people with electric toothbrushes to see whether they brush properly or to see whether they are plugged in properly. They are going to go to the manufacturer and say, "You have a toothbrush here that has to have a certain energy efficiency improvement." So we are saying when the product is sold that particular beverage container must consume less than a certain amount of energy. It is identical in purpose. The bill does not try to go out and nail the consumer. It gets to him by labeling. It says, "Here is a consumer product that uses less energy." My amendment will say, "Here is something that uses less energy." I see no difference whatsoever. Its basic purpose and fundamental purpose is the same as the bill, to conserve energy and conserve oil. How anybody can argue that this is not germane is impossible for me to see.

THE CHAIRMAN:[17] The Chair is ready to rule.

The gentleman from Indiana, the gentleman from Michigan, the gentleman from Ohio, and the gentleman from Texas have made points of order against the amendment offered by the gentleman from Vermont (Mr. Jeffords) on the ground that it is not germane to the bill.

The Chair would like to state that if the amendment had been offered to title V, the arguments of many of the gentlemen would have more significance.

The amendment offered would add a new title to the bill relating to energy conservation in the production of beverage containers.

The test of germaneness in such a situation is the relationship between the new title to be added by the amendment and the entire bill.

The Chair would state, initially, that he has reexamined the precedents contained in section 6.13 and section 6.19 of chapter 28 of Deschler's Procedure, wherein an amendment prohibiting the production of nonreturnable beverage containers was held not germane to the Energy Emergency Act, and finds that the situations are distinguishable.

As noted, the germaneness is dependent upon the relationship between the amendment in the form of a new title and the entire bill to which offered.

The 1973 bill was designed to regulate and promote the production, allocation, and conservation of energy resources and contained no reference to the production of consumer goods. In that context, the nonreturnable container amendment was not germane.

However, the bill now under consideration contains several diverse titles, all relating to use, consumption, availability, and conservation of energy.

The Chair notes specifically the provisions of title V relating to end use and energy consumption of certain consumer products.

The Chair, therefore, believes that the bill is sufficiently broad in scope to admit as germane an amendment in the form of a new title which is drafted in the form presented by incorporating by reference certain standards in the bill, and which relates to the conserva-

17. Richard Bolling (Mo.).

tion of energy by an industry engaged in the production of a consumer product, specifically, beverage containers.

The Chair, therefore, overrules the point of order.

Amendment Changing Date of Termination of Agency Offered to Amendment in Nature of Substitute Terminating Agency

§ 2.32 Where the Committee of the Whole had under consideration a bill extending the Federal Energy Administration Act and an amendment in the nature of a substitute abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies, an amendment offered to such amendment in the nature of a substitute for purposes of changing the date for termination of such agency was held to be germane.

On June 1, 1976,[18] during consideration of H.R. 12169 in the Committee of the Whole, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30, 1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the

18. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

§ 3. Amendment as Relating to Subject Matter Under Consideration

A broad requirement of the germaneness rule is that an amendment relate to the subject matter under consideration. It has been stated that,

> The fundamental test of germaneness . . . is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment.[19]

Thus, an amendment relating to a subject to which there is no reference in the text to which offered may not be germane to the bill.[20]

Of course, the fact that two subjects are related does not necessarily render them germane to each other.[1] "Germaneness," as has been noted,[2] implies more than "relevance." For example, it has been held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.[3]

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19. See § 3.26, infra.

20. See § 5.8, infra.

1. See, for example, § 3.57, infra.

2. See § 1, supra.

3. See § 5.29, infra.

Amendment Affecting Excess-Profits Tax Credits Offered to Bill Relating to Settlement of Strikes

§ 3.1 To a bill relating to the settlement of labor disputes and strikes, an amendment was held to be not germane which proposed reduction of excess-profits tax credits of employers in an amount determined by the duration of any work stoppages resulting from labor disputes on the employers' premises.

In the 79th Congress, during consideration of a bill[4] relating to the settlement of labor disputes, the following amendment was offered:[5]

> Amendment offered by Mr. [Herman P.] Eberharter [of Pennsylvania] to the Case amendment: Page 15, after line 8, add a new section, as follows:
>
> EXCESS-PROFITS TAX CARRY-BACK CREDITS AS AFFECTED BY STRIKES
>
> Sec. 14. If in any taxable year ending after December 31, 1945, there exists a stoppage of work at any time during such taxable year because of a labor dispute at the factory, establishment, or other premises of the taxpayer, who is an employer under any of the provisions of this act, the unused excess-profits credit for such taxable year shall be reduced by an amount which is such part of the unused excess-profits credit as the number of days during which such stoppage was in effect is of the total number of days in such taxable year prior to January 1, 1947.

After Mr. Francis H. Case, of South Dakota, made the point of order that the amendment was not germane, Mr. Eberharter stated:

> . . . [T]he amendment applies only to those employers who are taxpayers and whose plant or establishment is affected by a strike or by a work stoppage. Therefore, it brings them entirely within the provisions of both the committee bill and the Case amendment.

The Chairman,[6] in ruling on the point of order, stated:

> . . . [A]fter having examined all the bills that have been introduced, including the declarations of policy, the opening paragraphs, and all the remainder of the bills, as far as the Chair can discover there is not one word mentioned about taxes or the disposition of taxes. Although the rule and the action of the House in adopting the rule opened the whole question to a very wide interpretation, the Chair does not feel that the question of the disposition of excess profits is within the purview of any of the bills. The Chair, therefore, sustains the point of order.

4. H.R. 4908 (Committee on Labor).

5. 92 CONG. REC. 1009, 79th Cong. 2d Sess., Feb. 6, 1946.

6. Emmet O'Neal (Ky.).

Amendment Declaring Intent of Congress as to Suspension of Tax Measures Offered to Bill Relating to Settlement of Strikes

§ 3.2 To a bill relating to the settlement of labor disputes and strikes, an amendment declaring the intent of Congress that certain tax measures be suspended for the duration of any strikes that impair the economy was held not germane.

In the 79th Congress, during consideration of a bill[7] relating to the settlement of labor disputes, the following amendment was offered:[8]

> Amendment offered by Mr. [Cleveland M.] Bailey, of West Virginia, to the Case substitute for H.R. 4908: On page 3, line 18, after the word "arbitration", strike out the period, insert a comma, and insert "And in this connection it is the declared intent of the Congress that all subsidies now being paid out of the United States Treasury in the form of tax refunds, tax rebates, and 'carry back' payments to individuals, companies, or corporations, be suspended for the duration of any strike or strikes now existing or that may occur during the calendar year that lead to industrial unrest, delay reconversion, and otherwise impair our national economy."

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

> MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the amendment is clearly out of order. It is not germane to the bill. There is nothing in this bill that has anything to do with the carry-back.

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

> MR. BAILEY: The Congress is being asked for a two-page declaration of policy contained in the proposed Case substitute to H.R. 4908 to make known its intent as regards strikes in industry. This declaration of policy is also predicated on the assumption that the speedy end of strikes will be in the public welfare and tend also to stabilize our post-war economy.

The Chairman, Emmet O'Neal, of Kentucky, in ruling on the point of order, stated:[9]

> In the opinion of the Chair, the amendment offered by the gentleman from West Virginia [Mr. Bailey] deals with both taxation and the disposition of taxes, and is not germane to the pending amendment.
>
> The point of order is sustained.

Bill Relating to Settlement of Strikes—Amendment to Federal Corrupt Practices Act Concerning Political Contributions of Labor Organizations

§ 3.3 To a bill relating to the settlement of labor disputes

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7. H.R. 4908 (Committee on Labor).

8. 92 CONG. REC. 854, 79th Cong. 2d Sess., Feb. 4, 1946.

9. *Id.* at p. 855.

and strikes, an amendment seeking to amend the Federal Corrupt Practices Act and concerning political contributions of labor organizations was held to be not germane.

In the 79th Congress, during consideration of a bill[10] relating to settlement of labor disputes, the following amendment was offered:[11]

> Amendment offered by Mr. [Ralph E.] Church [of Illinois]: Page 15, line 9, of the Case amendment, insert the following:
>
> Section 13 of the Federal Corrupt Practices Act, 1925, is hereby amended to read as follows:
>
> Sec. 13. It is unlawful . . . for any corporation . . . or any labor organization to make any contribution . . . or levy any assessments on its . . . members . . . in connection with any election at which Presidential and Vice Presidential electors, or a Senator or a Representative in . . . Congress are to be voted for. . . .

Mr. Francis H. Case, of South Dakota, having raised the point of order that the amendment was not germane, the Chairman[12] without elaboration held that the amendment was not germane to the bill.

Amendment Prohibiting Compensation to Persons Forcibly Seeking To Prevent Workmen From Returning to Work Offered to Amendment Prohibiting Compensation to Defense Employees Participating in Strikes

§ 3.4 To an amendment prohibiting compensation to persons participating in strikes while employed in the production of defense articles, a substitute prohibiting compensation under specified circumstances to any person "who assists in maintaining a picket line or otherwise seeks forcibly to prevent the return of workmen" to work, was held not germane.

In the 77th Congress, during proceedings relating to the Military Appropriations Bill of 1942,[13] the following proposition[14] was under consideration:

> Amendment offered by Mr. [Joe] Starnes [of Alabama]: On page 71, after line 12, insert a new section, as follows:
>
> Sec. 11. No part of any appropriation contained in this act shall be available

10. H.R. 4908 (Committee on Labor).
11. 92 Cong. Rec. 1020, 79th Cong. 2d Sess., Feb. 6, 1946.
12. Emmet O'Neal (Ky.).
13. H.R. 4965 (Committee on Appropriations).
14. See 87 Cong. Rec. 4837, 4838, 77th Cong. 1st Sess., June 6, 1941.

for the payment of compensation to any person by whomsoever employed who, while employed directly or indirectly, in the manufacture or production of any defense article, as defined in Public Act No. 11, Seventy-seventh Congress, shall hereafter stop work for a period in excess of 10 days by reason of being a voluntary participant in any strike called in any plant manufacturing or producing defense articles.

The following substitute amendment was offered:[15]

Substitute amendment for the Starnes amendment by Mr. [Francis H.] Case of South Dakota:

Sec. 13. No part of any appropriation contained in this act shall be available for the payment of compensation to any person for services in a plant engaged in the manufacture or production of any defense article . . . who assists in maintaining a picket line or otherwise seeks forcibly to prevent the return of workmen after the National Mediation Board shall have certified to the President that further stoppage of work in that plant will critically impede the national-defense program.

The following proceedings[16] then took place with respect to a point of order raised against the amendment:

MR. [JOHN B.] SNYDER [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. . . .

THE CHAIRMAN:[17] . . . The Chair . . . is clearly of the opinion that the substitute amendment is not in order by reason of the fact that it is not germane to the amendment offered by the gentleman from Alabama [Mr. Starnes]. The amendment as offered by the gentleman from Alabama has to do with the stoppage of work, by its terms saying "shall hereafter stop work for a period in excess of 10 days," and so forth, whereas the amendment offered by the gentleman from South Dakota has to do with picketing and picketing lines, which is quite different from a stoppage of work.

For that reason the substitute is not in order, inasmuch as it is not germane to the amendment offered by the gentleman from Alabama [Mr. Starnes]. On the ground that it is not germane, the Chair holds it is out of order.

Bill To Promote Cotton Research and Marketing—Amendment Affecting Labor in Cotton Industry

§ 3.5 To a bill establishing a cotton research program and promoting the marketing of cotton, an amendment providing for research with respect to training and utilization of displaced farm labor in the cotton industry, was held to be not germane.

The following exchange,[18] which occurred during consideration of the Cotton Research and

15. 87 CONG. REC. 4887, 77th Cong. 1st Sess., June 9, 1941.

16. *Id.* at pp. 4887, 4888.

17. Fritz G. Lanham (Tex.).

18. 112 CONG. REC. 4838, 4839, 89th Cong. 2d Sess., Mar. 3, 1966.

Promotion Act of 1966,[19] concerned the propriety of amendments offered by Mr. William F. Ryan, of New York:

MR. [HAROLD D.] COOLEY [of North Carolina]: [The amendments] are not germane. They provide for research and development projects and studies with respect to training or retraining and utilization of displaced farm labor engaged in the growing of cotton. . . .

The bill under consideration deals only with cotton and the promotion and research in the field of cotton. The bill has nothing whatever to do with farm labor. . . .

MR. RYAN: Mr. Chairman, I know of nothing more germane or relevant to a bill which deals with the increased productivity of cotton, which deals with the question of competitive efficiency, than at the same time to deal with the question of what happens to individuals engaged in the farming of cotton who are affected by that increased productivity. . . .

[Section 6(b) of H.R. 12322] provides for research and development projects and studies with respect to production and distribution to make marketing more efficient and cotton generally more competitive.

My amendment is a companion to that section. It calls for research and development projects and studies with respect to training . . . of displaced farm labor engaged in the growing of cotton. . . .

THE CHAIRMAN:[20] The Chair is of the opinion that the amendment deals with persons in farm labor, and the bill itself deals with commodities and the promotion of commodities, and that the amendment is not germane and sustains the point of order.

Provision Abolishing Federal Energy Administration—Amendment Delaying Termination

§ 3.6 To an amendment abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies at that time, an amendment delaying the termination date of that agency for one year was held to be germane.

On June 1, 1976,[1] during consideration of H.R. 12169 (Federal Energy Administration extension), in response to a point of order, the Chair held the following amendment germane to the matter to which it was offered:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30,

19. H.R. 12322 (Committee on Agriculture).

20. John J. McFall (Calif.).

1. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:"

THE CHAIRMAN:[2] Does the gentleman from Michigan reserve his point of order?

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve my point of order. . . .

THE CHAIRMAN: Does the gentleman from Michigan (Mr. Dingell) insist upon his point of order?

MR. DINGELL: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will be glad to hear the gentleman.

MR. DINGELL: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman

2. William H. Natcher (Ky.).

from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

Provision To Establish Termination Date for Energy Agency—Substitute Providing Reorganization Plan

§ 3.7 For an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was held to be not germane.

On June 1, 1976,[3] during consideration of a bill[4] extending the Federal Energy Administration Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

"Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' ". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the exist-

3. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.

4. H.R. 12169.

ence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan. . . .

The Chairman:[5] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

Appropriations for Programs Administered by Department of Energy—Amendment Appropriating Funds for Program Under Department of Agriculture

§ 3.8 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency for the same general purpose may not be germane al-

5. William H. Natcher (Ky.).

though authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of Agriculture was held not germane.

On July 24, 1981,[6] during consideration of the Energy and Water Development Appropriations, fiscal 1982,[7] in the Committee of the Whole, Chairman Anthony C. Beilenson, of California, sustained a point of order against the following amendment:

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Weaver: Page 16, line 19, insert immediately before the period the following: ", and *Provided further*, That $5,000,000 of the funds provided herein shall be made available to the Secretary of Agriculture for the establishment of pilot wood utilization projects and demonstrations as authorized by the Wood Residue Utilization Act of 1980, Public Law 96–554.".

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I make a point of order against the gentleman's amendment. . . .

The amendment is not germane to this paragraph of the bill nor to the bill as a whole. The wood residue program is authorized by Public Law 96–554, and clearly is to be administered by the Forest Service, Department of Agriculture, which is funded under the Interior appropriations bill.

This program was not authorized to be administered or funded by the Department of Energy, which is where the gentleman's amendment applies.

Under clause 7, rule XVI, it is stated that it is not in order during consideration in the House to introduce a new subject by way of amendment, and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.

I contend this amendment is not germane to this paragraph or this bill and is in violation of clause 7, rule XVI. . . .

MR. WEAVER: . . . [T]he Department of Energy now funds wood utilization programs. This bill is law. We are not changing existing law. We are referring only to existing law and it is an energy manufacturing program and, therefore, definitely germane to this bill.

THE CHAIRMAN: The Chair is prepared to rule on the point of order made by the gentleman from Alabama (Mr. Bevill).

For the purposes stated by the gentleman from Alabama, the distinguished chairman of the subcommittee, the point of order is sustained and the amendment is held not germane to the pending title of the bill, which relates only to the Department of Energy.

6. 127 CONG. REC. 17226, 97th Cong. 1st Sess.

7. H.R. 4144.

Proposition To Authorize Gasoline Rationing—Amendment Establishing User Charge for Gasoline

§ 3.9 To a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities, including rationing of gasoline, among users of petroleum products, an amendment providing that any rationing proposal for individual users of gasoline should include payment of a user charge to qualify for additional allocations was held to constitute a tax which was not within the category of rationing authority in the substitute and was held to be not germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[8] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

MR. [JAMES G.] MARTIN of North Carolina: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Martin of North Carolina to the amendment

8. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "; *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a fee or user charge on a per unit basis to the Federal Energy Administration."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

MR. MARTIN of North Carolina: Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. . . .

This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

THE CHAIRMAN:[9] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

9. Richard Bolling (Mo.).

Provisions Authorizing Rationing Plans and Monitoring of Fuel Supplies—Amendment to Set Aside Fuel for Agriculture.

§ 3.10 To a bill authorizing the imposition of rationing plans by the President to conserve energy, providing mechanisms to avoid energy marketing disruptions, and broadened by amendment to provide for monitoring of middle distillates and supplies of diesel oil, an amendment adding a new section to require a set-aside program to provide middle distillates for agricultural production was held to be germane.

On Aug. 1, 1979,[10] during consideration of the Emergency Energy Conservation Act of 1979,[11] Chairman Dante B. Fascell held that the test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the

10. 125 CONG. REC. 21967, 21968, 96th Cong. 1st Sess.

11. S. 1030.

Whole. The proceedings were as follows:

Amendment offered by Mr. [Thomas J.] Tauke [of Iowa]: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

After some debate, Mr. Tauke made a request, as follows, and the amendment was agreed to, as modified: (12)

MR. TAUKE: Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Iowa (Mr. Tauke), as modified.

The amendment, as modified, was agreed to.

Thereafter, Mr. Tauke offered the following amendment: (13)

Amendment offered by Mr. Tauke: Page 50, after line 2, insert the following new section:

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12. 125 CONG. REC. 21966, 96th Cong. 1st Sess.

13. *Id.* at p. 21967.

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve a point of order against the amendment. . . .

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

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

MR. DINGELL: Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the ques-

tion before the Chair. The question before the Chair is, Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products? The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the chair that this amendment is not germane.

I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation Act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was. . . .

MR. TAUKE: . . . Mr. Chairman, in this particular measure that we are considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that this amendment be considered a part of this measure. . . .

MR. [CHARLES] PASHAYAN [Jr., of California]: The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order. . . .

MR. BROWN of Ohio: . . . One other point that omitted my attention until the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The [test of the germaneness of a new section is its relationship] to the bill as read to this point and in that case we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

Energy Conservation Bill—Amendment Prohibiting School Busing; Imposing Criminal Penalties

§ 3.11 To a title of a bill designed to enable agencies of the government to formulate policies of energy conservation, an amendment prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title.

On Sept. 17, 1975,[14] it was demonstrated that the test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[15] in the Committee of the Whole were as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. Collins of Texas: Page 273, insert after line 4 the following new section:
>
> ENERGY CONSERVATION THROUGH PROHIBITION OF UNNECESSARY TRANSPORTATION
>
> Sec. 450. (a)(1) No person may use gasoline or diesel fuel for the transportation of any public school student to a school farther than the public school which is closest to his home offering educational courses for the grade level and course of study of the student and which is within the boundaries of the school attendance district wherein the student resides.
>
> (2) Any person who violates subsection (1) of this section shall be fined not more than $5,000 or imprisoned not more than one year, or both, for each violation of such subsection. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his is clearly beyond the scope of the matters that are dealt with in this title of the bill. It would very substantially introduce administrative duties that are not provided for in any way in the bill, and it is clearly beyond the jurisdiction of this committee. . . .

MR. [JAMES M.] COLLINS of Texas: Mr. Chairman, we have had a similar amendment in conservation bills before which have passed the House before, and in this particular bill. It comes in conjunction with sections on energy conservation through van pooling arrangements, through the use of car pools. It is an identical type of conservation measure as the limitation of limousines we discussed earlier, and the conservation of gasoline.

This is very much consistent because what we are talking about here in conservation, the unnecessary and unneeded uses of transportation. Also, we have the jurisdiction over the FEA, and it seems to me that we would be concerned with this. . . .

THE CHAIRMAN:[16] The gentleman from New York makes a point of order

14. 121 CONG. REC. 28925–27, 94th Cong. 1st Sess.

15. H.R. 7014.

16. Richard Bolling (Mo.).

against the amendment offered by the gentleman from Texas (Mr. Collins) on grounds that it is not germane to title IV. The gentleman from Texas, in responding to the point of order, has cited certain amendments that have been adopted to the bill during debate, and the Chair is not clear as to whether he is talking only about this bill or about earlier bills.

MR. COLLINS of Texas: Mr. Chairman, I understand that specifically this bill itself, in this particular bill itself on page 270, we have a section of this bill which says, "Energy Conservation Through Van Pooling Arrangements."

On page 271, we have a section called "Use of Carpools." We just adopted the Santini amendment, which is related to it. We talked about limousines. We have been talking about transportation and vehicles. Here we are talking about conservation, and we could conserve a great deal of gasoline and diesel fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan): . . . I would point out that the bill before us relates to allocation of gasoline. It relates to the conservation of energy. But this amendment adds a criteria category and purpose to the bill which is above, apart and different from anything else found anywhere else in the bill, and that is a specific prohibition of the use of fuels for a particular purpose, which carries us beyond the purposes of the bill.

Again, Mr. Chairman, I would cite to the Chair that the nature of the amendment must be such as to notify the House that it might reasonably anticipate it and might be related to the purposes for which the bill is drawn.

Mr. Chairman, I might add further that the amendment adds criminal sections, imposing, for example, penalties on bus drivers of school buses, and goes well beyond the allocation powers or the conservation powers which are vested in the Federal Government, adding, essentially, a new criminal section of the bill which was not previously before us and which is not in the bill. . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I would like to call the attention of the Chair to title VI of the bill, particularly section 605, where we have a section that prohibits the use of natural gas as boiler fuel for the generation of electricity.

It would seem to me that here we have a similar type of fuel—gasoline—and the gentleman from Texas (Mr. Collins) by his amendment would prohibit the use of that fuel in transporting school children. . . .

MR. COLLINS of Texas: Mr. Chairman, there is one further thing I wish to say. We have talked about whether there were penalties or not provided in this bill.

In the bill itself, in previous sections, violations were set out and there were penalties of $5,000. There are several sections in the FEA sections that provide for penalties. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to state at the outset that the point of order made by the gentleman from New York (Mr. Ottinger) against the amendment offered by the gentleman from Texas (Mr. Collins) is on the ground that the amendment is not germane to title IV, and we are in effect limited in our consider-

ation to the matters contained in title IV.

As will be clear in the statement which the Chair will make, the ruling that the present occupant of the Chair made under seemingly similar circumstances on an earlier bill is different.

The amendment would prohibit the use by any person—and that is the key to the ruling of the Chair—of gasoline or diesel fuel for certain transportation of public school students, and would establish a criminal penalty for violation of the amendment's provisions. The Chair has noted the Chair's ruling, cited in Deschler's Procedures, chapter 28, section 26.9, that an amendment restricting the regulatory authority of the President, who was authorized by the bill to establish priorities among users of petroleum products, was germane where the amendment required the product so allocated be used only for certain transportation of public school students.

It appears to the Chair that the ruling on that occasion was specifically directed to the fact that the bill conferred certain regulatory authority upon the President, and that the amendment placed a specific limitation and direction on the power so delegated. The amendment now in question does not address itself to the authority of an agency of Government, except in its last subsection relating to certain determinations by the Administrator of the Federal Energy Administration. But the direct thrust of the amendment is to prohibit certain uses of fuel by any person.

It is true that the title to which the amendment is offered deals with the subject of the conservation of energy, but the provisions of title IV address the goal of conservation through actions and encouragement by an agency of Government, not through prohibitions on the use of fuel by any person.

The Chair is unable to discover in title IV or in the basic act being amended criminal prohibitions applicable to any person using the fuel in a certain way.

The Chair, therefore, finds that the amendment is not germane to the fundamental purposes of the title to which offered and sustains the point of order.

Proposition To Require Study of Energy Conservation—Amendment Requiring Study of Effect of Regulations on Energy Shortage

§ 3.12 To an amendment in the nature of a substitute establishing a Federal Energy Administration and directing that agency to conduct a comprehensive study of energy conservation, an amendment directing that agency to conduct another study as to whether regulations issued under the Economic Stabilization Act were contributing to the energy shortage was held to be germane.

During consideration of the Energy Emergency Act[17] in the Committee of the Whole on Dec.

17. H.R. 11450.

14, 1973,[18] the Chair held that to a proposition establishing an executive agency and conferring broad authority thereon, an amendment directing that agency to conduct a study of a subject within the scope of that authority was germane:

MR. [JAMES R.] JONES of Oklahoma: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 9, after line 22, section 104 is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

Sec. 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I regretfully make a point of order against the amendment. . . .

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Of course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness. . . .

MR. JONES of Oklahoma: I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but

18. 119 CONG. REC. 41752, 93d Cong. 1st Sess.

merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because it does fit into the overall objective.

THE CHAIRMAN:[19] The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. Jones) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

Permanent Direction to Agency To Promulgate Regulations Based on Study

§ 3.13 While an amendment to an annual authorization bill which requires a study to be made with a portion of the authorized funds may be germane, a permanent direction to the agency or department in question to promulgate regulations based on such study is not germane.

The proceedings of Oct. 12, 1979, relating to H.R. 3000, the Department of Energy authorizations for fiscal 1980 and 1981, are discussed in Sec. 24.3, infra.

19. Richard Bolling (Mo.).

Proposition Requiring Agency To Conduct Study—Amendment Requiring Agency To Propose Legislation

§ 3.14 To a proposition directing that a study be conducted to determine the feasibility of establishing certain standards of fuel economy for automobiles, an amendment requiring submission by the investigating agency of proposed legislation implementing the conclusions of such study was held to be germane.

On Dec. 14, 1973,[20] during consideration of H.R. 11450, the Energy Emergency Act, the Committee of the Whole had under consideration a section of an amendment in the nature of a substitute that directed the Environmental Protection Agency to conduct a study of the feasibility of establishing a fuel economy improvement standard of twenty percent for 1980 and subsequent model year automobiles. An amendment was offered to that section, requiring submission by the Agency of proposed legislation which would affirmatively establish a fuel economy improvement standard of twenty-five percent or

20. 119 CONG. REC. 41747, 41748, 93d Cong. 1st Sess.

as close thereto as was deemed feasible in the light of criteria specified in the amendment:

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Rogers to the amendment in the nature of a substitute offered by Mr. Staggers: Page 67, after line 26, add the following . . .

"(b)(1)) Subject to paragraph (2) and (3), not later than 30 days after submission of the results of the study under subsection (a), the Administrator shall submit to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Public Works of the Senate proposed legislation which would establish a 25 per centum fuel economy improvement standard applicable to 1980 and later model new motor vehicles. . . .

"(2) If the Administrator determines that establishing a fuel economy improvement standard of 25 per centum for 1980 and later model new motor vehicles—

(A) is technologically or economically unfeasible,

(B) cannot be complied with safety and without interferring with applicable emission requirements, or

(C) will have unreasonably disruptive impact on employment or the economy,

he shall propose legislation establishing such lesser fuel economy improvement standard which he determines is as close to 25 per centum as possible without having any of the effects described in subparagraphs (A), (B), or (C). . . .

MR. [JAMES T.] BROYHILL of North Carolina: Mr. Chairman, I make the point of order that this amendment is not germane, that we have no other subject matter such as this in the bill, and, furthermore, that the House of Representatives or the Congress in prior action has authorized another Department of the Federal Government to undertake the same study, and thus this amendment is not in order. . . .

MR. ROGERS: Mr. Chairman, actually this simply carries out part of the provision in the law which provides for a study on how this can be accomplished.

All this amendment does, in connection with that study, is to say the following: Where that study says, "He shall report to the Congress," this simply says or sets forth the manner in which he shall do that, by proposing specific legislative proposals that we ourselves would rule on, as the results of a study. And then he proposes how we can save fuel mileage.

That is all it is doing. It is set at 1980, and it simply carries out what we are trying to do in that study by having him report to the Congress.

It simply tells him how he shall make his report to the Congress, that it is proper and economically feasible. . . .

THE CHAIRMAN:[1] For the reasons stated by the gentleman from Florida (Mr. Rogers), the Chair overrules the point of order.

Parliamentarian's Note: Although an amendment which directs that certain actions or activities be undertaken is not germane

1. Richard Bolling (Mo.).

to a proposal merely to investigate the subject matter involved,[2] the amendment offered by Mr. Rogers in the above instance required simply the submission of proposed legislation as a follow-up of the study.

Bill Prescribing Standards for Educational Agencies Administering Programs—Amendment Providing Remedies Where Agencies Deny Equal Educational Opportunity

§ 3.15 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

During consideration of H.R. 69[3] in the Committee of the Whole on Mar. 26, 1974,[4] the Chair held that to a proposition amending several laws providing federally funded assistance, an amendment restricting the activities of the state and local agencies which are the recipients of those funds and also providing a judicial remedy where the restrictions imposed upon those agencies are not complied with is germane. The proceedings were as follows:

> The Clerk will report the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Esch to the committee substitute amendment: Page 58, after line 18, insert a new Title II (and number the succeeding Titles and Sections accordingly):
>
> "TITLE II—EQUAL EDUCATIONAL OPPORTUNITIES
>
> Sec. 201. This title may be cited as the "Equal Educational Opportunities Act of 1974".
>
> PART A—POLICY AND PURPOSE
>
> Sec. 202. (a) The Congress declares it to be the policy of the United States that—
>
> (1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

2. See 8 Cannon's Precedents § 2989.

3. A bill to amend and extend the Elementary and Secondary Education Act.

4. 120 CONG. REC. 8262–64, 8269, 8270, 93d Cong. 2d Sess.

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) In order to carry out this policy, it is the purpose of this Act to specify appropriate remedies for the orderly removal of the vestiges of the dual school system. . . .

PART B—UNLAWFUL PRACTICES

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITY

Sec. 204. No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools . . .

PART C—ENFORCEMENT

CIVIL ACTIONS

Sec. 207. An individual denied an equal educational opportunity, as defined by this title may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General . . . may also institute such a civil action on behalf of such an individual. . . .

PART [D]—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

Sec. 213. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

Sec. 214. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws . . . a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers; . . .

TRANSPORTATION OF STUDENTS

Sec. 215. (a) No court, department, or agency of the United States shall, pursuant to section 214, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student. . . .

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, it is settled that while a bill may be brought before the House embracing different subjects, as does the bill now under consideration, it is not in order to introduce a new subject (V, 5825), which is precisely what the gentleman's amendment would do. The fundamental purpose of H.R. 69 is to extend, modify and create educational programs; the fundamental purpose of the gentleman's amendment is to limit the power of Federal courts to determine what constitutes a denial of equal protection of the laws under the Constitution. Therefore, the amendment is not germane (VIII, 2911). Going beyond the fundamental purposes of H.R. 69 and the gentleman's amendment,

there is not even a specific provision of his amendment which deals with educational programs, which, along with administrative provisions governing such programs and two or three studies, are the only subjects dealt with in H.R. 69. The facts permit only one conclusion; the gentleman's amendment must be ruled out of order by reason of clause 7 of rule XVI. . . .

This amendment can in no way be described as dealing with educational programs, in whole or in part. It is, as previously stated, nothing less than a straightforward attempt to limit the jurisdiction and power of our courts to interpret the 14th amendment to the Constitution and to fashion appropriate remedies for its violation. While I would, on another occasion, argue that this represents a "backdoor" attempt to amend the Constitution—on the theory that a right for which there is no enforceable remedy is no right at all—that is not my purpose today. I wish only to point out in some detail both the particular and the fundamental purposes of the gentleman's amendment so that the Chair might better understand why they are completely unrelated to the bill under consideration which, as I have said, deals entirely with various educational programs. . . .

MR. [MARVIN L.] ESCH [of Michigan]: . . . Mr. Chairman, I think we should point out that the amendment offered by me, on behalf of others and myself, is clearly in order to H.R. 69. I would refer the Chair to the fact that H.R. 69 not only amends the Elementary and Secondary Education Act of 1965, but also amends the General Education Benefit Act on which the Commissioner of Education has specific authority to deal on all matters pertaining to elementary and secondary education.

Furthermore, it also amends the Emergency School Aid Act. Indeed, in title IX under section 901, there are specific amendments to the Emergency School Aid Act referring to the question of integrated schools and even going specifically to the point as to the number of minority group children which comprise the makeup of a minority school.

So, clearly an amendment which would be related to the education in segregated or nonsegregated schools would be clearly in order.

It should also be pointed out that such matter pertains specifically to the transportation of pupils, which is also a part of this act. Furthermore, it is interesting to note that there are many other extraneous matters even apart from the Elementary and Secondary Education Act, such as the amendment extending adult education sections, which surely do not pertain to the K through 12 programs, and even on the study of the need for athletic trainers in secondary schools and institutions of higher education, which clearly are far beyond the boundary of merely amendments to Elementary and Secondary Education Act. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: . . . Section 2995 of volume VIII of the Precedents of the House clearly states that it is up to the maker of an amendment to prove germaneness. I do not think that is possible. H.R. 69 deals with various forms of Federal aid to education. Every provision of the bill is related to that purpose. On the other hand, the amendment offered by the gentleman from

Michigan does not in any way deal with Federal aid or with aid of any sort to education. The sole purpose of the amendment is to define unlawful practices as they relate to the segregation of schoolchildren. A further major section of the amendment places restrictions on Federal courts and directs the Attorney General to take certain actions. The heart and substance of the amendment is aimed at limiting the transportation of students. H.R. 69 does not touch upon that subject matter in any way. Clearly transportation is not germane to H.R. 69.

On September 22, 1914, the Chairman of the (Committee of the) Whole ruled that to be germane an amendment must be "akin to, or near to, or appropriate to or relevant to and germane amendments must bear such relationship to the provisions of the bill as well as meet the other tests; that is, that they be in a natural and logical sequence to the subject matter and propose such modifications as would naturally, properly and reasonably be anticipated."

Certainly there is no logical sequence between providing Federal aid on the one hand and restricting the powers of the courts on the other.

I would also call the attention of the Chair also to a ruling on May 24, 1917, by Chairman Hamlin that if any portion of an amendment is not germane then the whole amendment must go. Certainly, the section of the amendment which limits court orders is not germane to H.R. 69 nor is the section directing intervention by the Attorney General.

I would point out further that the amendment does not amend existing law; it merely adds new language to the bill—another clear sign of the nongermane nature of the amendment. . . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . (The bill) deals with educationally deprived children, with libraries, with learning results from educational innovation, with support and assistance to federally impacted school districts, with adult education, with community education, education for the handicapped, bilingual education, the study of rate funding, the study of the need for athletic trainers, the amendments to the General Education Provisions Act, and, finally, amendments to the Emergency School Aid Act, which deals with the same subject, that is, methods by which equal educational opportunities may be obtained.

The mere fact that this seeks to achieve those objectives by different means and with different enforcement mechanisms cannot render the amendment not germane to the bill before us. Mr. Chairman, I believe and I assert that the amendment is germane to the bill and I hope that the Chair will so rule. . . .

MR. MEEDS: Mr. Chairman, I agree with the gentleman from Michigan (Mr. O'Hara) that the Elementary and Secondary Education Act covers a great deal of education. That is precisely my point of order.

Nowhere does it deal with the court's interpretation of the 14th amendment rights, and that is what the amendment offered by the gentleman from Michigan (Mr. Esch) seeks to do.

Second, the gentleman from Michigan (Mr. Esch) is urging that because

his amendment amends the Emergency School Aid Act, which is also amended by H.R. 69, this is sufficient to overcome the question of germaneness.

There is a very slight amendment which deals with a totally different matter in this bill. As a matter of fact, there are two minor matters involved. But neither of these minor amendments is in any sense connected with the fundamental purpose of the gentleman's amendment. . . .

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

The gentleman from Washington (Mr. Meeds) makes the point of order that the amendment offered by the gentleman from Michigan (Mr. Esch) is not germane to the committee substitute amendment for H.R. 69.

The committee substitute amendment for H.R. 69 has as its major purpose the extension and amendment of several statutes relating to Federal assistance to State and local educational agencies.

The committee amendment contains many diverse sets of guidelines to be followed by State and local educational agencies in the administration of those federally funded educational programs.

The amendment offered by the gentleman from Michigan does, as the gentleman from Washington suggests, go to the delineation of Federal court jurisdiction over constitutional questions of what constitutes a denial of equal educational opportunity and of equal protection of the laws; but it also contains broad directives to State and local educational agencies which would prohibit those agencies from implementing plans which deny, in several enumerated ways, equal educational opportunity. The remedies to be imposed for the violations by State agencies are not limited to court proceedings but include Federal departmental and agency proceedings as well, such as those of the Office of Education.

The Chair would like to point out that while committee jurisdiction is not an exclusive test of germaneness, the Committee on Education and Labor has considered bills similar in text to the amendment offered by the gentleman from Michigan.

The Chair would also point out that under the precedents it is not the function of the Chair to construe the legal effect of an amendment. That is left to the committee itself. The Chair feels because the amendment operates, in part, as a direct restriction on the State and local educational agencies whose activities are being funded and directed in many diverse ways by the committee amendment that the amendment is germane, and the Chair overrules the point of order.

Title Restricting Federal Control Over Education—Amendment Denying Use of Funds for Abortion Counselling

§ 3.16 To a title of a bill establishing a new Department of Education, containing findings and purposes and setting forth restrictions on the authority of the new department to exercise federal con-

5. Melvin Price (Ill.).

trol over education, an amendment denying the use of funds under federal programs to assist the teaching or counseling of the use of abortion was ruled out of order as not germane, being unrelated to the fundamental purpose of the title to restrict federal control over public education and curricula, inasmuch as it sought to address funding authority rather than legal restrictions.

On June 12, 1979,[6] the Chair sustained a point of order against an amendment to a title of a bill[7] which restricted the authority of an entity to exercise control over institutions for which it was to administer funding under existing laws, holding that the amendment, which curtailed the authority of the agency to provide funds for certain reasons, was not germane. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

Sec. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counseling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85–864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80–10), as amended; the Higher Education Act of 1965 (P.L. 89–329), as amended; the Adult Education Act (P.L. 89–750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I would say [the germaneness rule] requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not and I would like to speak on it if I might. . . .

Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority

6. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

7. H.R. 2444, Department of Education Organization Act of 1979.

of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute. . . .

MR. ASHBROOK: . . . I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted, under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1971 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the past days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

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

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill. The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the pro-

8. Lucien N. Nedzi (Mich.).

visions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

For the reasons stated, the Chair sustains the point of order.

Title Establishing Administrative Structure of Department of Education—Amendment Relating to Transportation of Students To Establish Racial Balance

§ Sec. 3.17 To a title of a bill establishing a new Department of Education, which only addresses the administrative structure of the Department and not its authority to carry out the programs transferred to it, an amendment prohibiting the Department from withholding federal funds to force the transportation of students or teachers to establish racial or ethnic balance was held to be not germane.

During consideration of the Department of Education Organization Act of 1979[9] in the Committee of the Whole on June 12, 1979,[10] Chairman Lucien N. Nedzi, of Michigan, held an amendment to title II of the bill to be not germane. The proceedings were as follows:

TITLE II—ESTABLISHMENT OF THE DEPARTMENT

ESTABLISHMENT

Sec. 201. (a) There is hereby established an executive department to be known as the Department of Education. There shall be at the head of the Department a Secretary of Education, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered, in accordance with the provisions of this Act, under

9. H.R. 2444.

10. 125 CONG. REC. 14466, 14485, 14486, 96th Cong. 1st Sess.

the supervision and direction of the Secretary.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such functions as the Secretary shall prescribe and shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary. . . .

MR. [ROBERT K.] DORNAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dornan: Page 58, after line 6, insert the following new section:
>
> PROHIBITION AGAINST THE WITHHOLDING BY THE SECRETARY OF FUNDS TO FORCE RACIAL-ETHNIC QUOTA BUSING
>
> Sec. 201(c). The Secretary and the Department may not withhold any funds, grants, contracts or awards otherwise authorized to be granted because of failure to transport students or teachers (or to purchase equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or because of the failure to transport students or teachers (or to purchase equipment for such transportation) in order to carry out such a plan in any school or school system. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I will make a point of order against the amendment. . . .

Under the test imposed by rule XVI, clause 7, it is not germane. . . .

MR. [JACK] BROOKS [of Texas]: . . . I make the point of order on the amendment under rule XVI, clause 7, requiring that amendments be germane to the subject under consideration. To be germane, the amendment must have the same fundamental purpose of the bill under consideration. The purpose of H.R. 2444 to establish a Department of Education deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants or employees that are not now authorized by law are not consistent with that organizational purpose and, therefore, should be ruled out of order.

THE CHAIRMAN: Does the gentleman from New York (Mr. Horton) desire to be further heard on the point of order?

MR. HORTON: I just wanted to make the point that this is in the section that has to do with the establishment of the Department and that this is a matter that is not within the jurisdiction of the Committee on Government Operations, and it is not involved in the organization of this Department, and, therefore, it should be ruled not germane.

MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, I would like to add something to the point of order, if I may.

It occurs to me that the manner in which the amendment is written, Mr. Chairman, is limitation of the jurisdiction of a court of competent jurisdiction. It goes far beyond the scope of this bill and not only affects the court of competent jurisdiction, but in effect tells and directs the Secretary of Education to ignore and disobey the orders of the court.

MR. DORNAN: Mr. Chairman, I have a final thought. On page 56 of H.R.

2444 we say in line 12 "(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;".

All I am doing with this amendment is merely limiting the scope of the Secretary of this new Department of Education, and the statement that I just read increases the accountability of this Federal program to the Congress.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would point out to the gentleman that the matters alluded to in his final argument pertain to title I. The amendment which the gentleman has offered is to title II which deals with the structure of the new Department of Education. Title II does not go to the basic question whether substantive educational programs should be retained and to the purposes for which funds under those programs may be expended. Accordingly the Chair sustains the point of order.

Amendment Relating to Wage Discrimination Based on Race, Offered to Bill To Eliminate Wage Discrimination Based on Sex of Employee

§ 3.18 To a bill seeking to eliminate wage discrimination based on the sex of the employee, an amendment to make the provisions of the bill applicable to discrimination based on race was held to be not germane.

In the 87th Congress, during consideration of a bill[11] prohibiting wage discrimination based on sex of an employee, the following amendment was offered:[12]

Amendment offered by Mr. [Charles S.] Joelson [of New Jersey]:

After section 4, add the following:

Sec. 5. Whenever the word "sex" is used in this Act, the words "or race" shall be added immediately thereafter.

A point of order was made, as follows:

MRS. [EDITH] GREEN of Oregon: . . . The amendment offered by the gentleman from New Jersey is not germane to the bill under discussion, which has to do with equal pay for equal work. It does not cover the subject which the gentleman from New Jersey has covered in his amendment.

The Chairman[13] sustained the point of order.

Bill Providing for Reorganization of Executive Agencies—Amendment Relating to President's Term of Office

§ 3.19 To a bill providing for reorganization of the executive departments and agencies of the government, an

11. H.R. 11677 (Committee on Education and Labor).
12. 108 CONG. REC. 14778, 87th Cong. 2d Sess., July 25, 1962.
13. Edna F. Kelly (N.Y.).

amendment concerned with the term of office of the President was held not germane.

In the 75th Congress, during consideration of a government reorganization bill,[14] the following amendment was offered:[15]

> Amendment offered by Mr. [Hamilton] Fish Jr., [of New York]: Page 82, after line 15, add a new section, as follows:
>
> Sec. 429. That it is the sense of the Congress that the precedent established by Washington and other Presidents of the United States in retiring from the Presidential office after their second term has become by universal concurrence a part of our republican system of government . . . and that the Congress commends the observance of this precedent.

Mr. James M. Mead, of New York, having made the point of order that the amendment was not germane, Mr. Fish responded:

> Mr. Chairman, this bill has to do with the reorganization of the executive departments of the Government and the executive agencies of the Government. If this bill goes through, the President will be clothed with vast powers to preserve and perpetuate himself in office. . . .

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:[16]

> There is nothing in the pending bill relative to the term of office of the President of the United States.
>
> The point of order is sustained.

Bill To Remove Federal Loan Agencies From Department of Commerce—Amendment Relating to Term of Federal Loan Administrator

§ 3.20 To a bill proposing to remove federal loan agencies from the Department of Commerce, an amendment relating to the term of office and removal from office of the Federal Loan Administrator was held not germane.

In the 79th Congress, a bill[17] was under consideration which provided in part:[18]

> Be it enacted, etc., That the Federal Loan Agency, created by section 402 of the President's Reorganization Plan No. 1 under authority of the Reorganization Act of 1939, shall continue as an independent establishment of the Federal Government and shall continue to be administered under the direction and supervision of the Federal Loan Administrator in the same manner and to the same extent as if Executive Order 9071, dated February 24, 1942, transferring the functions of the Federal Loan Agency to the Depart-

14. S. 3331 (Select Committee on Government Organization).

15. 83 CONG. REC. 5114, 75th Cong. 3d Sess., Apr. 8, 1938.

16. *Id.* at p. 5115.

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

18. See 91 CONG. REC. 1184, 79th Cong. 1st Sess., Feb. 16, 1945.

ment of Commerce, had not been issued.

The following amendment was offered to the bill:

Amendment offered by Mr. [Louis E.] Graham [of Pennsylvania]: Page 2, line 2, insert a new subsection as follows:

Section 1. (a) The term of office of the Federal Loan Administrator created by section 402 of the President's Reorganization Plan No. 1 under authority of the Reorganization Act of 1939, shall be for the period of 1 year, unless he is sooner removed by the President, upon reasons to be communicated by him to the Senate, and he shall receive a salary at the rate of $12,000 per annum.

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

MR. [BRENT] SPENCE [of Kentucky]: I make the point of order that the amendment is not germane to the bill. It goes far beyond any purpose of the bill in that it changes the organic law of the lending agency and is not germane to this legislation.

In defense of the amendment, the proponent stated as follows: (19)

MR. GRAHAM: . . . [T]here is no broadening of this act by this amendment. It does not create a new agency; it does not create a new administrator; the title remains the same, the Agency is still in effect, the Administrator is still designated as the Federal Loan Administrator, and the salary remains the same. Only two changes are embodied in my amendment. One is fixing a definite term, which is surely within the power of the legislative branch of the Government to do, and the other is the protection to the individual named by the President that he shall not be removed except upon reason communicated by the President.

The Chairman, Alfred L. Bulwinkle, of North Carolina, in ruling on the point of order, stated: (20)

. . . The amendment offered by the gentleman from Pennsylvania [Mr. Graham] provides that the Federal Loan Administrator shall hold office for a year and be confirmed by the Senate. The bill under consideration has but one object, that is, to remove from the Department of Commerce all of the Federal loan agencies. Therefore, the Chair holds that the amendment is not germane. The point of order is sustained.

—*Amendment Relating to Management of Import-Export Bank*

§ 3.21 To a bill having for its sole purpose the removal of federal loan agencies from the Department of Commerce, an amendment relating to management of the Export-Import Bank of Washington by a board of directors was held not germane.

In the 79th Congress, a bill (1) was under consideration to pro-

19. *Id.* at pp. 1184, 1185.

20. *Id.* at p. 1185.

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

vide for the effective administration of certain lending agencies of the federal government. The following amendment was offered to the bill:[2]

> Amendment offered by Mr. (Jesse P.) Wolcott (of Michigan): Page 2, line 20, at the end of section 4, add a new section as follows:
>
> Sec. —. (a) The management of the Export-Import Bank of Washington shall be vested in a board of directors consisting of five persons appointed by the President of the United States by and with the advice and consent of the Senate. . . .
>
> (c) No functions, powers, or duties of the Export-Import Bank of Washington except as provided in Executive Order 9361, dated July 15, 1943, and Executive Order 9880, dated September 15, 1943, shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.
>
> (d) All acts and Executive orders or parts of the same which are in conflict with the provisions of this section are hereby repealed and rescinded.

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

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to this section or to the bill. The bill attempts merely to lift the Reconstruction Finance Corporation out of the Commerce Department unchanged. This is an attempt to change the organic law under which it was created. It goes further than the bill contemplates. It has no relation to the purposes of the bill, and, in my opinion, is not germane.

The Chairman, Alfred L. Bulwinkle, of North Carolina, sustained the point of order,[3] referring to a prior ruling in which he had found an amendment not to be sufficiently related to the sole object of the bill, to "remove from the Department of Commerce all of the Federal loan agencies."[4]

Bill Requiring Percentage of Automobiles To Be Manufactured Domestically and Mandating Diverse Studies of Impact of Manufacturers' Practices—Amendment Requiring Study of Antitrust Implications of Practices

§ 3.22 To a bill mandating that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction on any person violating that requirement, and requiring diverse studies of the impact of the bill and of discriminatory practices of manufacturers

2. 91 CONG. REC. 1191, 79th Cong. 1st Sess., Feb. 16, 1945.

3. *Id.* at pp. 1191, 1192.

4. *Id.* at p. 1185.

affecting domestic production of automobile parts, an amendment directing the Attorney General to study the antitrust and tax implications of automobile manufacturers' sale-lease price differentials was held not germane as relating to a subject (antitrust and tax law) beyond the scope of studies and requirements contained in the bill.

During consideration of the Automotive Products Act of 1983[5] in the Committee of the Whole on Nov. 2 and 3, 1983,[6] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

SEC. 9. STUDY OF DISCRIMINATORY PRACTICES AFFECTING DOMESTIC PRODUCTION OF MOTOR VEHICLE PARTS.

Within eighteen months after the date of the enactment of this Act, the Secretary and the Federal Trade Commission shall jointly undertake an investigation, and submit to Congress a written report, regarding those policies and practices of vehicle manufacturers that are used to persuade United States motor vehicle dealers, in choosing replacement parts for motor vehicles, to favor foreign-made parts rather than domestically produced parts. Such report shall include, but not be limited to, recommended administrative or legislative action that the Secretary and the Federal Trade Commission consider appropriate to assure that domestic producers of replacement parts are accorded fair access to the United States market for such parts.

SEC. 10. IMPACT STUDY REGARDING MOTOR VEHICLE DEALERSHIPS.

(a) In General.—The Secretary, in consultation with the Advisory Council, shall conduct a continuing study of the extent to which this Act has affected employment in any way at retail motor vehicle dealerships located in the United States including, but not limited to, dealerships which have either—

(1) franchises for at least one make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce and at least one make of motor vehicle imported into the United States for such sale and distribution; or

(2) franchises for one or more makes of motor vehicles imported into the United States for sale and distribution in interstate commerce but no franchises for any make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce.

The study shall identify and consider all factors affecting such employment and shall establish an employment base period for all such dealerships which the Secretary shall utilize in the conduct of the study. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Florio: On page 36, after line 4, insert the following new section:

5. H.R. 1234.

SEC. 11. IMPACT STUDY REGARDING UNFAIR PRICE DISCRIMINATION.

(a) The Attorney General, in consultation with the Advisory Council, shall conduct a study of the antitrust and tax implications and of the impact on retail motor vehicle dealerships and consumers of the practice whereby manufacturers sell or lease, or offer to sell or lease, any passenger car, truck, or station wagon to any person (including any other automobile dealer) during any period of time at a price which is lower than the price at which the same model of passenger car, truck or station wagon, similarly equipped, is sold or leased, or offered for sale or lease, to such retail dealers during the same period. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from New Jersey is out of order in accordance with rule XVI, clause 7, the rule of germaneness.

The gentleman has offered as an amendment a form of a bill which is pending before the gentleman's subcommittee which deals with the question of how leasing companies buy automobiles through dealerships and under what circumstances. . . .

The findings of the bill say that there has been serious injury due to increases in imports. The purposes of the bill are declared as they are going to remedy the serious injuries by not allowing foreign-made merchandise to be sold in the United States.

Clearly, this amendment, which deals with domestic-sales arrangements of domestic companies, has nothing whatever to do with the bill and should be declared out of order. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, as salutory as the purpose of this amendment is, I certainly would support it under other circumstances. It gives responsibilities to the Attorney General that are not in the bill. It requires a study of antitrust matters which are not at all pertinent to the bill before us and it deals with pricing.

For all those reasons, I believe it is nongermane and, therefore, regrettably, I have to assert a point of order.

THE CHAIRMAN:[7] Does the gentleman from New Jersey wish to be heard on the point of order? . . .

If not, the Chair is prepared to rule.

The basic test of germaneness is the question of whether the amendment relates to the basic subject matter of the bill. The basic subject matter of the bill before the House relates to the domestic content of automobiles.

This particular amendment, in part, provides for a study of antitrust and tax implications of manufacturers sale-lease practices.

In the opinion of the Chair, that takes it beyond the subject matter covered by the bill and it is not related to that subject matter.

Therefore, under rule XVI, clause 7, the Chair finds that the amendment is not germane and sustains the point of order.

Study of Impact of Regulations on Automobile Industry—Amendment To Require Study of Feasibility of Alternatives to Automobiles

§ 3.23 To a bill authorizing loan guarantees to a private

6. 129 CONG. REC. 30527, 30781, 30782, 98th Cong. 1st Sess.

automobile manufacturer, amended to require a study of the economic impact of federal regulations on the entire automobile industry, an amendment requiring another study of that corporation's long-term involvement in the automobile industry and also the feasibility of its production of advanced alternatives to automobiles was held germane as within the scope of the bill as amended.

On Dec. 18, 1979,[8] during consideration of H.R. 5860[9] in the Committee of the Whole, it was held that to a proposition providing financial assistance to an individual business entity, broadened by amendment to address the issue of government regulation of the entire industry of which that entity is a part, a further amendment relating to the future role of that business entity within the industry is germane. The proceedings were as follows:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Solomon to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: On page 23, after line 5, insert the following new subsection (c):

"(c) The Board shall have the power to require the Secretary of Transportation to complete, within six months of such request, an assessment of the economic impact on the automobile industry of Federal regulatory requirements and the necessity thereof."

THE CHAIRMAN:[10] The question is on the amendment offered by the gentleman from New York (Mr. Solomon) to the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. Moorhead).

The amendment to the amendment in the nature of a substitute was agreed to.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: Insert the following new Section 11 immediately after line 6, page 22 and renumber the following sections accordingly;

LONG-TERM PLANNING STUDY

Sec. 11. (a) The Secretary of Transportation, after consultation with other appropriate federal agencies, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after enactment of this Act, an assessment of the longterm via-

8. 125 CONG. REC. 36822–24, 96th Cong. 1st Sess.

9. A bill authorizing loan guarantees to the Chrysler Corporation.

10. Richard Bolling (Mo.).

bility of the Corporation's involvement in the automobile industry.

(b) The Secretary of Transportation shall conduct a study to assess the feasibility of the Corporation producing advanced alternatives to existing automobiles which can be manufactured at reasonable cost, for a broad market, and which incorporate the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed under contract to the National Highway Traffic Safety Administration. The study shall include the feasibility of federal, state, and local governments, and private corporations contracting, over the next three to five years, with the Corporation for the purchase of such advanced automobiles. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order that the amendment is not germane. Mr. Chairman, under the guise of having here a direction to the Secretary of Transportation to make certain additions to the financing plan, the gentleman would impose on an officer of Government, little mentioned in the legislation, the responsibility of doing a number of things: First, consulting with other agencies; second, submitting to the Board and the Congress an assessment of the long-term viability of the corporation; but in addition to that it would require them to conduct a broad study to assess the feasibility of the corporation's producing advanced alternatives to existing automobiles which may be manufactured at a reasonable cost, for a broad market, and which incorporate the best conservation, safety and environmental characteristics, and so forth.

The study shall include the feasibility of State and Federal Government's engaging in certain actions, including private corporations contracting, over the next 3 to 5 years, with the corporation for the purchase of such advanced automobiles.

Mr. Chairman, we have a situtation where we have, first of all, essentially a lengthy study to be completed, and recommendations with regard to the purchase of advanced automobiles, something which is nowhere in contemplation of the Board. They are not to engage in the purchase of automobiles, and it would just occur to me, Mr. Chairman, that this goes beyond the language in the legislation which is simply to afford loan guarantees to Chrysler and not to set up lengthy studies for the Department of Transportation.

As a matter of fact, Mr. Chairman, were this amendment to be introduced to stand on its own, it would have been referred to an entirely different committee, probably the Committee on Interstate and Foreign Commerce. For that reason, Mr. Chairman, it is both nongermane as relates to the general purposes of the bill, which are to set up a program of loan guarantees for Chrysler; but, second, it is not even within the jurisdiction of the committee which has considered this matter and reported it to the House. . . .

MR. MAGUIRE: . . . Mr. Chairman, I really do not think that the lengthiness of a study goes to the issue of whether or not an amendment is germane. . . .

The amendment is germane because it relates to the subject matter that is before us in this bill, and I would simply say that I think the gentleman has failed to sustain his case.

THE CHAIRMAN: . . . [T]he Chair is prepared to rule.

The Chair would like to make two points: First, the amendment requires a study of just the Chrysler Corp., and that is certainly pertinent to the bill; but, in addition to that, the Committee of the Whole has already adopted in the Solomon amendment a study dealing with the economic impact of the whole automobile industry on a variety of things. The Chair, therefore, believes that this amendment is germane, and he overrules the point of order.

Bill Reforming Economic Regulation of Railroads—Amendment Requesting Study of Impact of Tax Law Changes on Railroads

§ 3.24 Where a bill reforming the economic regulation of railroads was being read for amendment by titles, and the title under consideration, entitled "railroad inter-carrier practices" dealt with diverse subjects, including bankruptcy and employee protection issues, an amendment to such title which (1) addressed those issues as well as railroad rates and rate-making, (2) included provisions requesting a study of the impact of possible tax law changes on railroads, and (3) conferred certain powers on the Interstate Commerce Commission, the Secretary of Transportation and other officials, was held germane even though portions of the amendment indirectly affected a previous title of the bill already perfected by amendment.

On Sept. 5, 1980,[11] the Committee of the Whole had under consideration H.R. 7235, the Rail Act of 1980. Title II of the bill, which had been perfected by amendment, related to the following subjects:

TITLE II—RAILROAD RATES, PROFITS, AND REINVESTMENT

Sec. 201. Regulation of railroad rates in the absence of effective competition.

Sec. 202. Determination of the absence of effective competition.

Sec. 203. Investigation and suspension of rates.

Sec. 204. Contracts.

Sec. 205. Demand sensitive rates.

Sec. 206. Phaseout of capital incentive rates.

Sec. 207. Permissive limited liability rates.

Sec. 208. Rate discrimination.

Sec. 209. Exemption.

Sec. 210. Intrastate rates.

Sec. 211. Transition rate adjustments and inflation-based rate increases.

Sec. 212. Customer solicitation expenses.

Sec. 213. Safe railroad reinvestment requirements.

11. 126 CONG. REC. 24375–97, 96th Cong. 2d Sess.

Title III, under consideration, related to the following subjects:

TITLE III—RAILROAD INTER-CARRIER PRACTICES

Sec. 301. Compensatory joint rate relief.

Sec. 302. Rate bureaus.

Sec. 303. Long and short haul transportation.

Sec. 304. Railroad entry.

Sec. 305. Service during periods of peak demand.

Sec. 306. Reciprocal switching.

Sec. 307. Car service compensation.

Sec. 308. Car service orders for exigent circumstances.

Sec. 309. Employee protection.

An amendment was offered to Title III:

THE CHAIRMAN:[12] When the Committee of the Whole House rose on Thursday, July 24, 1980, title III was open to amendment at any point.

Are there any amendments to title III? . . .

The Clerk read as follows:

Amendment offered by Mr. Staggers: Page 125, strike out line 14 and all that follows through line 17 on page 138 (including the material between lines 17 and 18)) and insert in lieu thereof the following . . .

Page 98, strike out the item in the table of contents relating to section 301 and insert in lieu thereof the following new items:

Sec. 301. Compensatory joint rate relief.

Sec. 302. Expedited division of revenues proceedings.

Sec. 303. Regulation of railroad rates.

Sec. 304. Determination of market dominance.

Sec. 305. Zone of rate flexibility.

Sec. 306. Rate regulation proceedings and study.

Sec. 307. Inflation-based rate increases.

Sec. 308. Investigation and suspension of rates.

Sec. 309. Contracts.

Sec. 310. Demand sensitive rates.

Sec. 311. Phaseout of capital incentive rates.

Sec. 312. Permissive limited liability rates.

Sec. 313. Rate discrimination.

Sec. 314. Exemption.

Sec. 315. Intrastate rates.

Sec. 316. Customer solicitation expenses.

Sec. 317. Efficient marketing.

Redesignate the following items in the table of contents for title III accordingly.

Page 98, at the end of the items relating to title III in the table of contents, insert the following new item:

Sec. 326. Safe railroad reinvestment requirements.

Sec. 327. Rock Island and Milwaukee Railroad amendments.

Sec. 328. Loan guarantees.

Sec. 329. Amendment to the Regional Rail Reorganization Act of 1973.

Sec. 330. Savings provisions.

Sec. 331. Relationship to title II.

Sec. 332. Rail Technology and Shipper Needs Board; other shipper assistance. . . .

REGULATION OF RAILROAD RATES

Sec. 303. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

§ 10701a. Standards for rates for rail carriers.

12. Les AuCoin (Ore.).

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier. . . .

INTRASTATE RATES

Sec. 315. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(2) by striking out "subchapter I or subchapter IV" and inserting in lieu thereof "subchapter IV";

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out paragraph (2). . . .

"EMPLOYEE PROTECTION AGREEMENTS

"Sec. 106. (a) Not later than 5 days after the date of enactment of the Harley O. Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances. . . .

"CONGRESSIONAL FINDINGS

"Sec. 102. The Congress finds that—

"(1) the Railroad Revitalization and Regulatory Reform Act of 1976 was not intended to imply that there would be no labor protection in the event of a total abandonment by a major rail carrier and the Milwaukee Railroad Restructuring Act requires the imposition of employee protection in all abandonments when the rail carrier is in bankruptcy whether such carrier is being reorganized or has been ordered to be liquidated. . . .

LOAN GUARANTEES

Sec. 328. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 45 days after the date of enactment of this Act, take final action of any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

(b) The Secretary of Transportation may waive the provisions of section 511(g) of the Railroad Revitalization and Regulatory Reform Act of 1976 in making the loan guarantees described in subsection (a) of this section. . . .

RELATIONSHIP TO TITLE II

Sec. 331. In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

RAIL TECHNOLOGY AND SHIPPER NEEDS BOARD; OTHER SHIPPER ASSISTANCE

Sec. 332. (a)(1) There is hereby established a Rail Technology and Shipper Needs Board (hereinafter in

this section referred to as the "Board"), which shall be composed of the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Labor, and the Chairman of the Interstate Commerce Commission. The Secretary of Transporation shall serve as Chairman of the Board and shall have the responsibility for expediting the proceedings of the Board. . . .

(g)(1) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, in considering the point of order, the nature of the amendment must be considered. The salient question is whether or not by amending title III, a title dealing with the question of railroad intercarrier practices, and by including in that amendment a number of specific matters which I will deal with later in my point of order, and including provisions on title II dealing with railroad rates, profits, and reinvestment, whether or not the Staggers amendment is germane to the provisions in title III. That is the essential question.

In an amendment offered in this way, which, incidentally, is a very, very unusual way of offering an amendment, or a substitute, the question is not only one of the germaneness to the bill as a whole, but the question of whether or not the amendment is germane to the title sought to be amended. Such would not be true had an amendment of this nature been offered after the completion of title III and as a new title to the bill, or had the amendment been offered as a full substitute altering the provisions previously put into effect under title II.

The first point I wish to make is the broadest point upon which my point of order rests, and that is that the general subject matter of title II is quite different from the subject matter dealt with in title III. Essentially title II is what its title says it is. It is a title dealing with railroad rates, profits, and reinvestment. . . .

. . . If the Staggers-Rahall-Lee amendment in the nature of a substitute deals with a different subject matter not germane to the subject matter dealt with in title III, or if any part of the amendment in the nature of a substitute deals with some subject matter not germane to title III, then the whole amendment must fall. Title III, as I have pointed out, deals with railroad intercarrier practices. It is true, of course, that under that general heading there are several different categories that I think could be understood by the sections and their headings. . . .

The subject matter of title II deals primarily with a question involved with ICC within the brackets of control defined in that area and with the question of relationship between the carrier and the shipper, the most salient and sensitive of which is a situation involving what we call the captive shipper.

Therefore, we urge as a broad proposition, and the broadest proposition of our point of order, that provisions relating to the title II matters and in effect attempting to strike a compromise in that area of contracts, that is, the rate control area, the jurisdictional area of ICC, is not germane to the provisions dealing essentially with the intercarrier relationships and certain other provisions in title III. We are aware of the fact that there are instances where a miscellaneous section of the bill deals with such a wide variety of subjects that it may be said if that were an original bill, the provisions of another title of the bill would be germane to it, even though the subject matter of the other title has already been dealt with, but we urge that that is not the case here. This is not a wide variety of subject matter. It is a subject matter related to the question of interrailroad relations.

Where there are other subject matters involved, they are narrow and in most instances related to that broader topic. But the position we are taking here is not limited to that broad contention. There are other provisions in the Staggers substitute which deal with a variety of subjects not touched even in the original bill. These are sought to be brought under consideration or perhaps as a matter of compromise and sweetener to various groups, and they go far beyond the original area of title III. They actually would amend provisions of other laws besides those related to title III. It should be noted that the scope of title III is limited to provisions amending the codified Interstate Commerce Act, title 49 of the United States Code. In contrast, the Staggers-Rahall-Lee amendment in section 327 amends several other laws and titles of the United States Code. . . .

Section 327 fails to meet the test of germaneness for the same reasons that the Senate amendment was deemed nongermane. First, the section contains substantial amendments to existing laws which are not amended by title III. Second, in contrast to title III, the section provides for a substantial authorization of appropriations from the U.S. Treasury and significantly alters the rights of the United States as a creditor.

Moreover, the Milwaukee and Rock Island amendments are subjected to a point (of) order because the provision seeks to accomplish the purposes of title III by methods that are not closely allied to methods encompassed in title III. See Deschler's Procedure, chapter 28, section 33.11, providing that:

> To a bill designed to aid in the control of crime through the research and training, an amendment aimed at the control of crime through regulation of the sale of firearms and affecting laws not amended by the bill was held not germane.

While title III seeks to further railroad revitalization by revisions and regulatory requirements, section 327 seeks to accomplish this objective in part through a substantial expenditure of Federal funds. . . .

This provision enters into that field and purports to regulate through Federal law an area far beyond the original provision of title III. None of the title III provisions relate to the relationship between the Federal Government and State governments, or alter State jurisdiction over rules, classifications, and rates and practices in any

way. The scope of title III is limited to interstate transportation by rail carriers. Therefore, section 315 of the proposed amendment dealing with intrastate transportation is subject to a point of order.

Moreover, the scope of the intrastate amendment to title III is even broader than the intrastate language in title II. The title II language is limited to certain preemptions of intrastate rate-making, and as I have pointed out, this has been enlarged to classifications, rules, and practices. Thus, section 315 provides authority for a Federal Government to preempt State regulatory authority over virtually the entire operations of intrastate railcarriers. . . .

. . . We should deal with one subject matter and not inject into it other subject matters during the reading of the bill. There are ways to get to these points which I have alluded to, either by adding a new section or a new title, which would then fall within the germaneness rule with respect to the whole bill, or by offering a substitute amendment at the end.

But let us note the ingenious manner in which it is attempted to leave in place, without touching it, the provisions that this body with careful deliberation has established through the Eckhardt-Rahall amendment to title II. The language which is contained in this amendment that attempts to get by that is this:

> In any case in which any provision of or amendment made by title II of this Act conflicts with any provision of or amendment made by this title, the provision of or amendment made by this title shall control.

What is attempted to be done is to enter into the whole major subject matter of title II and reverse it by putting this in a title which does not have anything to do with the question of the jurisdictional scope and limitations of the ICC. . . .

Mr. Chairman, there is yet another section which is itself subject to the point of order. That is section 332. This is subject to a point of order under the committee jurisdiction test as well as the subject matter test.

In particular, section 322(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

This matter is clearly within the jurisdiction of the Committee on Ways and Means, and, therefore, it is not germane to legislation within the jurisdiction of the Committee on Interstate and Foreign Commerce. See Deschler's Procedure, chapter 28, section 4.42, where it is said:

> To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation, and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

Mr. Chairman, for these many reasons, all of which are supported by reason and all of which are based upon the protection of the processes of this House, I urge that the Chair should rule the Staggers-Rahall-Lee amendment not germane. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: . . . Mr. Chairman, title III, as reported by the Committee, is a diverse title dealing with many and diverse railroad issues, including surcharges and cancellations, rate bureaus, and employee protection in abandonment proceedings involving bankrupt carriers. The title has unrelated provisions dealing with many sections of the Interstate Commerce Act. These provisions were separated from title II simply to break up an otherwise unwieldy series of provisions. A quick synopsis of the provisions in title II will bear this out.

Section 301 permits carriers recovering less than 110 percent of their variable costs in a particular movement to surcharge or cancel such rates. Section 302 narrows the antitrust immunity railroads have under the Reed-Bulwinkle Act to establish rates collectively. Section 303 permits a railroad to charge more for a longer haul than a shorter haul in the same direction over the same route, contrary to existing law.

Section 304 allows one railroad to construct a new railroad line across another railroad. Section 305 provides that carriers which meet commitments on contracts do not violate their common carrier obligations.

Section 306 permits the ICC to order one railroad to pick up and deliver cars not on its own lines. Section 307 gives the ICC the discretion to grant antitrust immunity to shippers to discuss the compensation that will be paid for the use of their own cars.

Section 308 defines the conditions which must exist before the ICC may issue car service orders and limits the duration of such orders. Section 309 provides for employee protection in abandonment proceedings involving bankrupt rail carriers and amends title II of the United States Code which deals with bankruptcy proceedings for railroads.

It is clear from a mere recitation of the extent of this title that there is no common thread running through title III, except that all sections deal with railroad matters. The name of title III, the "Railroad Inter-Carrier Practices," was used primarily because section 301, the most important provision in the title, addresses such practices. The title was not intended to govern the subject matter of that entire title. The amendment we are offering is germane because it generally deals with railroads and it includes section 301 of the bill as reported by the committee with other minor changes.

The amendment contains minor changes in the present section 301 which are clearly germane to title III. It also contains sections dealing with regulation of rates by the ICC, the establishment of competition between a rail movement and existing or potential movements by rail or other modes, a study by the ICC on the extent to which competition should enter into the ICC decisionmaking process, the establishment of a percentage zone of permissible rate increases which is identical to a provision currently in title III relative to general rate increases, suspension or investigation of rates, contracts, exemption of rail carriers from most provisions of the act, specific changes to sections of title III which will be maintained, and changes to the Rock Island Transition and Employee Assistance Act.

Present title III amends and affects a great number of sections of the Interstate Commerce Act and other statutes, a list of which has been provided to the Parliamentarian, and including title II of the United States Code.

In conclusion, title III covers a broad range of railroad issues, as does the amendment. There is no unifying factor in title III, but they address matters affecting railroads and, accordingly, and under the precedents, the amendment is and does appear to us to be germane.

THE CHAIRMAN: The gentleman from Minnesota (Mr. Frenzel) reserved a point of order.

Does the gentleman from Minnesota wish to be heard on the point of order? . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I have a further point of order.

The point of order of the gentleman from Texas does deal with germaneness, and the argumentation by the subcommittee chairman also dealt with that.

Mr. Chairman, my point of order against this amendment is one of germaneness, as well. I invite the Chair's attention to section 328 of the proposed amendment dealing with loan guarantees. That section states as its purpose, and I quote, "to promote competition in the transportation of coal."

The purpose of the bill before us, according to its purpose in section 3, is "to provide for the restoration, maintenance and improvement of the physical facilities and financial stability of the rail system of the United States."

Nowhere in the bill are we dealing with promoting competition in the transportation of one particular item. The proposed amendment's purpose is, as I stated, "competition in the transportation of coal," and not the "rehabilitation (of) the rail system in order to meet the demands of interstate commerce and the national defense," as the bill proposes to do.

The chairman of the subcommittee argues that because there are a lot of different things in the bill, somehow it escapes the rules of germaneness. If we are to accept that kind of reasoning, any substitute, however gross, however nongermane, would somehow be declared germane.

This particular section, section 328, was not included in the original bill and cannot escape that rule of germaneness, Mr. Chairman.

The amendment specifically amends section 4(f) of the Department of Transportation Act and states that such section of the Department of Transportation Act shall not apply to any loan guarantee described in the loan guarantee section attempting to promote competition in the transportation of coal. The bill and the amendment in the nature of a substitute offered by the committee do not amend this provision of the law, and this new amendment is waiving a section of another law not contained in the original bill nor in the committee amendment.

This is an omnibus bill, I grant that. It does involve financing of the rail system. But the amendment proposed by the gentleman from West Virginia, and others, goes much farther than the bill and expands the scope to involve loan guarantees to promote competition in the transportation of a single commodity. . . .

MR. FLORIO: Mr. Chairman, on the point that has been raised, I think I have adequately addressed the question that the scope of this amendment and the scope of the bill, titles I and II, are sufficiently broad, related to railroad matters, that they are germane, and I would just renew our request that the Chair so rule. . . .

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, I should like to be heard on the question of germaneness of the Staggers substitute. . . .

Mr. Chairman, I point out at the outset that in his argument the gentleman from Texas has referred to the Staggers substitute as containing a provision to amend the Internal Revenue Code.

As a matter of fact, there is no such provision in the Staggers substitute. There is only a request for a study and a report of the results of that study.

Mr. Chairman, I believe the amendment is germane to title III of this bill. Title II affects a broad range of issues affecting railroads. It amends many provisions of the Interstate Commerce Act, both in subchapter 107, subchapter 109, subchapter 111, and subchapter 113, and it, as well, amends title 11 of the United States Code as it applies to railroads.

Similarly, the amendment affects a broad range of issues affecting railroads. It includes amendments to various subchapters of the Interstate Commerce Act and to title 45 of the United States Code as it affects railroads.

The only unifying factor in title III is that all of the provisions affect railroads. In the same way, the amendment is a diverse one which deals with many issues affecting railroads.

Title III was separated from other parts of this bill only so that the bill would be easier to follow. There is no logical distinction between the titles of the bill. The heading for title II, "Inter-Carrier Practices," was chosen because the most important provision in that title deals with how railroads divide revenues. The other provisions do not relate only to inter-railroad practices. . . .

MR. ECKHARDT: . . . I did not say that section 332(g) seeks to amend the Revenue Code. What I said, in particular, section 332(g) requires the Secretary of the Treasury to submit a report on the anticipated effect of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines.

I did not say that it amended the Code. I said precisely what it does. Yet I think it is quite clear that it calls upon the Secretary of the Treasury to make a recommendation. Such recommendation is clearly also within the jurisdiction of the Committee on Ways and Means.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Texas makes the point of order that the amendment offered by the gentleman from West Virginia (Mr. Staggers) is not germane to title III of H.R. 7235 but rather is an attempt to indirectly amend provisions already amended in title II of the bill which has been passed in the reading for amendment, and also to include extraneous provisions relating to railroads not addressed by title III.

First, the Chair would state that the Chair does not rule on the consistency

of amendments but rather on the substance of amendments.

Under the provisions of House Resolution 716 governing consideration of the bill pending, the bill is being considered by titles, and title III, not merely section 301, is now open to amendment at any point. Thus, the relevant test of germaneness of the amendment is its relationship to the entire pending text, title III, and not merely to section 301 relating to joint rates.

The Chair has had an opportunity to examine the scope of title III and basically agrees with the characterization of that title made by the gentleman from New Jersey that title III is diverse in its treatment of railroad regulation and employee protection and bankruptcy issues and is not merely confined to inter-carrier practices issues, as suggested by the title heading.

The Chair would also agree that the revenue provisions cited by the gentleman from Texas do not amend the Internal Revenue Code but do instead call for a study on taxation, which study, if submitted, would be referred to the Committee on Ways and Means.

In a similar situation, an amendment requesting a study of a possible change in tax law, but not amending the Internal Revenue Code, was held germane to a bill not reported by the Committee on Ways and Means; this ruling on October 18, 1979.

The Chair would also note that the loan guarantee provision cited by the gentleman from Minnesota relates to railroad carriers only although applicable to rail transportation of coal. The Chair would in this case rely on the precedent cited in Deschler's Procedure, chapter 28, sections 2.15 and 2.16, standing for the proposition that an amendment may be germane to more than one portion of the bill, and involving a comparable situation wherein a title of the bill in which the amendment would have been particularly germane had been passed in the reading for amendment. The amendment in that case was offered to a subsequent title of the bill containing miscellaneous provisions on a general subject; and Chairman Price stated at that time that while "an examination of the amendment shows that it would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as miscellaneous amendments, and it amends several other acts."

The Chair would state that there are two other precedents in chapter 28 of Deschler's that are applicable in this case. Section 14.3 states that an amendment may be germane at more than one place in the bill, thus where the first several sections of the bill pertain to one category within the subject under consideration and subsequent sections introduce other such categories, an amendment adding a further such category may be offered at either of two places, the point which in the reading of the text the sections dealing with the first category have been passed, or at the end of that part of the text where the other categories have been added.

Section 14.11 states that the test of germaneness of an amendment in the form of a new section to the title of the bill being read by titles is the relationship between the amendment and the pending title.

The Chair feels that title III is sufficiently broad in scope to admit as germane an amendment dealing, inter alia, with the subject of railroad rates and other railroad related employee protection, bankruptcy, and financial assistance provisions although they may only be applicable to specific railroads or to specific commodities transported by rail.

The Chair overrules the point of order.

Provision Requiring Study of Impact of Bill on Activities Not Directly Regulated by Bill—Amendment Imposing Conditions Relating to Such Activities

§ 3.25 Where an amendment seeks to make the effectiveness of a bill conditional upon factors not otherwise related to the subject matter of the bill, such amendment is not rendered germane merely because a study is required by the bill to be made regarding the impact of the bill upon factors or activities which are not directly regulated by the bill.

The proceedings of Nov. 2 and Nov. 3, 1983, relating to H.R. 1234, the Fair Practices and Procedures in Automotive Products Act of 1983, are discussed in § 31.20, infra.

Bill Affecting Income Tax Liability of Life Insurance Companies—Amendment Proposing Repeal of Certain Excise Taxes

§ 3.26 To a committee substitute relating to the income tax liability of life insurance companies, an amendment proposing the repeal of certain wartime excise tax rates on specified articles was held not germane.

In the 81st Congress, during consideration of a bill[13] relating to the income tax liability of life insurance companies for 1948 and 1949, Mr. Joseph W. Martin, Jr., of Massachusetts, offered an amendment[14] whose purpose he described as follows:[15]

> . . . This amendment repeals the wartime excise-tax rates on such articles as furs, jewelry, luggage, toilet preparations, lubrication oils, gasoline, tires and tubes, automobile trucks and buses, automobiles and motorcycles [and other articles].

The Chairman, Albert A. Gore, of Tennessee, in ruling on a point of order raised against the amendment, discussed the parliamentary question as follows:[16]

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13. H.J. Res. 371 (Committee on Ways and Means).

14. 96 CONG. REC. 992, 993, 81st Cong. 2d Sess., Jan. 26, 1950.

15. *Id.* at p. 993.

16. *Id.* at p. 995.

The Committee of the Whole has under consideration House Joint Resolution 371 and a committee amendment thereto, to which the gentleman from Massachusetts [Mr. Martin] has offered an amendment. The gentleman from Tennessee[17] has made a point of order against the amendment to the amendment on the grounds that it is not germane. . . . House Joint Resolution 371, and the committee amendment thereto, deals with the Internal Revenue Code in one particular, to wit, the income tax liability of insurance companies. The amendment offered by the gentleman from Massachusetts deals with sundry and different parts of the Internal Revenue Code.

The fundamental test of germaneness . . . is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment. . . .

The Chair feels that this fundamental test of germaneness is not met by the amendment offered by the gentleman from Massachusetts. Therefore, the point of order is sustained.

Bill Affecting Income Taxes—Amendment Seeking To Amend Law Respecting Inheritance Taxes

§ 3.27 To a bill providing for the current payment of individual income taxes, an amendment seeking to amend the law respecting inheritance taxes was held not germane.

In the 78th Congress, during consideration of the Current Tax Payment Bill of 1943,[18] an amendment was offered whose purposes were outlined by the proponent as follows:[19]

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, this is the provision that I have been urging for some time, and I expect to keep up the struggle until we reach these large fortunes that are now escaping taxes entirely.

Before the passage of the income tax amendment, large interests, through their shrewd lawyers, knowing that the American people were going to adopt an income- and inheritance-tax amendment, created these trusts and through them transferred their property, you might say, to future generations. In that way they have escaped all inheritance and income taxes on those inheritances.

A point of order was raised against the amendment, as follows:[20]

MR. [JERE] COOPER [of Tennessee]: . . . I make the point of order that the amendment is not germane to this bill.

This bill is one to provide for the current payment of individual income taxes. This amendment seeks to amend the estate tax law which is not touched in any way in this bill . . . There is nothing in this bill relating to the subject matter of the amendment.

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17. Jere Cooper.

18. H.R. 2570 (Committee on Ways and Means).

19. 89 CONG. REC. 3940, 78th Cong. 1st Sess., May 4, 1943.

20. *Id.* at p. 3941.

Mr. Rankin stated in response:

> . . . The enacting clause of this bill reads:
>
> Be it enacted, etc., That (a) this act is to be cited as the current tax payment act of 1943.
>
> It seems to me, that inasmuch as this is a tax collection measure, my amendment would be in order. . . .

The Chairman,[1] in ruling on the point of order, stated:

> The Chair draws attention to the fact that the bill under consideration provides for the current payment of individual income taxes. The amendment offered by the gentleman relates to inheritance taxes.
>
> The point of order is sustained.

Provisions for Tax Credits—Senate Amendment Authorizing Rebates for Social Security Recipients

§ 3.28 To a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was held to be not germane.

Where a House bill contained several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was deemed not to be related to tax benefit provisions in the Internal Revenue Code and was held to be not germane. The proceedings of Mar. 26, 1975,[2] were as follows:

> SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.
>
> (a) Payment.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled . . . to—
>
> (1) a monthly insurance benefit payable under title II of the Social Security Act,
>
> (2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or
>
> (3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .
>
> (c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made

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

2. 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166, the Tax Reduction Act of 1975.

by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report on page 55. . . .

There is clearly nothing in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this . . . is clearly outside the scope of the House bill. . . .

MR. [AL] ULLMAN [of Oregon]: . . . In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill. . . .

THE SPEAKER:[3] The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

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3. Carl Albert (Okla.).

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

Bill Relating to Retirement of Supreme Court Justices—Amendment Subjecting Justices' Retirement Pay to Taxation

§ 3.29 To a bill relating to retirement of Justices of the Supreme Court, an amendment providing that their retirement pay shall be subject to taxation under the applicable federal income tax law was held not germane.

In the 75th Congress, a bill[4] was under consideration relating to retirement of Justices of the Supreme Court and stating in part:[5]

> Be it enacted, etc., That Justices of the Supreme Court are hereby granted the same rights and privileges with regard to retiring, instead of resigning, granted to judges other than Justices of the Supreme Court by section 260 of the Judicial Code (U.S.C., title 28, sec. 375), and the President shall be authorized to appoint a successor to any such Justice of the Supreme Court so retiring. . . .

The following amendment was offered to the bill:[6]

> Amendment offered by Mr. [Jed J.] Johnson of Oklahoma: Page 1, line 4, insert after the word "retiring" the words "except that their retired pay shall be subject to taxation under the applicable Federal income-tax law."

Mr. Hatton W. Sumners, of Texas, made the point of order that the amendment was not germane. The Chairman,[7] in ruling on the point of order, stated:

> The bill under consideration deals with the retirement of Justices of the Supreme Court, whereas the amendment offered by the gentleman from Oklahoma deals with the subject of taxation and salaries. In the opinion of the Chair the amendment is not germane, and the Chair sustains the point of order.

Bill Repealing Tax on Margarine—Amendment Relating to Cottonseed Oil Used in Margarine

§ 3.30 To a bill repealing a tax on oleomargarine, an amendment relating to the production of cottonseed oil for use in the manufacture of oleomargarine was held to be not germane.

In the 80th Congress, during consideration of a bill[8] repealing the tax on oleomargarine, the following amendment was offered:[9]

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4. H.R. 2518 (Committee on the Judiciary).

5. See 81 CONG. REC. 1124, 75th Cong. 1st Sess., Feb. 10, 1937.

6. *Id.* at p. 1125.

7. Fritz G. Lanham (Tex.).

8. H.R. 2245 (Committee on Agriculture discharged).

9. 94 CONG. REC. 5003, 80th Cong. 2d Sess., Apr. 28, 1948.

Amendment offered by Mr. [H. R.] Gross [of Iowa]: Add the following new section at the end of the bill:

No cottonseed oil shall be used in the manufacture or production of oleomargarine unless such cottonseed oil shall have been produced from cottonseed grown in areas certified to be free from pink boll weevil worm infestation.

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

MR. [EDWARD A.] MITCHELL [of Indiana]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Pennsylvania is not germane. It is a frivolous amendment and has nothing to do with the measure itself. It relates to the production of raw material and has nothing to do with this bill.

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

MR. GROSS: . . . I contend it is entirely germane since it is going to deal with what goes into oleomargarine.

The Chairman,[10] in ruling on the point of order, stated:

The pending bill deals with the removal of a tax on oleomargarine, whereas the gentleman's amendment deals with the question of content.

The point of order is sustained.

Federal Aid Highway Bill—Amendment Commending Certain Military Personnel for Operations

§ 3.31 To an omnibus federal aid highway bill, an amendment in the form of a new section commending certain members of the armed forces for specified military operations was held to be not germane.

In the 91st Congress, during consideration of the Federal Aid Highway Act of 1970,[11] the following amendment was offered:[12]

Whereas, increasing numbers of American military personnel remain in captivity in North Vietnam in circumstances which violate the Geneva Convention of 1949. . . .

Now, therefore, be it resolved by the House of Representatives that the official command, officers and men involved in the military expedition of November 21, 1970, seeking release from captivity of United States prisoners-of-war . . . be commended for the courage they displayed in this hazardous and humanitarian undertaking. . . .

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

MR. [JOHN C.] KLUCZYNSKI [of Illinois]: Mr. Chairman, I rise to make a point of order against the amendment; that the amendment is not germane to the bill.

In defending the amendment, the proponent, Mr. Samuel S. Stratton, of New York, stated:[13]

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10. Leslie C. Arends (Ill.).

11. H.R. 19504 (Committee on Public Works).

12. 116 CONG. REC. 38971, 91st Cong. 2d Sess., Nov. 25, 1970.

13. *Id.* at pp. 38971, 38972.

Mr. Chairman, this amendment seeks to enlist the support of this House for action taken in an effort to rescue these prisoners. . . .

The following exchange then took place:[14]

THE CHAIRMAN:[15] The gentleman from New York will suspend. This bill is a bill having to do with the highway system of the United States. . . .

MR. STRATTON: Mr. Chairman, allow me to make my point. . . .

THE CHAIRMAN: The gentleman has not addressed himself to the point of order and the Chair is constrained to rule that the gentleman is out of order.

MR. STRATTON: Mr. Chairman, let me explain. The resolution under which this bill is considered specifically waives points of order and, secondly, this is an amendment to the section of the emergency relief provision of the bill.

THE CHAIRMAN: The gentleman will suspend. There are no points of order waived on those things that are not germane to the bill. . . .

The Chair is constrained to rule the gentleman is speaking on an amendment that is not germane to the bill. The gentleman must suspend under the ruling of the Chair.

The Chair holds that the amendment is not germane and sustains the point of order.

—Amendment Permitting Governors To Divert Funds to Urban Mass Transportation

§ 3.32 To a bill authorizing funds for the federal aid highway program, an amendment permitting the governor of a state to divert funds from the highway program to urban mass transportation projects was held to be not germane.

During consideration of the Federal Aid Highway Act of 1968,[16] the following amendment was offered:[17]

Amendment offered by Mr. [William F.] Ryan [of New York]: On page 25, after line 7, insert the following:

USE OF CERTAIN FUNDS FOR URBAN MASS TRANSPORTATION PURPOSES

Sec. 6. (a) The Governor of a State may elect to have any funds apportioned to such State . . . made available, in a manner prescribed by regulations of the Secretary of Transportation, for urban mass transportation purposes within such State. . . .

A point of order was raised against the amendment, as follows:[18]

MR. [GEORGE H.] FALLON [of Maryland]: . . . I make a point of order against the amendment. . . . [T]he point of order is that this is the same amendment which was offered by the gentleman in 1966 in the Highway Act, which will use moneys from the highway trust fund for other modes of transportation.

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14. *Id.* at p. 38972.

15. Chet Holifield (Calif.).

16. H.R. 17134 (Committee on Public Works).

17. 114 CONG. REC. 19926, 90th Cong. 2d Sess., July 3, 1968.

18. *Id.* at pp. 19926, 19927.

In defense of the amendment, the proponent stated as follows:[19]

> MR. RYAN: Mr. Chairman, on the point of order, on August 11, 1966, I offered a similar amendment. At that time, it was ruled out of order on the ground that it related to mass transportation and not highways. . . . So on August 16, 1966, I offered it as an amendment to the mass transit bill; and it was ruled out of order, on the ground that it related to highways and not to mass transportation.
>
> We cannot have it both ways. . . .

The Chairman,[20] in ruling on the point of order, stated:

> On August 11, 1966, the present occupant of the chair presiding at that time, in respect to a bill authorizing funds to Federal aid highways held that an amendment permitting the diversion of funds apportioned to a State from highway construction to urban mass transportation was not germane.[21]
>
> To a bill providing for the construction of highways, an amendment providing for grants for urban mass transportation was ruled out as not germane.
>
> The Chair, following those precedents, sustains the point of order.

19. *Id.* at p. 19927.

20. Daniel D. Rostenkowski (Ill.).

21. The ruling referred to, made during consideration of H.R. 14359 (the Federal-Aid Highway Act of 1966) is found at 112 CONG. REC. 19103, 89th Cong. 2d Sess.

Bill Modifying Requirements as to Gold Backing United States Currency—Amendment Establishing Strategic Gold Reserve Related to Credits for Foreign Governments

§ 3.33 To a bill modifying requirements relating to gold reserves held as backing for Federal Reserve notes and other United States currencies, an amendment to establish a strategic gold reserve and requiring deposits therein in amounts equal to any deposits of gold to the credit of foreign governments was held not germane.

In the 90th Congress, during consideration of a bill[1] relating to gold reserves and changing the domestic monetary relationship between gold and currency, the following amendment was offered:[2]

> Amendment offered by Mr. [Albert W.] Johnson of Pennsylvania: On page 4 following line 12 add three new sections:
>
> Sec. 13. From the total gold reserve available for the payment of foreign claims following the effective date of this Act, there shall be established a Strategic Gold Reserve to be main-

1. H.R. 14743 (Committee on Banking and Currency).

2. 114 CONG. REC. 3687, 3688, 90th Cong. 2d Sess., Feb. 21, 1968.

tained by the Secretary of the Treasury.

Sec. 14. Whenever for any reason any quantity of gold shall be removed from the Treasury for foreign shipment or for deposit to the credit of any foreign government, or . . . international organization within the United States, the Secretary of the Treasury shall immediately place an equal number of ounces of gold into the Strategic Gold Reserve.

Sec. 15. Gold placed in the Strategic Gold Reserve shall no longer be a part of the monetary reserves of the United States, and may be removed from the Strategic Gold Reserve only by Act of Congress.

In response to a point of order raised by Mr. Wright Patman, of Texas, Mr. Johnson stated:

Mr. Chairman, I respectfully insist that my amendment is germane to the bill under consideration. This bill eliminates the gold-reserve requirements on currency by repealing in part several statutory requirements. My amendment would place certain conditions on the ultimate disposition of any gold reserve to be authorized by the bill under consideration. . . . This amendment deals with gold and the subject matter of the bill is gold.

The Chairman,[3] in ruling on the point of order, stated:

The Chair would hold that the amendments offered by the gentleman from Pennsylvania are not dealing with the sole question involved in H.R. 14743; that is, reserves behind Federal Reserve notes and U.S. notes and Treasury notes of 1890. Therefore, it is not germane to the bill before the Committee, and the Chair sustains the point of order against the amendment.

Bill Amending Federal Reserve Act to Facilitate Expansion of Currency—Amendment Fixing Gold Weight of Dollar

§ 3.34 To a bill to facilitate currency expansion by amending the Federal Reserve Act, an amendment seeking to amend the Gold Reserve Act by fixing the gold weight of the dollar was held not germane.

In the 79th Congress, a bill[4] was under consideration to amend the Federal Reserve Act. The bill stated in part:[5]

Be it enacted, etc., That (a) the third paragraph of section 16 of the Federal Reserve Act, as amended, is amended by changing the first sentence of such paragraph to read as follows:

Every Federal Reserve bank shall maintain reserves in gold certificates of not less than 25 percent against its deposits and reserves in gold certificates of not less than 25 percent against its Federal Reserve notes in actual circulation. . . .

The following amendment was offered to the bill:[6]

3. James G. O'Hara (Mich.).

4. H.R. 3000 (Committee on Banking and Currency).

5. See 91 CONG. REC. 5285, 79th Cong. 1st Sess., May 29, 1945.

6. *Id.* at p. 5287.

Amendment offered by Mr. [Clair] Engle of California: On page 1, beginning with line 3, strike out through line 9 and the word "circulation" in line 10 on page 1 and insert in lieu thereof the following: "That the dollar consisting of nine and eleven twenty-firsts grains of gold nine-tenths fine shall be the standard unit of value, and all forms of money issued or coined by the United States shall be maintained at a parity of value with this standard, and it shall be the duty of the Secretary of the Treasury to maintain such parity."

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

MR. [BRENT] SPENCE [of Kentucky]: . . . The amendment is not germane to the bill. . . . It would change the gold content of the dollar. It would make the value of an ounce of gold $56. It would give an unearned increment to the foreign holders of gold of $8,500,000,000. It would give those foreign holders credits in the United States to that extent if they desire to use it. It certainly goes far beyond the intention or the purport of the bill.

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

MR. ENGLE of California: . . . Mr. Chairman, the amendment does exactly the same as proposed by this bill. This bill would permit a certain currency expansion by reducing the reserve in back of the currency from 40 percent to 25 percent. My amendment will permit an equal currency expansion by reducing the gold content of the dollar in exactly the same proportion. In other words, in one instance you are reducing the gold reserve in back of the currency from 40 percent to 25 percent, and in the other you are simply taking the same percentage of gold out of the dollar. It has exactly the same purpose and would permit the identical amount of currency expansion.

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

The gentleman from California (Mr. Engle) offers an amendment to the bill which proposes to modify the Gold Reserve Act, which is a subject foreign to the subject matter of the bill now before the Committee. Therefore, the Chair sustains the point of order.

Price Control Bill—Amendment Affecting Powers of Federal Reserve Board Over Currency

§ 3.35 To a bill intended to control prices of commodities, an amendment relating to certain powers of the Federal Reserve Board over currency and credit was held not germane.

In the 77th Congress, during consideration of a price control bill,[8] the following amendment was offered:[9]

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7. Wilbur D. Mills (Ark.).

8. H.R. 5990 (Committee on Banking and Currency).

9. 87 CONG. REC. 9244, 77th Cong. 1st Sess., Nov. 28, 1941.

Amendment offered by Mr. [Horace J.] Voorhis of California: On page 20, line 20, at the end of title II, insert a new title to read as follows:

TITLE III

Section 1. (A) Section 207 of title II of the Banking Act of 1935 is amended to read as follows:

"Sec. 207. The sixth paragraph of section 19 of the Federal Reserve Act, as amended, is amended to read as follows:

"'Notwithstanding the other provisions of this section, the Board of Governors of the Federal Reserve System, in order to prevent injurious credit expansion or contraction, may by regulation change the requirements as to reserves to be maintained against demand or time deposits, or both, by member banks; but the amount of the reserves required to be maintained by any such member bank as a result of any such change shall not be less than the amount of the reserves required by law to be maintained by such bank on the date of enactment of the Banking Act of 1935.'". . .

In response to Mr. John Taber, of New York, who raised the point of order that the amendment was not germane, Mr. Voorhis stated:

Mr. Chairman, this amendment has to do with the fundamental problem of inflation and deflation. It has to do with the question of the control of the creation and destruction of what America now uses for its money, namely, demand bank deposits. . . .

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:[10]

The pending bill deals with price fixing or more specifically with a ceiling on prices of commodities, rents and so forth. The amendment offered by the gentleman from California deals with the Federal Reserve Board and its power of dealing with currency and credit matters. The Chair thinks this amendment is not closely enough allied with the pending bill to make it in order and, therefore, the point of order made by the gentleman from New York is sustained.

Modification of Mortgage Foreclosure Procedures—Amendment Providing Moratorium on Foreclosures in Depressed Areas

§ 3.36 Where an amendment in the nature of a substitute for a bill provided in part for amelioration of procedures relating to mortgage foreclosure under the National Housing Act, an amendment thereto providing for a moratorium on foreclosures of mortgages in economically depressed areas was held to be germane.

In the 86th Congress, during consideration of the Housing Act of 1959,[11] an amendment was offered substituting the text of another bill.[12] The substitute con-

10. *Id.* at p. 9245.

11. S. 57 (Committee on Banking and Currency).

12. 105 CONG. REC. 8636–42, 86th Cong. 1st Sess., May 20, 1959. The sub-

sisted in part of a title relating to avoidance of foreclosure in certain cases of default due to circumstances beyond the control of a mortgagor.[13]

Mr. Willard S. Curtin, of Pennsylvania, offered, as an amendment to the substitute, a new section providing for procedures by which an unemployed mortgagor residing in an economically depressed area could avoid foreclosure of a mortgage.[14]

In response to a point of order against the amendment raised by Mr. Howard W. Smith, of Virginia, the Chairman[15] stated:[16]

> The Chair is ready to rule. The Chair calls attention to the fact that the amendment offered by the gentleman from Pennsylvania is to section 601 which is under title VI of the amendment under consideration. This particular section deals with the avoidance of foreclosure and states the procedures and circumstances under which a foreclosure may be avoided. The amendment offered by the gentleman from Pennsylvania very definitely applies to that section because it states the term "unemployed mortgagor" means any individual who is a mortgagor under a mortgage insured under this act.
>
> The Chair rules that the amendment is germane. The point of order is overruled.

Bill Relating to Design of Coin Currency—Amendment Providing for Issuance of Commemorative Coin

§ 3.37 To a bill relating to the design of public coin currency, an amendment providing for issuance of a commemorative coin is not germane; thus, to a bill requiring public currency coins to bear a design and date emblematic of the Bicentennial of the American Revolution, an amendment providing for the issuance or sale of Bicentennial gold commemorative coins was held to be not germane.

On Sept. 12, 1973,[17] during consideration of H.R. 8789 in the Committee of the Whole, the Chair sustained a point of order against the following amendment, thus illustrating that one individual proposition is not germane to another individual proposition, although the two may belong to the same class:

H.R. 8789

Be it enacted by the Senate and House of Representatives of the United

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stitute was the language of H.R. 7117.

13. *Id.* at p. 8641 (title VI).

14. *Id.* at pp. 8654, 8655.

15. Francis E. Walter (Pa.).

16. 105 Cong. Rec. 8655, 86th Cong. 1st Sess., May 20, 1959.

17. 119 Cong. Rec. 29376, 29377, 93d Cong. 1st Sess.

States of America in Congress assembled, That the reverse side of all dollars, half-dollars, and quarters minted for issuance on or after July 4, 1975, and until such time as the Secretary of the Treasury may determine shall bear a design determined by the Secretary to be emblematic of the Bicentennial of the American Revolution.

Sec. 2. All dollars, half-dollars, and quarters minted for issuance between July 4, 1975, and January 1, 1977, shall bear "1776–1976" in lieu of the date of coinage; and all dollars, half-dollars, and quarters minted thereafter until such time as the Secretary of the Treasury may determine shall bear a date emblematic of the Bicentennial in addition to the date of coinage.

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Crane: Page 2, after line 4, add the following new section and redesignate the succeeding sections accordingly:
>
> Sec. 3. Notwithstanding any other provision of law, rule, regulation, or order, the Secretary of the Treasury is authorized and directed to coin and issue or cause to be sold, between July 4, 1975, and January 1, 1977, special gold coins commemorating the Bicentennial of the American Revolution of such design, in such denomination, in such quantities (not exceeding sixty million pieces), and containing such other metals, as he determines to be appropriate. Notwithstanding any other provision of law, coins minted under this section may be sold to and held by the public, and the Secretary of the Treasury is authorized, by regulation, to limit the number of gold pieces which any one person may purchase. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I make a point of order against the language in this amendment, because under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class.

This bill merely changes the designs of our existing coins. It does not change the content of the coin or of the denomination.

Further, Mr. Chairman, we are dealing here in this bill with currency and not commemorative coins.

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

MR. CRANE: . . . It must be abundantly clear to one and all that we are not talking about coin of the realm when we talk about minting a gold coin with .13 ounces of gold that will be selling for $35. We are speaking exclusively about commemorative coins. If we were talking about minting coin of the realm and circulating that, we would have to sell the coins at a figure substantially half that figure of $35 which the Treasury ordered.

Second, with respect to the question of the action of this particular bill, it seems to me that there is something much more dramatic involved than overturning existing law on the subject of what shall be on the reverse or the obverse side of any coin, which at the present time regulations dictate cannot be altered except once every 25 years, and that the talk of creating another commemorative coin for distribution to those who wish to memorialize the Bicentennial is not nearly so radical a departure from the intent of this legislation and, in fact, is, indeed, germane. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Chairman, I believe this amend-

ment is not germane to the bill before us and, therefore, think that a point of order on germaneness should lie. This bill does deal with coin of the realm. The entire purpose of having half dollars, dollars, and quarters minted into Bicentennial coin is because they are coins in general circulation at the present time.

Mr. Chairman, this amendment would create a whole new coin which would be a collector's item and not be coin of the realm, as the gentleman has suggested. Therefore, I do think that it changes the subject of the bill; changes the purpose of the bill, and, therefore, is not germane.

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

The Chair having listened to the arguments made by the gentlewoman from Missouri (Mrs. Sullivan), the gentleman from Illinois (Mr. Crane), and the gentleman from Ohio (Mr. Wylie) recalls that on October 15, 1969, the Chair, while presiding over the debate on H.R. 14127, had a similar amendment offered, and at that time the Chair ruled that to a bill relating to the minting and issuance of public currency, as is the case proposed by H.R. 8789, an amendment providing for minting any coin for a private purpose or for a commemorative purpose was held not to be germane.

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

—Amendment Specifying Metal Content of Other Coins and Requiring Issuance in Uncirculated Proof Form

§ 3.38 To a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency and requiring its issuance in uncirculated proof form was held not germane.

During consideration of H.R. 8789 in the Committee of the Whole on Sept. 12, 1973,[19] Chairman Spark M. Matsunaga, of Hawaii, sustained points of order against two amendments (relating to the metal content of another currency coin) to a bill requiring certain coins to bear a design and date emblematic of the Bicentennial of the American Revolution:

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

18. Spark M. Matsunaga (Hi.).

19. 119 CONG. REC. 29377, 29378, 93d Cong. 1st Sess.

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

(b) The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I insist on my point of order. . . .

Mr. Chairman, I repeat what I said on the previous amendment. Under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class. . . .

MR. CRANE: . . . Mr. Chairman, it strikes me that the gentlewoman's objections are not consistent. In the last one we were talking about striking an altogether new coin and minting gold coins. Under the provisions of this particular act we are planning to continue to mint a dollar denomination coin. All that is proposed is changing in the present legislation the imprint on the reverse side of that coin. What this particular amendment does is give the Secretary of the Treasury further instructions with respect to the content of that coin, stipulating that approximately 40 percent of this shall be made up of silver instead of the percentage of composition of copper and nickel in the present coinage. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: . . . I support the point of order made by the gentlewoman from Missouri. Again, the Eisenhower proof set dollar was not minted as coin of the realm. These 40-percent silver dollars were minted to be sold as collectors' items, as proof coins. As the gentleman in the well knows, they are being sold for $10 apiece. They are not in general circulation. They are not being minted for general distribution.

The bill before us specifically provides for the minting of general circulation coin of the realm. . . .

MR. CRANE: I am not suggesting, in response to the objection the gentleman raises, that these coins not be distributed as coin of the realm. Instead, they will be minted with only 40 percent of silver content. The Treasury can still make a profit by selling those at $1. So these are coin of the realm. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair, after listening to the arguments on both sides, is constrained to sustain the point of order for the reason that the bill now pending provides for a new coinage design that would be emblematic of the Bicentennial of the American Revolution and it applies to dollars, half-dollars, and quarters. The amendment goes to the metal content of the dollar coin, a matter not within the purview of the bill . . . and the Chair therefore is constrained to sustain the point of order.

Subsequently,[20] another amendment was offered:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

20. 119 CONG. REC. 29378, 93d Cong. 1st Sess., Sept. 12, 1973.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

MRS. SULLIVAN: Mr. Chairman, I make a point of order against this amendment. It goes to the metal content of the coin and not the design of the coin. . . .

MR. SYMMS: Mr. Chairman, I would say on the point of order, it is coin of the realm, and I would be willing to hear the ruling of the Chair.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair's previous ruling applies to the point of order against the amendment, that this amendment goes to the metal content of the coin whereas the bill pending before the committee pertains only to the design and date of the coin proposed to be minted. The Chair therefore sustains the point of order.

Amendment Relating to Military Personnel After Separation From Service Not Germane to Bill Providing Allowances for Military Dependents

§ 3.39 To a bill providing allowances and allotments for dependents of military personnel, an amendment relating to the pay of such military personnel after separation from the service was held not germane.

In the 78th Congress, during consideration of a bill[1] relating to allowances and allotments for dependents of military personnel, the following amendment was offered:[2]

Amendment offered by Mr. [Walter C.] Ploeser [of Missouri]: At the end of the bill insert a new section, as follows:

Sec. 16. That such act be amended by adding a new section to title I thereof to be numbered 122 and to read as follows:

"Sec. 122. That . . . every person who . . . is separated from (military) service . . . shall be paid monthly, for a period of 10 months in the case of a

1. S. 1279 (Committee on Military Affairs).

2. 89 CONG. REC. 8465, 78th Cong. 1st Sess., Oct. 18, 1943.

person receiving the base pay of an enlisted man and for a period of 5 months in the case of any other person, an amount equal to the monthly base pay plus one-half of dependency benefits payable under this act in the case of enlisted men, and an amount equal to the monthly base pay in the case of all other persons. . . ."

A point of order was raised against the amendment, as follows:[3]

MR. [ANDREW J.] MAY [of Kentucky]: . . . The point of order is that the amendment . . . is not germane to the pending bill and, in addition to that, the proposed amendment would amend the Pay Adjustment Act rather than the bill now pending before the committee. . . .

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

MR. PLOESER: . . . I submit that my intention is to extend into the post-war period for a brief . . . time such aid to dependents as may become necessary due to difficulties in reemployment. If this aid is to be extended to dependents, it becomes . . . necessary to extend into the post-war period the vehicle upon which dependency allowances are necessarily attached. . . . The dependency allowance is, by virtue of statute now, an attachment to the base pay. It therefore became necessary, in order to extend one to extend both.

The Chairman,[4] in ruling on the point of order, stated:

The amendment which the gentleman from Missouri [Mr. Ploeser] offers might apply to the Pay and Adjustment Act of 1942. However, the pay of the enlisted personnel of the Army cannot be germane to a bill which provides for maintenance to the Servicemen's Dependents Allowance Act of 1942.

The Chair sustains the point of order.

Benefits and Compensation for Reservists—Return to Civilian Jobs

§ 3.40 To that section of a bill providing for restoration to their former civilian jobs of certain persons completing active military duty, an amendment providing that each such employee be entitled to receive the benefits of any annual leave that would have accrued was held to be germane.

In the 76th Congress, a bill[5] was under consideration to strengthen the national defense and to authorize the President to order reservists and retired Army personnel into active military service. The bill stated in part:[6]

Sec. 3. (a) Any member of any reserve component of the land or naval forces who . . . may be assigned to active duty . . . who . . . completes the

3. *Id.* at p. 8466.
4. Alfred L. Bulwinkle (N.C.).
5. S.J. Res. 286 (Committee on Military Affairs).
6. 86 CONG. REC. 10438, 76th Cong. 3d Sess., Aug. 15, 1940.

period of service required under this joint resolution shall be entitled to a certificate to that effect. . . .

(b) In the case of [a] person who has left a position or by reason of being ordered into such active military service is required to leave a position . . . in the employ of any employer . . .

(A) if such position was in the employ of the United States Government . . . such person shall be restored to such position or to a position of like status and pay. . . .

The following amendment was offered to the bill:[7]

Amendment offered by Mr. [Eugene J.] Keogh [of New York]: On page 3, line 14, after "pay", insert the following: "and shall be entitled to receive his regular compensation for the period of any accrued annual leave to which he is or may be entitled, such leave to be computed from the day he is ordered into such active military service, the provisions of the acts of May 10, 1916, and August 29, 1916 (title 5, sec. 58, U.S.C.) to the contrary notwithstanding."

The following exchange concerned a point of order raised against the amendment:

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane to the subject matter of the section involved.

THE CHAIRMAN:[8] Does the gentleman desire to be heard on the point of order? The section deals with benefits and compensation.

MR. TABER: Mr. Chairman, the amendment provides an additional and different method of paying the members of the Reserve and sets up something entirely different from what has been provided. The section provides for reemployment and the amendment provides for compensation and for credit in connection with retirement and sick leave. They are entirely different.

THE CHAIRMAN: The Chair is constrained to hold that section 3 is practically entirely devoted to the benefits and compensation which these men who are called into the service shall receive. It would appear to the Chair that the amendment offered by the gentleman from New York is certainly in line with that. Therefore the Chair overrules the point of order.

Bill Increasing Numbers in Military Ranks—Amendment Affecting Rank of Individual Upon Retirement

§ 3.41 To a bill making provision for a deputy chief of staff of the Army and increasing the number of certain ranks, an amendment providing that a certain official upon retirement from the Army be retired with the rank of major general was held not germane.

In the 76th Congress, during consideration of a bill[9] making provision for a deputy chief of staff, the following amendment was offered:[10]

7. *Id.* at p. 10442.

8. Clifton A. Woodrum [Va.].

9. S. 2222 (Committee on Military Affairs).

10. 84 CONG. REC. 8707, 76th Cong. 1st Sess., July 6, 1939.

Amendment offered by Mr. [Dow W.] Harter of Ohio: Add a new section as follows:

Sec. 2. That the present incumbent of the position of president of the Mississippi River Commission shall, upon retirement from active service in the Army, be retired with the rank of major general and with the pay and allowances authorized by law for an officer on the retired list of such rank.

Mr. James W. Wadsworth, Jr., of New York, made the point of order against the amendment that it was not germane. The Speaker pro tempore,[11] in ruling on the point of order, stated:

. . . The rule of germaneness applies to a committee amendment just the same as to an amendment offered by a Member in his individual capacity.

. . . The bill before the House confines itself to one subject, and the amendment attempts to inject into the bill an entirely different subject from that which is contained in the bill pending before the House. In the opinion of the Chair the amendment is not germane to the pending bill, and for that reason the Chair sustains the point of order.

Bill Authorizing Construction of Ships for Navy—Amendment Defining Naval Frontier of United States

§ 3.42 To a bill authorizing the construction of certain ships for the Navy, an amendment defining the naval frontier of the United States and providing for its protection by the Navy was held not germane.

In the 75th Congress, during consideration of a naval authorization bill,[12] the following amendment was offered:[13]

Amendment offered by Mr. [Robert] Crosser [of Ohio]: After section 11 add a new section, as follows:

Sec. 12. The naval forces of the United States shall be employed to maintain inviolate the frontier against any foreign foe, the naval frontier of the United States being defined as extending from Bering Strait to [specified points], but in their operations shall not go beyond the limits of that part of the Western Hemisphere which lies west of the meridian running through the twentieth degree of west longitude . . . excepting when on friendly visits, except in the event of military attack upon the United States or any of its possessions, and except in case of the violation of . . . the Monroe Doctrine.

Mr. Carl Vinson, of Georgia, made the point of order against the amendment that it was not germane to the bill.

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

MR. CROSSER: . . . I say it is perfectly silly to talk about building any

11. John W. McCormack (Mass.).

12. H.R. 9218 (Committee on Naval Affairs).

13. 83 CONG. REC. 3707, 75th Cong. 3d Sess., Mar. 18, 1938.

number of ships unless you state for what purpose they are being built. This is all the amendment does. We say that is for the purpose of defending our frontiers and say nothing about establishing any policy whatever.

The Chairman,[14] in ruling on the point of order, stated:

. . . The amendment, in effect, attempts to define the naval frontiers of the country or some boundary lines in the oceans. The bill under consideration is one pertaining to the building of warships. There is nothing in the bill which goes to setting any boundary lines pertaining to the country. The amendment is therefore not germane to the bill, and the Chair sustains the point of order.

—*Amendment Directing Investigation of Navy Accounting System*

§ 3.43 To that section of a bill relating to contracts for construction of vessels for the Navy, an amendment directing the Comptroller General to make an investigation of the accounting system of the Navy and to report his findings to Congress was held not germane.

In the 75th Congress, a naval authorization bill[15] was under consideration which stated in part:[16]

Sec. 7. The allocation and contracts for construction of the vessels herein authorized and the replacement thereof, as well as for the procurement and construction of airplanes and spare parts, shall be in accordance with the terms and conditions provided by the act of March 27, 1934 (48 Stat. 503), as amended.

The following amendment was offered to the bill:[17]

Amendment offered by Mr. [Everett McK.] Dirksen [of Illinois]: Add a new section to be designated as section 8:

The Comptroller General of the United States is authorized and directed to make a thorough investigation of the accounting system employed by the Navy Department in securing compliance with the act of March 27, 1934, and to submit a special report to Congress not later than March 15, 1939, embodying the findings of the Comptroller General, together with his recommendations for enforcing compliance with that act.

Mr. Dirksen, speaking in response to a point of order raised by Mr. Carl Vinson, of Georgia, stated:[18]

. . . Section 7 of the act deals entirely with allocations and contracts for construction of vessels in the pending bill. It relates to the fact that these vessels must be built in accordance with the act of March 27, 1934. The amendment seeks only to make effective and to secure substantial compliance with the act of 1934 that is stated in the bill.

14. John J. O'Connor (N.Y.).

15. H.R. 9218 (Committee on Naval Affairs).

16. 83 CONG. REC. 3687, 75th Cong. 3d Sess., Mar. 18, 1938.

17. *Id.* at p. 3696.

18. *Id.* at p. 3697.

The Chairman,[19] in ruling on the point of order, stated:

> . . . The amendment in substance directs the Comptroller General to investigate the accounting system used by the Navy Department in carrying out the provisions of the act of March 27, 1934. While that act is referred to in the proposed bill, the amendment brings in another branch of the Government than the Navy Department, namely, the Comptroller General, and directs him to perform certain duties. For that reason the amendment is not germane to the bill or to the section, and the Chair sustains the point of order.

Bill Increasing Loans for Veterans' Housing—Amendment Increasing Interest Rate

§ 3.44 To a bill encouraging new residential construction for veterans' housing by increasing the authorized maximum for direct loans, an amendment increasing the authorized interest rate on direct loans was held to be germane.

Under consideration on Mar. 25, 1957, was a bill[20] to encourage new residential construction for veterans' housing. The above ruling[1] of Chairman Robert L. F. Sikes, of Florida, is to be distinguished from a prior contrary ruling with respect to a similar amendment which sought to affect the interest rate on "guaranteed" loans. With respect to the earlier amendment, Chairman Sikes had stated:[2]

> The bill before us deals solely with direct loans, as is clearly shown in the title and in the bill itself. To bring in guaranteed loans in addition would be to bring in a new class of loans. . . .

Provisions Establishing Study of Use of Merchant Marine in Defense—Amendment Waiving Coastwise Trade Laws for Two Vessels

§ 3.45 To a title of a bill containing diverse provisions relating to the authority of the Secretary of Defense, amended to establish a study of the use of the merchant marine for defense purposes, an amendment waiving the coastwise trade laws (a matter within the jurisdiction of the Committee on Merchant Marine and Fisheries) for not more than two undesignated commercial passenger vessels was held germane, where the amendment was not in the form of a private

19. John J. O'Connor (N.Y.).
20. H.R. 4602 (Committee on Veterans' Affairs).
1. See 103 CONG. REC. 4314, 85th Cong. 1st Sess.
2. *Id.*

bill and was related to national security issues.

On May 30, 1984,[3] during consideration of H.R. 5167 (the Department of Defense authorization bill for fiscal 1985), it was demonstrated that the germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest, when the Chair overruled a point of order against the following amendment:

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: On page 157, line 18, add the following section:

"SEALIFT MOBILITY

"Sec. 1010. (a) In recognition of the projected shortfall of our national sealift capacity and the critical role in supporting our sealift mobility played by the U.S. merchant marine in transporting troops and supplies during the times of national emergency and war, and in recognition of the immediate need for auxiliary sealift capacity pending the results of the recommendations of the Commission on Merchant Marine and Defense, compliance with sections 12106 and 12107 of title 46, United States Code, and section 27 of the Act of June 5, 1920, Ch. 250 (46 App. U.S.C. 883) shall be waived for national security purposes for not more than two passenger vessels that the Secretary of Transportation in consultation with the Secretary of Defense determines, within one year of the date of enactment of this Act, meet the following criteria. The vessel:

"(1) has a passenger capacity in excess of 750; . . .

"(4) entered passenger cruise service after 1974.

"(b) In order to insure its availability and utility for national defense purposes, each vessel qualifying under this section—

"(1) shall have all alterations, repairs, and rebuilding of that vessel that are necessary to bring the vessel into compliance with part B of Subtitle II of title 46, United States Code, done in the United States, and shall comply with all other requirements of law;

"(2) shall have all non-emergency alterations, repairs, or rebuilding of that vessel done in the United States;

"(3) shall operate on routes that benefit its defense utility purpose and shall not operate on routes presently being served by other comparable, similarly qualified passenger vessels;". . . .

MR. [JACK M.] FIELDS [of Texas]: Mr. Chairman, I make a point of order that the amendment before the House is out of order because it is nongermane and because it is a private bill.

It is not germane because it has no legitimate defense rationale and because it has tax and revenue dimensions. No vessel need also have coastwise privileges with its tax advantages in order to fly the U.S. flag.

It is a private bill because it is actually H.R. 4333, the effect of which would be to admit to American registry and to coastwise privileges two British

3. 130 CONG. REC. 14493–96, 98th Cong. 2d Sess.

steamship vessels, the Cunard *Countess* and the Cunard *Princess*, and which the Parliamentarian advised would be subject to objection as a private bill. That was because H.R. 4333 is merely an attempted public version of H.R. 2883 which was introduced as a private bill and which was returned to committee by unanimous consent because it was subject to objection. . . .

But, private legislation presented as an amendment to a public bill is out of order in accordance with the precedents of the House. Even a casual reading of the precedents establishes that "it is not in order to amend a private bill by adding provisions general and public in character.". . .

Private legislation is defined as legislation "for the interest of individuals, public companies, or corporations, a parish, city or county or other locality." If there was ever a bill which satisfied that definition it is the one presented to us in the form of the so-called Troop Transport or Sealift Mobility amendment. . . .

MR. BIAGGI: . . . To begin with, nowhere in this bill are two vessels named. The fact of the matter is, the two vessels selected will be done by the Secretary of Defense, together with the Secretary of Transportation.

The vessels that are available so far for consideration are at least a minimum of five, and perhaps even greater. . . .

So clearly the argument whether this is a private bill does not hold water.

The amendment specifies two vessels, and those vessels will be designated, as I said before, by the Secretary of Defense and Secretary of Transportation.

The gentleman also raises the question of taxes. He would have you believe that this is the first time that this event ever took place. The fact of the matter is, it happens often. But the circumstances are individually considered by the Committee on Merchant Marine and Fisheries. There has never been that question raised before.

I believe my amendment is germane. To assess the germaneness of an amendment to this defense bill, we have to first look at the very close relationship between the merchant marine and national defense.

A principal basis of our current defense policy is the ability of our armed forces to deploy men and supplies from the United States to overseas locations. Upward of 95 percent of all movements required in an overseas emergency will be by sealift.

There is a demonstrated shortfall of sealift capacity. The Jones amendment, which was just passed within the last hour establishing a Commission on Merchant Marine and Defense has already been accepted and is directed at assessing the Nation's sealift requirements for cargo and personnel. The Commission measure was considered—as H.R. 3289—by the Armed Services and Merchant Marine Committees. . . .

Mr. Chairman, the linkage between defense policy and maritime policy is clearest in the area of domestic waterborne commerce. . . .

Only vessels of the United States may operate in the domestic commerce. With rare exceptions those vessels must be constructed in the United

States. The ability to operate in the coastwise market—a protected market—provides economic viability to a commercial operation that is essential if the operator's vessels are to be available for sealift purposes. By having our fleet close by our shores our military will have at hand useful vessels to transport men and supplies to the theatre of action should the need arise. While U.S. flagships in the foreign commerce are also important, it is much more difficult to be assured of their immediate availability because so much of their time is spent on the high seas or in foreign ports.

The exceptions to the requirement that vessels be built in the United States are predominantly those based on national defense needs.

In one instance, Congress provided that, where required for national defense, the Secretary of Defense could order waiver of compliance with those laws that would otherwise restrain certain vessels from operating as vessels of the United States.

Another example of this waiver authority can be found in title 50 of the U.S. Code—the war and national defense title. That law authorizes the Secretary of Transportation to requisition, purchase, or charter foreign vessels lying idle in the jurisdiction of the United States when those vessels are necessary to the National Defense.

The substance of my amendment is to implement the portion of the defense authorization bill relating to sealift capacity. The national defense aspect of these vessels has been recognized by the Office of the Chief of Naval Operations, which supports initiatives that would add passenger ships to the U.S. flag fleet. The letter of support was directly addressing H.R. 4333, a bill very similar to my amendment. . . .

Finally, the amendment meets the several tests that are employed to judge whether an amendment is germane. It meets the subject matter test. The subject matter of H.R. 5167 is broad. It has been further broadened by the Jones amendment establishing a commission on merchant marine and defense.

My amendment meets the committee jurisdiction test. If introduced separately my amendment would have been referred to the Merchant Marine Services Committee. Adoption of the Jones amendment causes the bill to overlap the jurisdiction of the two committees as well.

This amendment meets the fundamental purposes test. The adoption of the Jones Commission amendment has broadened the fundamental purpose of H.R. 5167. One of its purposes is to study and examine the capability of the merchant marine to meet national defense needs during an emergency including transportation of cargo and personnel. My amendment provides support to the national defense by commercial merchant vessels—vessels that could be used to transport personnel during wartime. . . .

MR. [HERBERT H.] BATEMAN [of Virginia]: Mr. Chairman, I would like to comment very briefly on the germaneness aspect. I believe the question of the private versus public bill has been expounded. I am sure the Chair will be prepared to rule on it.

With reference to the germaneness question, Mr. Chairman, I think it is a very serious one. May I say, and very

briefly, but for the fact that there is a Jones Act in title 46, an act and a provision of law falling under the jurisdiction of the Merchant Marine Committee, there would be absolutely no purpose for this bill being on the floor.

This bill is here, needs to be here, and has as its only real purpose the granting of an exemption under the provisions of the Jones Act. That is a matter for the jurisdiction of the Merchant Marine Committee; not a matter of jurisdiction for the Armed Services Committee.

I suggest that the matter before us is not germane to the purposes of the Defense Department authorization bill. . . .

THE CHAIRMAN:[4] The Chair is ready to rule on the gentleman's point of order, and germaneness is the only relevant point of order.

Whether or not an amendment is germane should be judged from the provisions of its text rather than from the motives which the circumstances may suggest. The burden of proof is on the proponent of an amendment to establish its germaneness.

The Chair will observe that title X, basically a broad general provisions title of the bill, has been, as the gentleman from New York has pointed out, further broadened by the adoption of numerous other amendments. The subject matter of title X has also been broadened within the jurisdiction of another committee, and it has been added by an amendment.

The Jones amendment establishing a commission has introduced the subject of sealift capacity. The Chair feels that the pending amendment is drafted to emphasize only that the waivers of law have defense-related ramifications, and the Chair does not feel that he looks behind the language of an amendment to the intent or motive of its author. Therefore, the Chair overrules the point of order and recognizes the gentleman from New York to explain his amendment.

The point of order is overruled.

Bill Authorizing Foreign Developmental and Economic Assistance—Amendment Establishing Center to Promote Assistance to Foreign and Domestic Business Enterprise

§ 3.46 To a bill reported from the Committee on International Relations amending laws and authorizing appropriations relating to foreign developmental and economic assistance, an amendment establishing within the Agency for International Development a minority resources center to coordinate and promote assistance to minority business enterprise in domestic programs as well as in the foreign assistance programs covered by the bill, was held not germane.

During consideration of the International Development and Food Assistance Act of 1978[5] in

4. Dan Rostenkowski (Ill.).

5. H.R. 12222.

the Committee of the Whole, the Chair sustained a point of order against the amendment described above, holding that the amendment was broader in scope than the bill and beyond the scope of the reporting committee. The proceedings of May 12, 1978,[6] were as follows:

MR. [PARREN J.] MITCHELL of Maryland: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mitchell of Maryland: Page 42, insert the following new section after line 25 and redesignate the succeeding sections accordingly:

MINORITY BUSINESS ENTERPRISE

Sec. 402. (a) Chapter 1 of part III of the Foreign Assistance Act is amended by inserting after section 602 the following new section:

"Sec. 602A. Minority Business Enterprise.—(a) In order to increase the participation of minority business enterprises in activities funded by the agency primarily responsible for administering part I of this Act, the Administrator of such agency shall, within 90 days after the effective date of this section, establish a Minority Resource Center (hereafter in this section referred to as the 'Center').

"(b) The Center shall—

"(1) establish and maintain, and disseminate information from, an international information clearinghouse for minority business enterprises, for purposes of furnishing to such businesses information with respect to business opportunities involving the implementation of the general policy set forth in section 101 of this Act;

"(2) assist minority business enterprises in obtaining investment capital and debt financing by utilizing such financial vehicles as minority enterprise small business investment companies, minority banks, and minority trade associations . . .

"(7) participate in and cooperate with all Federal programs and other programs designed to provide financial, management, and other forms of support and assistance to minority business enterprises. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I reserve a point of order against the amendment . . .

THE CHAIRMAN:[7] Does the gentleman from Ohio (Mr. Ashbrook] insist on his point of order?

MR. ASHBROOK: Yes, Mr. Chairman, I do. . . .

Title IV, as presented to us on page 41 of this bill, goes to current procurement methods. The amendment of the gentleman from Maryland would create a new office in the United States ostensibly for the purpose of boosting minority sales and business participation.

Mr. Chairman, I believe that title IV would not be a proper vehicle by which to do that. This amendment goes beyond the scope of the title of the bill and is not germane. . . .

MR. MITCHELL of Maryland: . . . The amendment is clearly within the scope of the bill. Throughout the bill there are references to facilitating our relationships with the various countries that receive assistance under this bill; and certainly the establishment of

6. 124 CONG. REC. 13498, 13499, 95th Cong. 2d Sess.

7. Elliott Levitas (Ga.).

minority businesses helps to facilitate those relationships. . . .

MR. ASHBROOK: . . . Mr. Chairman, my point of order is that the gentleman is creating an entire new office, that title IV only relates to administrative provisions and goes to current procurement methods, and that using this bill as a vehicle to create an entire new office and an entire new section goes far beyond the scope of title IV. . . .

MR. MITCHELL of Maryland: Mr. Chairman, if I may reply to that objection, I think we have established precedent in this House for the kind of action I am taking today.

If the Members will recall, last year we added onto the Department of Transportation bill a whole new section establishing a minority business resource service. If I may continue for just a moment, that section was added on under the general title of "Administrative Provisions of DOT," so that a precedent has been established. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Ohio makes the point of order that the amendment offered by the gentleman from Maryland is not germane to title IV or to the bill.

The bill under consideration relates to development and economic aid programs for the assistance of foreign countries. The amendment would direct the Administrator of the Agency for International Development to establish a minority resources center and would authorize that center to perform a variety of functions to assist minority business enterprises. Although such assistance is required under some of the designated functions of the center to bear a relationship to the general policy of the International Development and Food Assistance Act of 1977, the amendment does not specifically limit such assistance and participation to foreign aid programs.

For example, in subsection (a) of the amendment, there is provision that in order to increase the participation of minority business enterprises in activities funded by the agency primarily responsible for administering part I of this act, the administrator of such agency shall, within 90 days from the effective date of this section, establish a minority resource center.

That appears to the Chair to be within the general scope of the act itself, and would not of itself render this amendment nongermane.

However, several of the designated functions which follow in subsection (b) go beyond this, and appear to be entirely domestic in character. For example, paragraph (b)(4) of the amendment would allow the use of domestic investment companies, banks, and trade associations.

Paragraph (b)(7) requires the center to participate in all Federal programs, domestic and otherwise, designed to provide support and assistance to minority enterprises.

It, therefore, appears to the Chair that the amendment, as it is presently drafted, is far broader in scope than the bill, and in part beyond the jurisdiction of the reporting committee. For the reasons stated, the Chair sustains the point of order.

Prohibition on Use of Armed Forces to Evacuate American Civilians From Sinai—Amendment Interpreting Bill as Not Authorizing Any New Use of Armed Forces Generally

§ 3.47 For an amendment providing that United States armed forces may not be used to remove United States technicians placed in the Sinai region under the provisions of the joint resolution under consideration, a substitute stating that authority contained in the joint resolution does not permit introduction of United States troops in a manner not already permitted by existing law was held to be germane, dealing with the same issue (the use of United States troops) in a related but less specific manner.

During consideration of House Joint Resolution 683 (to implement the United States proposal for early-warning system in the Sinai) the Chair overruled a point of order as described above. The proceedings of Oct. 8, 1975,[8] in the Committee of the Whole, were as follows:

THE CHAIRMAN:[9] The Clerk will read.

The Clerk read as follows:

> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized to implement the "United States Proposal for the Early-Warning System in Sinai": *Provided, however,* That United States civilian personnel assigned to Sinai under such proposal shall be removed immediately in the event of an outbreak of hostilities between Egypt and Israel or if the Congress by concurrent resolution determines that the safety of such personnel is jeopardized or that continuation of their role is no longer necessary. . . .

MR. [RONALD V.] DELLUMS [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dellums: Page 2, line 7, immediately before "in the event" insert ", without the use of the Armed Forces of the United States unless expressly authorized by the United States Congress,". . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Eckhardt as a substitute for the amendment offered by Mr. Dellums: On page 2, on line 10 after the period, add the following: "Nothing contained in this resolution shall be construed as granting any authority to the President with respect to the

8. 121 CONG. REC. 32417, 32427, 32428, 94th Cong. 1st Sess.

9. K. Gunn McKay (Utah).

introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . [T]he substance of the gentleman's amendment is not germane to the amendment offered by the gentleman from California. . . .

MR. ECKHARDT: . . . The proposal by the gentleman from California (Mr. Dellums) is that no Armed Forces be permitted to be used in connection with the evacuation of the technicians, period. I mean, that is an absolute prohibition.

What this amendment says is that no authority that the President does not now have to remove technicians is granted by virtue of this resolution. Now, the difference is obvious, but the two go to the same point. This is a restriction on the limitation of the Dellums amendment.

THE CHAIRMAN: The Chair has reviewed the point of order made by the gentleman from Pennsylvania, and it appears to the Chair that the argument made by the gentleman from Texas is well taken and that his amendment is germane as a substitute, dealing with the same question of the use of armed forces to evacuate civilian technicians.

Therefore, the Chair overrules the point of order made by the gentleman from Pennsylvania.

Bill Authorizing Military Assistance—Amendment Permitting Use of Funds to Influence Political Activities in Foreign Nation

§ 3.48 To a bill authorizing military assistance to foreign nations, an amendment permitting funds authorized in the bill to be used to carry out assassinations or to influence political activities in foreign nations was held germane as a related use to which foreign military assistance could be put.

On Mar. 3, 1976,[10] during consideration of the International Security Assistance Act of 1976[11] in the Committee of the Whole, Chairman Frank E. Evans, of Colorado, overruled a point of order and held the following amendment to be germane:

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. John L. Burton: Page 59, immediately after line 15, insert the following new section:

LIMITATION ON COVERT ACTIVITIES

Sec. 417. Section 662(a) of the Foreign Assistance Act of 1961 is amended—

10. 122 CONG. REC. 5234, 5235, 94th Cong. 2d Sess.

11. H.R. 11963.

(1) by inserting "(1)" immediately after "(a)"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) funds appropriated under the authority of this Act may be expended (A) for planning or carrying out any assassination, or (B) to finance, directly or indirectly, any foreign political activity or to otherwise influence any foreign election.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, there is no funding in this bill for the CIA or for covert operations. The amendment is certainly not germane to this bill. . . .

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, as I understand the committee chairman's position, it is that there are no funds in this authorization and no funds authorized for the activities described, but as I understand further, the funds for this particular agency are not treated in the authorization, so it seems to me the Chair is ill disposed to take cognizance of what the funds are for.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The language in the amendment offered by the gentleman from California (Mr. John L. Burton) is an amendment directing how funds within the bill itself shall be expended. Thus, the amendment directly relates to the subject matter of and the funds within the bill, and the point of order is overruled.

Parliamentarian's Note: Mr. Burton had earlier offered a similar amendment but with the opposite effect—prohibiting the use of funds in the bill to carry out assassinations. When the Committee rejected that amendment (which was also germane as a limitation on use of funds in the bill) he offered the amendment permitting such use of military assistance funds.

Bill Providing for Evacuation of Vietnamese—Amendment Prohibiting Evacuation to Any State Without Consent of Congress

§ 3.49 To a bill dealing with the evacuation of certain individuals, an amendment prohibiting their evacuation to any of the states of the United States without the consent of Congress, was held to relate to the evacuation process, not to immigration policy, and was therefore germane.

During consideration of the Vietnam Humanitarian and Evacuation Assistance Act[12] in the Committee of the Whole on Apr. 23, 1975,[13] the Chair overruled a point of order against the following amendment:

MR. [BOB] CASEY [of Texas]: Mr. Chairman, I offer an amendment.

12. H.R. 6096.

13. 121 CONG. REC. 11546, 94th Cong. 1st Sess.

The Clerk read as follows:

> Amendment offered by Mr. Casey: Page 3, after line 3, insert (e) none of the "other foreign nationals" referred to in paragraph (d) shall be evacuated to any of the States of the United States, without the express consent of Congress. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment in that the amendment is not germane. It deals with the immigration policy, and would change the standards on immigration. . . .

MR. CASEY: . . . Mr. Chairman, this amendment would change no standards on immigration except that the classified people under paragraph (d) of section 4 which says that—

> . . . none of the other foreign nationals referred to in paragraph (d) shall be evacuated to any of the States of the United States without the express consent of the Congress.

It is certainly germane, because it has to do with the evacuation of these people under section (d) of section 4.

THE CHAIRMAN:[14] The Chair is ready to rule.

The language of the amendment does not limit the operation of the bill. It pertains strictly to the evacuation process. It does not mention immigration policy. It simply says that persons in a certain category of evacuees contained in the bill cannot be evacuated to any of the States of the United States without the consent of the Congress. Therefore the amendment is germane, and the point of order is not sustained.

14. Otis G. Pike (N.Y.).

Provisions Authorizing Humanitarian Assistance for War Victims—Amendments Stating Sense of Congress as to Causes of Condition

§ 3.50 To a substitute providing humanitarian and evacuation assistance to victims of war in South Vietnam, amended to deny any such assistance to designated groups allegedly responsible for the war, two amendments containing Congressional foreign policy declarations with respect to the roles of other nations in causing and ending that war were held to go beyond the scope of the purpose of the bill and were ruled out as not germane; subsequently, a more narrowly drawn amendment (which stated that actions by the groups denied assistance under the substitute had necessitated the relief to be provided), was held germane as an expression of foreign policy not extending beyond the purposes of the substitute as amended.

On Apr. 23, 1975, during consideration of H.R. 6096, the Vietnam Humanitarian and Assist-

ance Act, an amendment[15] denying assistance to particular groups was agreed to:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Insert new section 8 and renumber following sections:

"Sec. 8. To insure that the assistance is provided to such persons throughout South Vietnam no funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG."

Amendments subsequently offered, expressing the sense of Congress relative to the causes of circumstances addressed by the bill's provisions, and including broad declarations of foreign policy, were ruled out of order as not germane, the bill being limited to relief for a specific situation. The first of the amendments was offered by Mr. Robert E. Bauman, of Maryland:[16]

MR. BAUMAN: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Bauman to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar: At the end of the substitute and renumber accordingly; add the following new section:

"Sec. —. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement; and further, the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China towards this aggression as a critical test of good faith, and calls upon them immediately to use their influence to end the aggression by the North Vietnamese and the Viet Cong.". . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I raise the point of order that the amendment is not germane to the bill; that it includes information that does not have any indication that it relates to the object of what is being done in the substitute amendment.

THE CHAIRMAN:[17] Does the gentleman from Maryland desire to be heard?

15. 121 CONG. REC. 11507, 11508, 94th Cong. 1st Sess.

16. *Id.* at p. 11510.

17. Otis G. Pike (N.Y.).

MR. BAUMAN: . . . I would say that while this amendment may not be pleasing to the 71 Members who voted against the Ashbrook amendment, it goes to the very heart of the matter which is contained in this bill, which deals with humanitarian aid and evacuation procedures. By reason of the amendment offered by the gentleman from Mississippi (Mr. Montgomery) it now includes the problem of prisoners of war and missing in action and accountability.

In fact, it deals with policy in that matter. The scope of the bill has broadened considerably, and it is all within the jurisdiction of the Committee on International Relations and deals directly with the reason that this legislation must be offered today and acted upon. In fact, that is the very reason for this amendment. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I seek recognition on the point of order.

Mr. Chairman, the amendment offered by the gentleman from Maryland (Mr. Bauman) does this: It intends to direct international policy, to direct the State Department to provide general provisions controlling the policy of the United States in matters far beyond the Vietnamese question.

The substitute on the floor does none of these things. It essentially provides, in its major provisions, which are similar to the committee bill, means by which certain persons may be removed from Vietnam, that is, citizens of the United States and dependents, persons entitled to come over because of their connection with the U.S. nationals. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment and in the opinion of the Chair, the amendment, particularly the language, "the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China toward this aggression as a critical test of good faith," does, in fact, go far beyond the scope of the legislation before us.

The point of order is sustained.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Buchanan to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:
>
> "Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement.". . .

MR. EDGAR: Mr. Chairman, I make the point of order on the same grounds I stated before. This amendment is not germane. This piece of legislation raises issues which should not be dealt with in this fashion. . . .

MR. BUCHANAN: . . . I have stricken from the original amendment the language to which the Chair earlier referred. I believe all the remaining language deals specifically with what the provisions of this legislation do and why they are necessary. . . .

THE CHAIRMAN: The Chair is ready to rule.

While it is true that the Chair did refer particularly to certain language in the earlier amendment, the Chair does not indicate that if that particular language had not been there, the amendment would have been found to be in order.

The language of the amendment still goes far beyond the scope of the bill.

The point of order is sustained.

A more narrowly drawn amendment was then offered, and the Chair, overruling a point of order, held that, to the proposition designed to provide assistance for Vietnam war victims, perfected by amendment to prohibit use of that assistance to a specified group, a further amendment stating that the necessity for the relief provided had been caused by the actions of the group denied assistance was germane:[18]

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Rousselot to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:

"Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam. . . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I make the point of order on the same grounds I stated before. I object to this amendment because it is not germane. . . .

MR. ROUSSELOT: . . . We have stricken from this language all the basic objections the Chair has raised. Also, it does very much refer to this legislation. It discusses the Paris peace agreements and the necessity for the use of military forces.

It is totally germane on the basis of the Chairman's own statement.

THE CHAIRMAN: The Chair is ready to rule.

The Chair finds that the present amendment is narrowly drawn. It refers to the situation in Vietnam to which this substitute in its perfected form is directed, and the Chair overrules the point of order.

Provisions Authorizing Humanitarian Assistance for War Victims and Naming Parties Responsible for War—Amendment Requiring Negotiations With Such Parties

§ 3.51 To a bill dealing with humanitarian and evacu-

18. 121 CONG. REC. 11511, 94th Cong. 1st Sess.

ation assistance to war victims in South Vietnam, broadened by amendment to deny any such assistance to designated parties allegedly responsible for the war, to assert that the necessity for the relief provided has been caused by the actions of the group denied assistance, and to require negotiations to account for Americans missing in action, a further amendment requiring negotiations with that designated group to end the war and resolve the status of those missing was held germane to the bill as so amended.

On Apr. 23, 1975,[19] during consideration of H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act, the following amendments were agreed to:

Amendment offered by Mr. (John H.) Rousselot (of California): On page 3, after line 9, add the following new section:

"Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam.". . .

Amendment offered by Mr. [G. V.] Montgomery [of Mississippi]: Page 3, immediately after line 14, add the following new section:

Sec. 9. It is the sense of the Congress that as the humanitarian aid provided under this Act is made available in South Vietnam, the President is requested to use all appropriate diplomatic means at his disposal to obtain (1) an updated accounting of Americans listed as missing in action in Southeast Asia, and (2) the return of the remains of known American dead. The President is further requested to report to the Congress within 30 days after aid is made available in Southeast Asia, the diplomatic actions being taken. . . .

Amendment offered by Mr. (John M.) Ashbrook (of Ohio): On page 3, line 13, add the following section 7 and renumber the following sections accordingly:

"Sec. 7. No funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG."

Subsequently, a further amendment was offered, as follows:[20]

Mr. John L. Burton (of California): Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton: On page 3, add section 8: "The Secretary of State is directed to initiate immediate discussions with representatives of the Provisional Revolutionary Government of the Re-

19. 121 CONG. REC. 11545, 11546, 94th Cong. 1st Sess.

20. *Id.* at p. 11550.

public of South Vietnam, to declare the support of the United States for all political goals of the agreement and protocols on ending the war and restoring peace in Vietnam, including specifically the terms of Article 12 and to determine the precise conditions under which the Provisional Revolutionary Government would agree to establishment of a cease-fire and to a political settlement of the conflict. The Secretary is further directed to discuss with the Provisional Revolutionary Government of the Republic of South Vietnam the status of any Americans who are presently listed as missing in action in Vietnam.

"Within seven days, the Secretary shall advise the United States Congress and appropriate officials in Vietnam, including the legislative branch of the government in Saigon and principle Third Force leaders, of the progress and results of these discussions."

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I have a point of order against the amendment because it goes much further than the scope of the bill and it is not germane. . . .

MR. JOHN L. BURTON: . . . I think that the amendment is in order. It certainly deals with the whole problem of the bill. We had something dealing with those missing in action, and this deals with trying to get the information on the missing in action. . . .

THE CHAIRMAN:[1] The Chair is ready to rule.

In the judgment of the Chair, the addition of the amendments by the gentleman from California (Mr. Rousselot) and the gentleman from Mississippi (Mr. Montgomery) which is very similar to the second part of the pending amendment, did adequately broaden the scope of this bill so that the amendment of the gentleman from California (Mr. John L. Burton) would be in order. The Chair overrules the point of order.

Provisions for Assistance to Refugees—Amendment To Postpone Effective Date Pending President's Report to Congress

§ 3.52 An amendment, offered to a substitute, postponing the effective date of provisions for humanitarian and evacuation assistance for South Vietnam refugees until the President determines and reports to Congress on the ownership of gold sought to be removed from Cambodia and South Vietnam was held to be not germane.

On Apr. 23, 1975,[2] during consideration of the Vietnam Humanitarian Assistance and Evacuation Act,[3] in the Committee of the Whole, a point of order was sustained against an amendment offered to a substitute, as indicated below:

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment

1. Otis G. Pike (N.Y.).

2. 121 CONG. REC. 11511, 11512, 94th Cong. 1st Sess.

3. H.R. 6096.

to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: At the end add a new section:
>
> "This Act shall become effective when the President determines and reports to Congress whether the 16 tons of gold that Lon Nol and former President Thieu tried to send to Switzerland was American property or their own personal gold.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I raise a point of order that the amendment is not germane to the amendment in the nature of a substitute. . . .

MR. JOHN L. BURTON: . . . It is an amendment that sets an active triggering date for the legislation. It is not more different than saying that it shall take effect on a certain date. We are just saying in this amendment that we are setting this date for the determination whether or not that 16 tons of gold with American money is just a limitation on the executive power of the bill.

The Chairman: [4] The Chair is ready to rule. A similar situation arose in the 93d Congress on a bill authorizing military assistance to Israel and funds to be used in an emergency force when an amendment was offered postponing the availability of those funds until the President certified the existence of a designated level of energy supplies. (Deschler's, chapter 28, section 24.18).

The amendment in question is not germane to the purposes of the substitute and the point of order is sustained.

Bill Providing Foreign Aid—Amendment Providing Aid for Areas in United States

§ 3.53 To a bill providing aid to foreign countries, an amendment providing aid for certain areas in the United States held to be not germane.

In the 84th Congress, during consideration of a bill [5] to amend the Mutual Security Act of 1954, the following amendment was offered: [6]

> Amendment offered by Mr. [Cleveland M.] Bailey [of West Virginia]: On page 20, after line 25, insert a new subsection as follows:
>
> (b) It is the sense of the Congress that where there are areas within the continental United States in which unemployment statistics as certified by the Secretary of Labor exceed 15 percent of the labor force in such area or areas, the areas in question are hereby declared to be eligible for assistance under the provisions of this act.

Responding to a point of order by Mr. James P. Richards, of South Carolina, that the amendment was not germane, the proponent stated:

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4. Otis G. Pike (N.Y.).

5. S. 2090 (Committee on Foreign Affairs).

6. 101 CONG. REC. 9663, 84th Cong. 1st Sess., June 30, 1955.

. . . I should argue the point of germaneness . . . by calling attention to the fact that the title to the act itself invites just such an amendment as mine: "To amend the Mutual Security Act of 1954, and for other purposes."

Let me ask, Mr. Chairman, if this amendment . . . is ruled out of order, where, then, may I inquire, is the mutuality? Is not the United States a part of this pact that we are setting up here?

The Chairman[7] stated:

. . . The Chair invites attention to the fact that the pending bill is to amend the Mutual Security Act of 1954. The bill relates entirely to aid to foreign countries. The amendment offered by the gentleman from West Virginia relates entirely to assistance to areas in this country. Certainly, there can be no connection between the two. . . .

[T]he Chair sustains the point of order.

—*Amendment to Discourage Establishment of Foreign Chanceries in Residential Areas*

§ 3.54 To a bill authorizing new foreign aid programs and extending and revising existing mutual security laws, an amendment intended to discourage the establishment of foreign chanceries in residential areas of the District of Columbia was ruled out as not germane.

In the 87th Congress, during consideration of the Mutual Security Act of 1961,[8] the following amendment was offered:[9]

Amendment offered by Mr. [Carroll D.] Kearns [of Pennsylvania]: Page 5, after line 25, insert the following:

(j) It is the policy of the Congress that, since the United States is generally required, in locating its chanceries abroad, to observe applicable laws and zoning regulations, foreign nations with which the United States maintains diplomatic relations should, in the interest of comity (a necessary foundation for the achievement of the objectives of the Mutual Security Act of 1961), observe the laws and zoning regulations (in the District of Columbia) and locate their chanceries in business areas. . . .

Ruling on a point of order raised by Mr. Wayne L. Hays, of Ohio, with regard to the amendment's germaneness, the Chairman[10] stated:

. . . The amendment does seem to the Chair to have something to do with the zoning laws of the District of Columbia, a subject matter which is not encompassed in the bill H.R. 8400; therefore, the Chair sustains the point of order.

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7. Jere Cooper (Tenn.).

8. H.R. 8400 (Committee on Foreign Affairs).

9. 107 CONG. REC. 16059, 87th Cong. 1st Sess., Aug. 16, 1961.

10. Wilbur D. Mills (Ark.).

Provisions Requiring Notice to Congress of Curtailment of Agricultural Exports—Amendment Requiring Payments to Farmers in Case of Curtailment.

§ 3.55 To a section requiring notice to Congress of curtailment of export of agricultural commodities, contained in a title of a bill reported from the Committee on International Relations extending and amending the Export Administration Act, an amendment requiring domestic payments to farmers having in storage commodities for which exports have been suspended was held not germane as beyond the scope and subject matter of the section or title.

On Apr. 20, 1977,[11] during consideration of H.R. 5840[12] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Sec. 105. Section 4(f) of the Export Administration Act of 1969, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. . . .

MR. [KEITH G.] SEBELIUS [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sebelius: Page 8 after line 21, insert the following:

"(4)(A) Notwithstanding any provision of law, whenever the President of the United States or any other member of the executive branch of the Federal Government suspends or causes a suspension of export sales of corn, wheat, soybeans, grain sorghum, or cotton, the Secretary of Agriculture shall make payments described in subsection (B) and (C) to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended; except that no such payments may be made with regard to any such commodity unless, at the close of the calendar month preceding the calendar month in which the suspension is initiated, the price received by producers of such commodity was less than the parity price.

11. 123 CONG. REC. 11437, 11440, 11441, 95th Cong. 1st Sess.

12. The Export Administration Amendments of 1977.

"(B) The first payment described in subsection (A) shall become payable at the initiation of the suspension of export sales of the commodity concerned. Such payment shall be made at a rate of 10 per centum of the parity price per bushel or bale of the commodity concerned which was produced by the farm owner or operator and which is held in storage by him at the time of the initiation of the suspension. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, apparently the amendment the gentleman from Kansas (Mr. Sebelius) has presented is a parity amendment pending in the part of the bill before the Agriculture Committee.

MR. SEBELIUS: That is right.

MR. ZABLOCKI: It is not germane to section 105, which deals solely with existing authority of the President to limit export controls for foreign policy purposes under the Export Administration Act.

Second, the amendment gives the President new authority where export controls are imposed for new purposes under a new act.

And, third, this new authority deals solely with domestic matters which are within the jurisdiction of another country.

As I said, it is a parity amendment.

Lastly, this is a farm subsidy issue, not an issue of foreign affairs.

This bill does not deal with agricultural parity, it does not deal with support controls.

Therefore, Mr. Chairman, I submit that the amendment is not in order. . . .

THE CHAIRMAN:[13] The Chair is ready to rule.

H.R. 5840 is a bill to amend the Export Administration Act of 1969 in order to extend the authorities of that act, improve the administration of export controls under that act, and to strengthen the antiboycott provisions of that act.

Section 105 of the bill as amended amends the procedure by which the Secretary of Commerce can notify the Congress of the exercise of authority curtailing exports of agricultural products. It thereafter gives the Congress a certain period of time within which to disapprove if it so chooses.

The amendment offered by the gentleman from Kansas (Mr. Sebelius) goes beyond the purview of the title and the section to which offered, in that it would require payments by the Secretary of Agriculture to any farmowner or operator who has in stowage at the beginning of the suspension any amount of the commodity for which export sales have been suspended.

For the reasons stated by the Chair and the reasons given by the gentleman from Wisconsin, the point of order is sustained.

Bill Prohibiting Transportation of Foreign Convict-Made Goods—Amendment Prohibiting Imports From Country Not in Conformity With Minimum Wage Requirements

§ 3.56 To a bill amending the Wages and Hours Act and containing provisions governing transportation of foreign goods made by convicts,

13. Frank E. Evans (Colo.).

an amendment prohibiting the importation from any foreign country of any goods produced under conditions not compatible with United States law governing wages and hours was held to be germane.

In the 76th Congress, during consideration of a bill[14] comprising amendments to the Wage-Hour Law, the following amendment was offered:[15]

> Amendment offered by Mr. [John C.] Schafer of Wisconsin: Page 17, line 4, after the period insert a new section as follows:
>
> Sec. 21. In order to protect the minimum-wage and maximum-hour standards prescribed in sections 6 and 7 it shall be unlawful for any person to import . . . from any foreign country . . . any goods . . . produced . . . in foreign countries unless such imports are produced . . . under the same minimum-wage and maximum-hour provisions which would be applicable if they were . . . produced . . . in the United States.

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

> MR. [ROBERT C. W.] RAMSPECK [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane to this bill. The amendment deals with the question of foreign commerce. The bill deals only with interstate commerce, with wage and hour provisions within this country.

The following exchange then occurred:

> MR. SCHAFER of Wisconsin: . . . [T]he gentleman who made the point of order apparently is not familiar with the bill, which, on page 16, section 20, proposes to regulate and prohibit convict-produced goods, not only produced in the United States but in foreign lands. It specifically refers to foreign convict-produced goods; and even though the point of order had been made at the proper time it could not be sustained because this amendment is clearly germane to the bill, as it also relates to foreign production.
>
> THE CHAIRMAN:[16] The Chair will ask the gentleman to point out the particular language in the bill to which he refers.
>
> MR. SCHAFER of Wisconsin: I will read. Page 16, lines 13 to 17:
>
> > * * * the United States, or place noncontiguous but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, Puerto Rico, Virgin Islands, or district of the United States, or place noncontiguous but subject to the jurisdiction thereof.
>
> This language of the bill specifically refers to foreign commerce and foreign products and has a prohibition with reference to convict-produced foreign goods moving into this country.

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

> The section under discussion, known as section 12, page 16, is headed "Pro-

14. H.R. 5435 (Committee on Labor).

15. 86 CONG. REC. 5275, 76th Cong. 3d Sess., Apr. 30, 1940.

16. Claude V. Parsons (Ill.).

hibition against interstate transportation of convict-made goods," and in the course of describing what shall be prohibited the section does prohibit the transportation in interstate commerce of penal- or reformatory-institution-made goods from the States, Territories, and any district of the United States or from any foreign country.

The amendment offered by the gentleman proposes to prohibit the importation into this country of any goods manufactured, mined, or otherwise, from any foreign country that does not comply with our minimum wage rates.

The Chair thinks that in construing this amendment to section 20 it is clearly germane, because it prohibits the importation of foreign-made goods that does not prescribe minimum rates. The point of order is overruled.

Bill Imposing Conditions on Use of Agricultural Products for Relief—Amendment Adding Further Restrictions

§ 3.57 To a bill relating to emergency relief to India and requiring in part that the Secretary of Agriculture certify that the procurement of any agricultural product for such purpose would not impair the fulfillment of vital needs of the United States, an amendment requiring that such procurement not lead to curtailment of domestic use of such products was held to be not germane.

In the 82d Congress, a bill[17] was under consideration relating to emergency relief assistance to India and containing the provision described above. The following amendment was offered to the bill:[18]

> Amendment offered by Mr. [Thruston B.] Morton [of Kentucky]: Page 2, line 16, after "United States", insert "nor require [the Secretary of Agriculture] to promulgate regulations for the curtailment of the domestic use of such products during the period of such procurement."

The following exchange concerned a point of order raised against the amendment:

> MR. [JAMES P.] RICHARDS [of South Carolina]: Mr. Chairman, I make the point of order that the gentleman's amendment is not germane. . . . [It seems] to me that the sense of this amendment is that we are dealing with a phase of our domestic economy here that would not come within the scope of the bill.
>
> MR. MORTON: . . . The bill specifically provides that the Secretary of Agriculture shall certify that such procurement will not impair the fulfillment of the vital needs of this country. I just go one step further and say that if he certifies that it does not impair the vital needs of this country he cannot, while this grain is being purchased, go ahead and pass a lot of reg-

17. H.R. 3791 (Committee on Foreign Affairs).

18. 97 CONG. REC. 5832, 82d Cong. 1st Sess., May 24, 1951.

ulations on the excuse that we had to ship this grain to India. . . . He has to give his certification, and this qualifies the certification and tightens it up. . . .

THE CHAIRMAN:[19] The Chair is ready to rule. The gentleman from Kentucky offers an amendment which, in the words of the gentleman from Kentucky, goes one step further than the pending bill, and also in the words of the gentleman from Kentucky, makes an additional proviso. The gentleman from South Carolina makes the point of order that the additional proviso is not germane. Clause 7 of rule XVI says that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment. The test of germaneness, it seems to the Chair, is whether or not a new subject matter is introduced by way of amendment. The gentleman from Kentucky makes the point of order that his additional proviso is related to the proviso in the bill. The Chair would cite to the gentleman the precedent on page 88, volume 9, of Cannon's Precedents which says this:

> The fact that two subjects are related does not necessarily render them germane.

Under the rule cited and the precedent cited, and others at hand, the Chair is constrained to sustain the point of order.

Bill Authorizing Loan to United Nations—Amendment to Encourage Supporters to Purchase United Nations Bonds

§ 3.58 To a bill authorizing a loan to the United Nations, an amendment inviting Members who support the measure to purchase United Nations bonds was held to be not germane.

In the 87th Congress, during consideration of a bill[20] authorizing a loan to the United Nations, the following amendment was offered:[1]

> Amendment offered by Mr. [H. R.] Gross [of Iowa]: On page 3, after section 6, insert a new section 7 reading as follows: "Provided further, That Members of the Congress who vote affirmatively for the bill and thereby express their satisfaction therewith shall be invited and encouraged to invest not less than $1,000 each in United Nations bonds and shall be reimbursed under the terms and conditions set forth in section 3 for reimbursement of the United States Government."

The Chairman, Francis E. Walter, of Pennsylvania, ruling on a point of order raised by Mr. Thomas E. Morgan, of Pennsylvania, held that the amendment was not germane.[2]

Bill Providing for Admission of Hawaii—Amendment Affecting Boundaries of Hawaii

§ 3.59 To a bill providing for the admission of the State of

19. Albert A. Gore (Tenn.).

20. S. 2768 (Committee on Foreign Affairs).

1. 108 CONG. REC. 19477, 87th Cong. 2d Sess., Sept. 14, 1962.

2. *Id.* at p. 19478.

Hawaii, an amendment to allow certain other Pacific islands either to be constituted into another state with the consent of the United States and Hawaii, or to be included as part of the State of Hawaii, was held to be germane.

In the 86th Congress, during consideration of a bill[3] to provide for the admission of Hawaii into the Union, an amendment was offered as described above, for purposes stated by the proponent as follows:[4]

> MR. [WILLIAM R.] POAGE [of Texas]: . . . [This legislation] leaves hanging as a part of no State, some portions of that Territory that was once ruled by the royal line of Hawaii. It leaves without any statehood status other islands and territories in the Pacific Ocean over which the American flag flies and over which we claim jurisdiction.
>
> This amendment, if adopted, will provide not for the immediate incorporation of areas that may not presently fit into the organization of the new State, but it does provide an opportunity for the ultimate inclusion of every acre of American territory in the Pacific Ocean to be organized into the State of Hawaii.

A point of order was raised against the amendment, as follows:[5]

> MR. [WAYNE N.] ASPINALL [of Colorado]: . . . The bill with which we are dealing, S. 50, deals with the immediate admission of a new State into the Union. . . . [Subsection (a) of the amendment offered by the gentleman from Texas] deals with the enlargement of that State at some indefinite time in the future under totally different circumstances. . . .
>
> Subsection (b) [of the amendment] anticipates that these island areas may, at some future time, seek to become a separate State. It provides that they may become such if they so vote, and if the State of Hawaii consents, and if the Congress agrees. This situation is entirely foreign to the purposes of S. 50. . . .

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

> MR. POAGE: Mr. Chairman, basically the amendment which has been offered is one that changes the boundaries of the proposed State of Hawaii. The boundaries of the State of Hawaii are defined in the legislation before us. . . .
>
> We are . . . fixing a different set of boundaries from those that were outlined in the original bill. We are providing that some of those boundaries shall be in effect today; that others of them shall be in effect at future dates upon the happening of future events.

The Chairman, Paul J. Kilday, of Texas, in ruling on the point of order, stated:[6]

> In ruling on the first portion of the amendment, the Chair will point out

3. S. 50 (Committee on Interior and Insular Affairs).

4. 105 CONG. REC. 4034, 86th Cong. 1st Sess., Mar. 12, 1959.

5. *Id.* at p. 4035.

6. *Id.* at pp. 4035, 4036.

that it seeks to add additional language to the last sentence of section 2 of the bill. Section 2 of the bill and the sentence to which it is proposed to add language deals with the boundaries of the new State of Hawaii to be admitted under this bill, and the language of the proposed amendment likewise deals with the boundaries of the State to be admitted. As to paragraph B of the proposed amendment, the Chair would point out that this language would grant to the new State of Hawaii a right over land not included within the boundaries proposed in this bill but land outside of the boundaries, so that it would be granting to the new State of Hawaii a right over those lands which she does not now possess and would be one of the conditions on which she is admitted.

The Chair is constrained to hold that the amendment is germane to the bill and overrules the point of order.

Bill Relating to Administration of Parkway Lands—Amendment Authorizing Secretary of Interior to Permit Certain Uses of Lands

§ 3.60 To a bill relating to maintenance and administration of certain parkway lands, an amendment authorizing the Secretary of the Interior to permit such use of the parkway lands as he may determine to be consistent with the use of the lands for parkway purposes, was held germane.

In the 75th Congress, the Natchez Trace Parkway Bill[7] was under consideration, stating in part:[8]

Be it enacted, etc., That all lands and easements . . . conveyed to the United States by the States of Mississippi, Alabama, and Tennessee for the right-of-way for the projected parkway between Natchez, Miss., and Nashville, Tenn., together with sites acquired . . . for recreational areas in connection therewith . . . shall be administered and maintained by the Secretary of the Interior through the National Park Service. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. [Aaron L.] Ford of Mississippi: Page 2, after section 1, insert:

Sec. 2. In the administration of the Natchez Trace Parkway the Secretary of the Interior may lease or authorize the use of parkway lands for such purposes and under such terms and conditions as he may determine to be not inconsistent with the use of such lands for parkway purposes.

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

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill. There is noth-

7. H.R. 6652 (Committee on Public Lands).

8. 83 CONG. REC. 1433, 75th Cong. 3d Sess., Feb. 2, 1938.

ing in the bill with reference to leasing lands or anything of that character. This is an entirely new feature and it is not germane to the bill.

The Chairman,[9] in ruling on the point of order, stated:

The Chair feels that the bill deals with lands and easements that have been conveyed to the United States by the State of Mississippi, the State of Alabama, and the State of Tennessee for a right-of-way for a parkway. The amendment merely authorizes the Secretary of the Interior to lease or authorize the use of these parkway lands, which have been conveyed to the United States by these States. In other words, the amendment simply authorizes the Secretary of the Interior to deal in some way with the title to that property. The Chair, therefore, feels that the amendment is germane and overrules the point of order.

Parliamentarian's Note: Prior to the above ruling, Mr. Ford had offered a similar amendment which he conceded not to be germane; the amendment had made reference to the administration of the "Blue Ridge" Parkway as well as that of the Natchez Trace Parkway.

Bill Providing for Tunnel Under Potomac—Amendment Relating to Cost of Approach Roads

§ 3.61 To a bill providing for a tunnel under the Potomac River, an amendment requiring the District of Columbia and the State of Virginia to pay costs of approach roads was held to be germane.

In the 85th Congress, a bill[10] was under consideration to amend legislation authorizing the construction of bridges over the Potomac River. The following amendment was offered to the bill:[11]

Amendment offered by Mr. [H. R.] Gross [of Iowa]: On page 4, strike out all of lines 4 through 15 and insert the following:

Sec. 105. The cost of construction, reconstruction . . . and repair of all facilities and related works, including streets, if any, and roads, which are changed or made necessary incident to the construction of said tunnel, approach ramps and connecting roads, shall be paid out of funds made available for the construction of said tunnel, approach ramps and connecting roads for all of which the State of Virginia shall pay the full costs on the Virginia side of the Potomac River and the District of Columbia shall pay the full costs on the District of Columbia side of the Potomac River. . . .

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

MR. [HOWARD W.] SMITH [of Virginia]: Mr. Chairman, I make the point

9. Harold G. Mosier (Ohio).

10. H.R. 6763 (Committee on the District of Columbia).

11. 103 CONG. REC. 13497, 85th Cong. 1st Sess., Aug. 2, 1957.

of order against the amendment offered by the gentleman from Iowa on the ground it is not germane to the bill. I do not know anyone in this body who happens to be a member of the General Assembly of Virginia and therefore can tell the Virginia Assembly how much money it can appropriate for anything.

In defense of the amendment, the proponent stated:

Mr. Chairman, the amendment deals with language contained in the bill, section 101, on page 2, wherein there are designated certain duties and responsibilities on the part of the State of Virginia on the Virginia side of the Potomac River and so forth.

The Chairman[12] overruled the point of order.

Bill Designating Wilderness Areas—Amendment Giving Employment Benefits to Those Affected

§ 3.62 To a bill reported from the Committee on Interior and Insular Affairs designating certain wilderness areas in Oregon, an amendment adding a new title to provide a program of unemployment benefits to persons affected by such wilderness designations was held to be not germane as addressing a subject not contained in the bill and one within the jurisdiction of other committees of the House.

On Mar. 21, 1983,[13] during consideration in the Committee of the Whole of H.R. 1149 (Oregon wilderness designations), a point of order was raised and sustained as indicated below:

Sec. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated December 1982 (except as otherwise dated), are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Gorge Wilderness—Proposed", and shall be known as the Columbia Gorge Wilderness . . .

Sec. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Oregon and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

12. Richard W. Bolling (Mo.).

13. 129 Cong. Rec. 6339, 6341, 6344, 6346, 98th Cong. 1st Sess.

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon. . . .

An amendment was offered:

Amendment offered by Mr. Young of Alaska: Insert before section 2 the heading "TITLE I—DESIGNATION OF WILDERNESS AREAS".

Sec. 2. Add after section 6 the following:

"TITLE II—DEFINITIONS

"Sec. 20. As used in this title, the term—

"(1) 'Secretary' unless otherwise indicated, means the Secretary of the Department of Labor;

"(2) 'expansion area' means the Mount Hood, Willamette, Siuslaw, Umpqua, Rogue River, Siskiyou, Deschutes, Winema, Fremont, Ochoco, Wallowa-Whitman, Malheur, and Umatilla National Forests, and the Salem District of the Bureau of Land Management;

"(3) 'employee' means a person employed by an affected employer and, with such exceptions as the Secretary may determine, in an occupation not described by section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213(a)(1)); . . .

"Sec. 22. The total or partial layoff of a covered employee employed by an affected employer during the period beginning the date of enactment and ending September 30, 1986, other than for a cause that would disqualify an employee for unemployment compensation, except as provided in section 24, is conclusively presumed to be attributable to the expansion of the Oregon portion of the National Wilderness preservation system. . . .

"Sec. 23. (a) The Secretary shall provide, to the maximum extent feasible, for retention and accrual of all rights and benefits which affected employees would have had in an employment with affected employers during the period in which they are affected employees. The Secretary is authorized and shall seek to enter into such agreements as he may deem to be appropriate with affected employees and employers, labor organizations representing covered employees, and trustees of applicable pension and welfare funds, or to take such other actions as he deems appropriate to provide for affected employees (including the benefits provided for in section 26(d)) the following rights and benefits:

"(1) retention and accrual of seniority rights, including recall rights (or, in the case of employees not covered by collective-bargaining agreements, application of the same preferences and privileges based upon length of continuous service as are applied under the affected employer's usual practices) under conditions no more burdensome to said employees than to those actively employed; and

"(2) continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have been applicable had they been actively employed. . . .

"Sec. 31. (a) A relocation allowance shall be paid upon application by an affected employee during the applicable period of protection if—

"(1) the Secretary determines that said employee cannot reasonably be expected to obtain suitable work in

the commuting area in which said employee resides; and

"(2) the employee has obtained—

"(A) suitable employment affording a reasonable expectation of long-term duration in the area in which said employee wishes to relocate. . . .

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Chairman, I make a point of order that the amendment is not germane, and also that it violates the provisions of the Budget Act. . . .

MR. [DON] YOUNG [of Alaska]: . . . Mr. Chairman, I argue that the amendment is germane. It has been heard before and has passed on previous actions of this body. I want to state that if the Parliamentarian will go back to the history of the House, this House has acted on the same exact amendment on a similar type bill in previous years. . . .

So my argument is that the amendment is germane to the bill, and it is relevant to the subject and the topic we are discussing today. We should give an opportunity to this body to decide, if the eastern establishment is going to have this wilderness, they are going to pay for it through their tax dollars to those who will be unemployed. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair has reviewed the amendment offered by the gentleman from Alaska.

H.R. 1149 does not relate to the question of unemployment relief to employees impacted by the wilderness designations in the bill.

The amendment contains matter not addressed on the bill and within the jurisdiction of other committees of the House and, therefore, is not germane to H.R. 1149.

The Chair sustains the point of order.

Parliamentarian's Note: Since the Chair sustained the point of order under the germaneness rule, he was not obliged to rule on the point of order under the Budget Act. The amendment provided new entitlement authority effective in fiscal year 1984 and thus violated sec. 303(a)(4) of the Budget Act, no budget resolution for that year having yet been adopted.

Bill Authorizing Activities in Department of Agriculture Previously Carried in Appropriation Bills—Amendment To Refund Certain Payments Under Agricultural Adjustment Act

§ 3.63 To a bill authorizing certain activities in the Department of Agriculture that had previously been carried in annual appropriation bills without specific authorization, an amendment seeking to refund certain payments under the Agricultural Adjustment Act of 1938 was held to be not germane.

14. James L. Oberstar (Minn.).

In the 78th Congress, a bill[15] was under consideration relating to control and eradication of certain animal and plant pests and diseases. The following amendment was offered to the bill:[16]

> Amendment offered by Mr. [Ross] Rizley [of Oklahoma]: At the end of the bill add a new section to be known as section 713 to read as follows:
>
> "That all penalties collected by the United States under the Agricultural Adjustment Act of 1938 . . . or under the joint resolution entitled 'Joint resolution relating to wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended' . . . with respect to the marketing of any wheat from the 1941 or 1942 crops of wheat shall be refunded to the persons who bore the burden of the payment of such penalties. . . ."

In discussing the amendment, the proponent stated:[17]

> In my opinion, my amendment will not require any new appropriation if it is accepted as a part of this bill. All we need is an authorization, and this is an authorization bill, so that the Appropriations Committee can authorize the Secretary of Agriculture to reappropriate this identical fund. . . .
>
> If my amendment is agreed to, I take the position that all that will then be necessary will be an authorization. It will be an authorization to the Appropriations Committee to reappropriate funds that are already on hand. . . .

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

> MR. [STEPHEN] PACE [of Georgia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill. . . .
>
> Mr. Chairman, the purpose of the pending legislation is to set up legislative authority for numerous items heretofore carried in the agriculture appropriations bill which have not heretofore been authorized by law.
>
> In the first place, there is no provision in the agriculture appropriations bill having to do or treating with the subject of refunding penalties that might have been invoked on any particular crop. This amendment seeks solely to authorize the refund of penalties on the wheat crop for 2 years.
>
> Secondly, Mr. Chairman, as was pointed out on yesterday, this bill is for the purpose of setting up organic law for the Department of Agriculture. Certainly there is no provision in this amendment and nothing organic in this amendment, as it relates to only one crop and for a period of only 2 years. It does not seek—if it did seek, I think the situation would be different—it does not seek to establish as permanent law that all penalties on all crops under certain conditions shall be refunded, but the amendment simply seeks to refund the penalties on a particular crop for a particular year. . . .

In defense of the amendment, the proponent stated:

> . . . It is true that this is a bill which within its strictest construction

15. H.R. 4278 (Committee on Agriculture).

16. 90 CONG. REC. 2334, 78th Cong. 2d Sess., Mar. 7, 1944.

17. *Id.* at p. 2335.

is an authorization bill authorizing appropriations that have heretofore not been authorized by law, as I understand, for various and sundry matters pertaining to the Department of Agriculture. . . .

As stated, this bill refers to the Domestic Allotment Act of 1938, part of which is included under the terms of my amendment. What this will do will be to authorize the Appropriations Committee not to make a new appropriation but to reappropriate this fund which has been collected as a penalty under the provisions of the Wheat Penalty Act. . . .

The Chairman, Alfred L. Bulwinkle, of North Carolina, in ruling on the point of order, stated:[18]

The amendment offered by the gentleman from Oklahoma seeks to refund certain payments under the Agricultural Adjustment Act of 1938. The pending bill merely authorizes certain activities that have heretofore been carried in annual appropriation bills without specific authority or authorization at all.

The amendment offered by the gentleman from Oklahoma does not come within that category and, therefore, the Chair holds that it is not germane to the bill.

A subsequent exchange concerned a parliamentary inquiry.

MR. [FRANCIS H.] CASE [of South Dakota]: The inquiry I should like to propound, Mr. Chairman, is whether or not if the amendment were offered as a new title to the bill . . . would it then not be in order? . . .

THE CHAIRMAN: The Chair calls the attention of the gentleman to the fact that merely making it another title in the bill would not make it in order because it still would not be germane to the pending bill.

Bill Amending Commodity Exchange Act—Senate Amendments Relating to Forest Lands; Wheat Program

§ 3.64 To a House passed bill amending the Commodity Exchange Act to authorize appropriations and to make technical improvements therein, a Senate amendment authorizing the transfer of certain national forest lands is not germane, nor is a Senate amendment amending another law changing the wheat program.

The proceedings of Oct. 15, 1986, relating to H.R. 4613, the Futures Trading Act of 1986, are discussed in § 26.31, infra.

Bill Concerning Application of Freight Rates—Amendment Relating to Notice Required Prior to Rate Increase

§ 3.65 Where a bill prescribed conditions relative to the application to common carriers of certain provisions of law

18. *Id.* at p. 2336.

governing freight rates, an amendment which concerned the posting of notices in connection with the establishment of rates was held to be germane.

In the 75th Congress, a bill[19] was under consideration which stated in part:[20]

> Be it enacted, etc., That paragraph (1) of section 4 of the Interstate Commerce Act, as amended February 28, 1920 (U.S.C., title 49, sec. 4), be and it is hereby, amended to read as follows:
>
> (1) That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation as a through rate than the aggregate of the intermediate rates subject to the provisions of this act: Provided, That the Commission may from time to time prescribe the extent to which common carriers may be relieved from the operation of this section: And provided further, That rates . . . existing at the time of the passage of this amendatory act by virtue of orders of the Commission . . . shall not be required to be changed by reason of the provisions of this section until the further order of . . . the Commission. . . .

To this bill an amendment was offered, as follows:[1]

> Amendment offered by Mr. [Schuyler O.] Bland [of Virginia]: Page 2, line 17, insert a new paragraph, as follows:
>
> No application for any increase in rates . . . or charges shall be . . . considered by the Interstate Commerce Commission unless and until the applicant . . . shall show to the Commission that at least 30 days prior to making said application the applicant has filed with the Governor of each State in which said increase will apply a copy of the tariff schedule showing all increases sought . . . with a memorandum . . . explaining each . . . increase requested. . . .

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

> MR. [CARL E.] MAPES [of Michigan]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the paragraph under consideration. This amendment applies to all fares and rates. The bill relates only to the long-and-short-haul clause.

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

> MR. BLAND: Mr. Chairman, the amendment is in accord with the Interstate Commerce Act and with the particular section under consideration. The amendment relates to any rates, fares, or charges that may involve a greater or shorter distance. It is not limited to any particular point. It is rates, fares, and charges generally, and the amendment deals with the procedure for the protection of the public, so that they shall know that increases are sought.

The Chairman,[2] in ruling on the point of order, stated:

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19. H.R. 1668 (Committee on Interstate and Foreign Commerce).

20. See 81 CONG. REC. 3480, 75th Cong. 1st Sess., Apr. 14, 1937.

1. *Id.* at p. 3484.

2. James M. Wilcox (Fla.).

The bill now before the Committee, in line 10, page 1, provides that the Commission may from time to time prescribe the extent to which common carriers may be relieved from the operation of this section; that is, relative to compensation, freight rates, or freight charges.

The amendment offered by the gentleman from Virginia deals with the establishment of rates and the posting of notice in connection therewith, and, in the opinion of the Chair, is germane. The point of order is therefore overruled.

Parliamentarian's Note: Mr. Bland explained the "long-and-short haul" provision and the effect of the bill as follows:

The long-and-short haul provision is the simple, equitable provision that you shall not charge less for the haul from terminus to terminus than the aggregate of the charges for the intermediate hauls. This bill would do away with this provision.

Bill Amending Act Relating to Apportionment—Amendment Changing Total Number of Representatives

§ 3.66 To a bill proposing to amend an act in several particulars, an amendment proposing to modify the act in a respect not related to the terms of the bill is not germane.

In the 76th Congress, a bill[3] was under consideration relating to the time for transmission of a census report to Congress under an act providing for apportionment of Representatives.[4] An amendment was offered by Mr. James W. Mott, of Oregon, for purposes of reducing the total number of Representatives. A point of order was raised against the amendment, as follows:[5]

MR. [LINDSAY C.] WARREN [of North Carolina]: . . . [S]ection 1 merely provides for the time that the President shall report to Congress. The act of 1929, which this bill today seeks to amend, provides for an apportionment based on a House membership of 435. The amendment offered by the gentleman from Oregon [Mr. Mott], of course, would change the entire procedure of the act of 1929, and it is certainly not germane to this bill. . . .

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

MR. MOTT: . . . The act of June 18, 1929, sets up the formula and the machinery for apportionment. It provides in that connection that the President within 1 week thereafter of the second regular session, and so forth, shall file a statement showing the whole number of persons in each State, as ascertained under the fifteenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of the then existing number of Representatives.

3. S. 2505 (Committee on the Census).

4. See 86 CONG. REC. 4382, 76th Cong. 3d Sess., Apr. 11, 1940.

5. *Id.* at p. 4383.

> The act provides that the representation shall be apportioned on a basis of the then existing number of 435 Members. This amendment simply changes that basis from 435 to 300. This is offered as an amendment to the act of 1929. The bill the committee now has under consideration is also offered as an amendment to the act of 1929. They are both amendments to the same act, and both amendments relate to the same subject. I feel, therefore, that an amendment along this line would be perfectly germane. . . .

The Chairman, John M. Jones, of Texas, in ruling on the point of order, stated:[6]

> . . . The precedents . . . seem to be very definite on the proposition that when a bill proposes to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane. . . .
>
> The pending section of the bill does not in any way affect the total number of Members of the House but only proposes to change the time when the statement of the President must be transmitted to Congress. The Chair is of the opinion therefore that the amendment is not germane and sustains the point of order.

Resolution to Reform Structure and Procedures of Committees—Amendment Affecting Procedures in Committee of the Whole

§ 3.67 To a proposition reorganizing House committees and dealing with the committee stage of the legislative process, amended to delete reference to consideration of legislation in Committee of the Whole, an amendment relating to voting procedures in the Committee of the Whole was held to be not germane.

On Oct. 8, 1974,[7] the Committee of the Whole had under consideration House Resolution 988, to reform the structure, jurisdiction and procedures of House committees. Pending was an amendment in the nature of a substitute amending Rules X and XI and making conforming changes in other rules to reform the structure, jurisdiction and procedures of committees, and containing miscellaneous provisions reorganizing certain institutional facilities of the House. The amendment had been perfected by amendment to eliminate a revision of Rule XVI which had proposed changes in Committee of the Whole procedure. Pursuant to a point of order, the amendment in the nature of a substitute was held not to be sufficiently broad in scope to admit as germane an amendment to Rule VIII to permit

6. *Id.* at pp. 4383, 4384.

7. 120 CONG. REC. 34415, 34416, 93d Cong. 2d Sess.

pairs on recorded votes in Committee of the Whole.

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: On page 53, after line 2, insert the following:

"PAIRS IN COMMITTEE OF THE WHOLE

"Sec. 209. The first sentence of clause 2 of rule VIII of the Rules of the House of Representatives is amended by inserting 'by the House or Committee of the Whole' immediately before the first comma." . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment for the reason that it is an amendment to rule VIII, whereas the principal resolution under consideration here, House Resolution 988, attempts to amend rules X and XI only. Therefore, the amendment is not germane. . . .

MR. BINGHAM: . . . This would amend title II of the resolution, which is headed, "Miscellaneous and Conforming Provisions." That title of the resolution is not limited to changes in rules X and XI. It affects other rules, section 207, for example, amendment to rule XVI, and under the heading of "Miscellaneous and Conforming Provisions," it would seem to me that a simple amendment to rule VIII would clearly be in order.

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

On hearing the gentleman from Iowa (Mr. Smith) and the gentleman from New York (Mr. Bingham), the Chair is of the opinion that there is nothing in the Hansen amendment in the nature of a substitute, as perfected, relating to voting procedures in the Committee of the Whole. The miscellaneous provisions in the Hansen amendment, as perfected by the Waggonner amendment, do not broaden the Hansen amendment to the extent suggested by the gentleman from New York.

Therefore, the point of order must be sustained, and the point of order is sustained.

—*Amendment Relating to Committee Reports on Appropriation Bills Offered to Amendment in Nature of Substitute Addressing Content of Committee Reports*

§ 3.68 To an amendment in the nature of a substitute amending Rules X and XI and making conforming and miscellaneous changes in other rules to reorganize House committees, and including requirements as to content and filing of committee reports, an amendment to Rule XXI (which relates to appropriation bills and reports) to require the committee report accompanying any bill containing an appropriation to state the direct or indirect changes in

8. William H. Natcher (Ky.).

law made by the bill and to prohibit such report from containing any directive or limitation affecting the appropriation that was not also contained in the bill was held germane, since the issue of the content of committee reports was within the purview of the amendment in the nature of a substitute.

During consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) it was held that to a proposition amending two House rules relating to the interrelation of House committees and imposing requirements for filing and content of committee reports, an amendment to another House rule but dealing with the content of reports from the Committee on Appropriations and having as a fundamental purpose a separation of jurisdictional responsibility between that committee and legislative committees was germane. The proceedings of Oct. 8, 1974,[9] were as follows:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: Page 37, immediately following line 20, insert the following new section and redesignate ensuing sections accordingly:

"APPROPRIATIONS BILLS

"Sec. 201. Rule XXI of the Rules of the House of Representatives is amended by inserting the following new Clause, and renumbering ensuing Clauses accordingly:

"'3. A committee report accompanying any bill making an appropriation for any purpose—

"'(a) shall not contain any directive or limitation with respect to such appropriation unless such directive or limitation is set forth in the accompanying bill, and

"'(b) shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law.'". . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: . . . Mr. Chairman, the resolution before us amends rules X and XI. I am told the Hansen provision by a special rule was permitted to include a provision that would affect rule XVI. The amendment offered by the gentleman from Michigan (Mr. Dingell) goes, according to its wording, to rule XXI and I respectfully submit that it is not germane to the matter before us. There are many, many reasons why this should be, Mr. Chairman, because a reading of the gentleman's amendment would mean that no longer would there be any reports submitted by any committee in connection with any bill because of having to be included in the bill there would be no need for the report.

For example, in the case of the Subcommittee on Defense Appropriations I

9. 120 CONG. REC. 34416, 34417, 93d Cong. 2d Sess.

suspect the bill would be about as thick as three Sears Roebuck catalogs, and that of the public works would be probably as big a one.

The fact is that the matter before us which limits it to rules X and XI, with the special exception of rule XVI, which was stricken, but which was included by reason of a special rule, so that the amendment offered by the gentleman from Michigan (Mr. Dingell) directed as the gentleman would in that amendment to rule No. XXI, is nongermane to the matter before us, the subject matter, and therefore should be ruled out of order. . . .

MR. DINGELL: . . . Mr. Chairman, I have before me House Resolution 988, and House Resolution 1248. The question before the body is whether or not the amendment would be germane either to House Resolution 1248 or House Resolution 988. The question which must be considered in establishing the germaneness of the amendment is . . . whether [the] amendment [is] germane either to the amendment, or to the resolution?

The question of germaneness is not related simply to the particular rules to which either House Resolution 988 would address itself, or House Resolution 1248 would address itself, but rather to whether on a fair reading of the entirety of the two proposals that the proposal would be germane to the amendment to House Resolution 988 and House Resolution 1248, which is at this moment before the House. . . .

If the Chair will look at the language of the amendment it first of all deals with appropriation bills, the work product of the Committee on Appropriations, and the powers and prerogatives of the Committee on Appropriations under the rules. If the Chair will consult both House Resolution 988 and House Resolution 1248 the Chair will find that there is a miscellaneous section there too. This amendment is directed at the miscellaneous section. I would inform the Chair that word "miscellaneous" means broad, diverse, and manyfold.

I would point out that not only do the provisions of both the miscellaneous section and the rest of the bill deal not only specifically with rules X and XI, and with other portions of the rule not enumerated or named, but treated in a general fashion, but that the miscellaneous section deals with a large number of items within the rules of the House.

More specifically, both of the resolutions deal with the powers and prerogatives of the Committee on Appropriations as well as the duties and the responsibilities. And so a section to be added relating to the powers and the prerogatives of the Committee on Appropriations would at least in my view, therefore, be fully appropriate and germane, because the function of the amendment as offered is to deal with the powers and prerogatives of the Committee on Appropriations and, Mr. Chairman, in contrast to what my good friend, the gentleman from Mississippi said, not just the powers of all the committees, but only the powers of the Committee on Appropriations since the amendment relates to the question of how appropriation bills shall be reported to the House, and the main rule is the one relating to the powers of the Committee on Appropriations in legislating.

So I think it ought to be clearly ascertained that we put, through the

proposed amendment—or the proposed amendment would put—further restrictions on the powers of the Committee on Appropriations to legislate. I would address myself to that in the appropriate fashion when the Chair has disposed of the point of order. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . Rule XXI is a rule which prevents the circumventing of jurisdiction of all the committees. Rule XXI cannot be divorced from the general question of assignment of jurisdictional responsibility to the major committees of this House. If it were not for rule XXI, the Committee on Appropriations would be in a position, because it deals with so many bills from so many committees, to insert new material at the appropriations level. All of the bills before us deal with the Committee on Appropriations, but, more importantly, all of the bills before us deal with the question of protecting and establishing jurisdiction of the major committees of the House. In addition to that, all of the bills before us deal with the assignment of jurisdictional authority by the Speaker and in the case of the Bolling bill, by the Committee on Rules—and ultimately by the House—of bills to committees.

It is utterly impossible to separate this web of provisions, including the rules covered by these three bills and rule XXI.

Therefore, it would seem to me, Mr. Chairman, that the amendment is germane. Most of the arguments made against it seem to me to be arguments on the merits. . . .

MR. [DAVID T.] MARTIN of Nebraska: . . . I should like to point out that in the original resolution, House Resolution 132, which was adopted by the House on January 31, 1973, the second paragraph stated as follows:

> The Select Committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of Rules X and XI of the Rules of the House.

This amendment is directed to rule XXI. The select committee was not instructed to make any changes in rule XXI. Therefore, I raise a point of order also in regard to the gentleman's amendment.

THE CHAIRMAN:[10] The Chair is ready to rule.

The amendment offered by the gentleman from Michigan (Mr. Dingell) is drafted to the miscellaneous portion of the amendment offered by the gentlewoman from Washington (Mrs. Hansen). That portion of the amendment refers to several rules of the House, even though the Waggonner amendment deleted all reference to rule XVI. The amendment as offered, relates to the content of reports filed by the standing Committee on Appropriations, a matter within the scope of the Hansen amendment in the nature of a substitute. The Chair has carefully considered the point of order and the arguments of those who have spoken on the point of order, and it is the opinion of the Chair that the point of order must be overruled, and that the amendment is in order to the Hansen amendment in the nature of a substitute.

The Chair recognizes the gentleman from Michigan.

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10. William H. Natcher (Ky.).

—Proposal to Study Needs for Facilities for Congress; Amendment Directing Speaker To Set Aside Office Space in New Library Building

§ 3.69 To an amendment in the nature of a substitute proposing changes in the structure, jurisdiction and procedures of House committees, and containing miscellaneous provisions to improve the institutional operations of the House, including a Commission to study facility and space requirements of Members and committees, an amendment directing the Speaker to ensure that a portion of a newly constructed Library of Congress building would be utilized for House office space until other additional space could be provided was held to be not germane.

During consideration of House Resolution 988 in the Committee of the Whole, it was held that to a proposition establishing a commission to study a matter, an amendment directing an official to undertake and accomplish that matter is not germane. The proceedings of Oct. 8, 1974,[11] were as follows:

The Clerk read as follows:

> Amendment offered by Mr. Gibbons to the amendment offered as a substitute by Mr. Martin of Nebraska: On page 92 after line 5, insert the following:
>
> Sec. —. The Speaker of the House of Representatives is authorized and directed to take whatever steps necessary to insure that a portion of the James Madison Memorial Library Building that is now under construction be utilized by the House of Representatives for additional office space until the House can acquire sufficient additional space for its orderly function.

MR. [LLOYD] MEEDS [of Washington]: Mr. Chairman, I make a point of order against the amendment. . . .

The point of order is based on the fact that none of the resolutions deal with the acquisition of space in any buildings but only the study of the needs of the House of Representatives for space. Therefore, it is not germane. . . .

MR. [SAM M.] GIBBONS [of Florida]: . . . Mr. Chairman, we are amending the rules of the House to provide for the procedures of the House and for the operation of the House. All three of the amendments that have been offered are proposals, of course, that are very broad. They go to staffing and to allowances and to travel, and they go to the entire operation of the House. This amendment is just directed toward that purpose. . . .

THE CHAIRMAN:[12] The Chair is ready to rule.

The amendment offered by the gentleman from Florida (Mr. Gibbons) directs the Speaker to take action toward

11. 120 CONG. REC. 34458, 93d Cong. 2d Sess.

12. William H. Natcher (Ky.).

the acquisition of committee and office space. The substitute before this Committee at this time does not contain any provision allocating office space although it establishes a commission to study the problem. There is no provision in any of the amendments directing the allocation of space for committees or space for offices. Therefore, the amendment is not germane, and the Chair will have to sustain the point of order.

The point of order is sustained.

—Provision To Restrict Use of Funds for Committee Expenses Outside U.S.; Amendment To Restrict Use of Funds for Travel Expenses of Retiring Members

§ 3.70 To a portion of an amendment in the nature of a substitute providing that use of the contingent fund for committee investigations be confined to travel in the United States and that no appropriated funds be expended for committee expenses outside the United States where local currencies are available, an amendment providing that "notwithstanding any other provision of law, no part of any appropriation and no local currency . . ." shall be available to pay any expenses in connection with travel outside the United States of retiring Members was held to be not germane, since it waived provisions of law not necessarily related to House committee travel.

On Oct. 8, 1974,[13] during consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington:

Page 28, line 20, strike out "committee".

Page 28, line 21, insert "(1)" after "(n)".

Page 29, line 7, strike out "(1)" and insert "(A)".

Page 29, line 11, strike out "(2)" and insert "(B)".

Page 29, after line 21, insert the following new subparagraph:

"(2) Notwithstanding any other provision of law, no part of any appropriation and no local currency owned by the United States shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—

"(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary

13. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess.

or regular election until such time as he shall thereafter again become a Member; or

"(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment. . . .

As I heard the amendment, I believe it is directed at some general laws of the United States, not just at the Rules of the House of Representatives. . . .

MR. [WAYNE L.] HAYS [of Ohio]: . . . Mr. Chairman, I think the point of order should be sustained, because it goes far beyond the Rules of the House and it deals with appropriations. It puts jurisdictions on agencies. It puts additional duties on the Department of State. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair has carefully examined the second amendment read by the Clerk. At the bottom of the page the paragraph starts out:

Notwithstanding any other provision of law . . . no part of any appropriation shall be available—

and so forth.

This prefatory provision itself makes the amendment subject to a point of order. Therefore, the point of order is sustained, and the amendment is not in order.

§ 3.71 To a provision in an amendment in the nature of a substitute restricting the use of the House contingent fund for committee expenses to travel in the United States and providing that no appropriated funds be used for committee expenses outside the country, where local currencies are available, an amendment prohibiting the use of funds "authorized for a committee" for expenses of retiring Members was held germane as a further restriction on the availability of committee funds.

During consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The proceedings of Oct. 8, 1974,[15] were as follows:

MR. [JOHN J.] DUNCAN [of Tennessee]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: Page 28, line 20, strike out "committee". . . .

Page 29, after line 21, insert the following new subparagraph:

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15. 120 CONG. REC. 34465, 93d Cong. 2d Sess.

"(2) No funds authorized for a committee shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—

"(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary or regular election until such time as he shall thereafter again become a Member; or

"(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make a point of order against the amendment. It changes the Constitution of the United States wherein it reduces the term of office of a Member and takes away some of his prerogatives and privileges that he has for a 2-year term equal to other Members, and it in effect makes a second-class citizen of a Member who may decide to retire. . . .

THE CHAIRMAN:[16] The Chair is ready to rule.

The Chair cannot pass upon constitutional questions. The Chair can only pass upon the germaneness of the amendment offered by the gentleman from Tennessee.

The Chair notes that the amendment is directed to the portion of the Hansen amendment relating to funds for committee travel and unlike the language in the prior amendment against which the point of order was sustained, does not appear to be broader in effect than the language in the Hansen amendment. The Chair holds the amendment germane and overrules the point of order.

General Rule as to Germaneness of Amendment Expressing Sense of Congress

§ 3.72 An amendment expressing the sense of Congress on a subject must relate to the subject matter of the bill under consideration to the same extent as a substantive amendment on that subject.

The proceedings of Aug. 1, 1990, relating to H.R. 1180, the Housing and Community Development Act, are discussed in Sec. 4.59, infra.

Bill Addressing Intelligence Activities—Amendment Addressing Relationship Between Executive and Congress With Respect to Such Activities

§ 3.73 To a bill addressing diverse subjects relating to intelligence activities of the government (including congressional oversight of certain intelligence activities), an amendment addressing the relationship between the Executive branch and the Congress with respect to in-

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telligence activities is germane.

The proceedings of Oct. 17, 1990, relating to H.R. 5422, the Intelligence Authorization Act of 1991, are discussed in Sec. 35.102, infra.

Proposition To Require Disclosure by Lobbyists—Amendment To Require Reference to Committee of Information on Contributions

§ 3.74 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists of their activities and affiliations, but not the regulation or prohibition of those activities, an amendment requiring the Comptroller General to refer to the Committee on Standards of Official Conduct information on contributions by lobbyists to House Members and employees for possible investigation by that committee, but not requiring an investigation and not regulating such contributions, was held germane as a further disclosure requirement.

During consideration of the Public Disclosure of Lobbying Act of 1976[17] in the Committee of the Whole on Sept. 28, 1976,[18] Chairman Richard Bolling, of Missouri, overruled a point of order against an amendment to the pending amendment in the nature of a substitute. The proceedings were as follows:

> MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 10, lines 8 and 9, strike out ", but not including' and insert in lieu thereof the following: ": *Provided*, That the Comptroller General shall refer to the Committee on Standards of Official Conduct for investigation of any expenditures by an organization reportable under this subsection to or for the benefit of any federal officer or employee (under the jurisdiction of said Committee) that exceed $100 in value in the aggregate in any calendar year to determine if the receipt of such expenditure is acceptance of a gift of substantial value, directly or indirectly, from an organization having a direct interest in legislation before the Congress as prohibited under the Rules of the House of Representatives; but such expenditures shall not include"'. . . .
>
> MR. [WALTER] FLOWERS [of Alabama]: . . . Mr. Chairman, I should like to interpose a point of order on this amendment . . . . I think that the point of order would lie, Mr. Chairman, in that there are duties here that are

17. H.R. 15.

18. 122 CONG. REC. 33085, 33086, 94th Cong. 2d Sess.

not contemplated in the purposes of the legislation, in that the gentleman from Illinois would require additional duties of the Committee on Standards of Official Conduct, to which there are none within the purview of the legislation of either the Committee on the Judiciary or the Standards Committee. . . .

MR. MIKVA: Mr. Chairman, I would like to point out that this amendment that I have just offered imposes no prohibitions or anything else. The statute has been referred to over and over again by the distinguished gentleman from Alabama as a disclosure statute. It seems to me that the people are entitled to know why we are disclosing these things. We have rules in the House. One of the rules of the House says that no Member or other employee shall receive a gift of substantial value.

All this amendment suggests is that where gifts of substantial value are given, they ought to be referred to the appropriate committee for investigation. If we are not doing that, I think the people are entitled to inquire just what it is we propose to do with all of this information.

This does not impose any prohibitions or any criminal sanctions on anybody. It does not add to the breadth of the bill in any manner, shape, or form. It merely says any gifts over a certain amount which are required to be reported under the bill should be referred to the committee to see whether they violate the rule. If they do not, there is no requirement that they do anything except to look to see if the rules of the House of Representatives are being enforced.

THE CHAIRMAN: The Chair is ready to rule.

For the reasons stated by the gentleman from Illinois, the Chair believes that the point of order is not good and therefore overrules the point of order.

—*Amendment To Require Wearing of Name Tags*

§ 3.75 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists but not the regulation of their activities, an amendment requiring lobbyists within a certain distance of the House and Senate Chambers to wear tags displaying their names and affiliations was construed as a further information disclosure requirement and was held germane.

On Sept. 28, 1976,[19] during consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole, the following amendment to the pending amendment in the nature of a substitute was held germane:

MR. [GARRY] BROWN of Michigan: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Brown of Michigan to the amendment in the

19. 122 CONG. REC. 33082, 94th Cong. 2d Sess.

nature of a substitute offered by Mr. Bennett: On page 5 line 20 strike the period and insert a colon. On page 5 following line 20, insert the following: *Provided however,* That any officer, agent or employee of an organization regulated as a lobbyist by this Act who influences, or attempts to influence, any Member of Congress with respect to any legislative matter, shall prominently display on his or her person an identification name tag, stating in clearly discernible print, his or her full name and the organization he or she represents; said name tag shall be printed in not less than 24 point type; *Provided further however,* This requirement shall only be applicable to those persons who influence, or attempt to influence, Members within 50 feet of any entrance to either Chamber of the Congress while such is in session. . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I make a point of order against the amendment because I do not think it has any relevancy to the bill.

The distance of how far away one is or whether he or she is wearing a badge of 24-point type has nothing to do with the bill. There are a lot of things it is pertinent to, but not that. . . .

MR. BROWN of Michigan: . . . I respectfully disagree with the gentleman from Florida (Mr. Bennett).

This is a disclosure bill. We require people to register and to identify themselves. It seems to me that if we are going to have a piece of disclosure legislation that is effective, we ought to be able to associate names and faces; and that is all that this amendment does. It just implements the disclosure requirements of this legislation. . . .

THE CHAIRMAN:[20] The Chair is ready to rule.

The Chair has examined this amendment, and it is not the same as the one on which the Chair ruled before.

The Chair would have to say that this amendment would seem to have as its purpose the disclosure of information by lobbyists and to come within the fundamental purposes of the amendment to which it has been offered.

Therefore, the Chair overrules the point of order.

—*Amendment Placing Ceiling on Contributions*

§ 3.76 To an amendment requiring registration and public disclosure by lobbyists but not regulating or prohibiting their activities, an amendment placing a ceiling on their monetary contributions to federal officials is not germane.

On Sept. 28, 1976,[1] during consideration of the Public Disclosure of Lobbying Act of 1976[2] in the Committee of the Whole, it was demonstrated that the fundamental purpose of an amendment must relate to the fundamental purpose of the proposition to which it is offered when a point of order against the following amendment was sustained:

MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment.

20. Richard Bolling (Mo.).

1. 122 CONG. REC. 33085, 94th Cong. 2d Sess.

2. H.R. 15.

The Clerk read as follows:

Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 20, immediately after line 13, insert the following new subsection:

"(e)(1) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided* That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further,* That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order against the amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), lies, I think, because the gentleman's amendment violates the central purpose of the proposed legislation and that is to provide a method of lobbying disclosure and not in any wise, Mr. Chairman, regulating amounts or providing any ceiling or floor or anything else but disclosure.

The amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), clearly violates the intent of the statute in that it imposes duties upon the Comptroller General that would not otherwise be imposed by this statute, or duties of a different kind.

It imposes a different penalty that would be imposed than otherwise in this statute. It is not clear whether it is a civil or a criminal penalty.

For all of these reasons, Mr. Chairman, I make a point of order against the amendment. . . .

MR. MIKVA: Mr. Chairman, I am not sure what my distinguished colleague on the Committee on the Judiciary is referring to, but there is nothing in this amendment that talks about the Comptroller General. He may be a little precipitous about something else. What this says, very simply, is that there ought to be a $100 limitation on the amount lobbyists can give as gifts. It excludes honoraria; it excludes political contributions; it excludes all of the nonreportable items. The rules now existing in this House of Representatives—already the Rules of this House—make it clear that no gifts of any substantial value shall be given by a lobbyist to a Member. What this does is define that substantial interest in terms of $100. It is put in the sanctions section, and it deals with the other sanctions that are already in the bill. . . .

MR. FLOWERS: Mr. Chairman, might I be heard one moment further here on the point of order?

Mr. Chairman, the gentleman extends the bill much further than it is already intended, in that he says:

> That, for the purposes of this limitation—
>
> And again a limitation which is not a part of the purpose of the bill—
>
> —all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization.

This is a concept not within the proposed legislation, and we think, Mr. Chairman, clearly that this does extend the purpose of the legislation far beyond that of the substitute or H.R. 15, as amended. We feel that the point of order ought to be sustained.

THE CHAIRMAN:[3] The Chair is ready to rule.

For the reason first stated by the gentleman from Alabama and by the Chair in an earlier ruling on the Ashbrook amendment, the point of order is sustained.

Bill Authorizing President to Allocate Funds Among Agencies—Amendment Allocating Funds to Specific Agency

§ 3.77 To a bill appropriating a sum of money and authorizing the President to make allocations therefrom among certain agencies of the government, an amendment proposing that a certain part of such sum be allocated to another agency of the government was held to be germane.

In the 75th Congress, during consideration of a relief appropriations bill[4] as described above, the following amendment was offered:[5]

Amendment offered by Mr. [Millard F.] Caldwell [of Florida]: On page 2, line 20, after the semicolon, add: "*Provided,* That from the amount specified for the foregoing classes $300,000,000 shall be allocated to the Federal Emergency Administration of Public Works."

Mr. John Taber, of New York, having raised a point of order against the amendment, the Chairman[6] ruled as follows:

In this bill it is provided that the President may make allocations to certain agencies of the Government.

The amendment . . . provides that part of the appropriation in this bill shall be allocated to one of the agencies of government, the Federal Administration of Public Works.

The Chair is of the opinion that the amendment is germane to the bill, and therefore overrules the point of order.

Grants for Purchase of Photographic and Fingerprint Equipment—Amendment Adding Funds To Purchase Bulletproof Vests

§ 3.78 To an amendment authorizing law enforcement administration grants to states and localities for the purchase of photographic and fingerprint equipment for law enforcement purposes, an amendment including assistance for the purchase of bulletproof vests

3. Richard Bolling (Mo.).
4. H.J. Res. 361 (Committee on Appropriations).
5. 81 CONG. REC. 5012, 75th Cong. 1st Sess., May 25, 1937.
6. John J. O'Connor (N.Y.).

was held to be directed toward a different category of law enforcement equipment concerned with physical protection rather than information-gathering and was therefore beyond the scope of the amendment and not germane; the decision of the Chairman on the germaneness of the amendment was upheld on appeal by a voice vote.

On Oct. 12, 1979,[7] during consideration of the Justice System Improvement Act of 1979[8] in the Committee of the Whole, Chairman Mike McCormack, of Washington, held that to an amendment providing financial assistance for a certain class of law enforcement equipment (for informational purposes), the following amendment adding financial assistance for another class (for protection of law enforcement officers) was not germane:

> MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Volkmer: Page 164, lines 24 and 25, amend the bill by adding the following after the word "project," "including photographic equipment, and fingerprint equipment, for law enforcement purposes.".
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Volkmer: Insert after the word "including" "bullet-proof vests,". . .
>
> MR. [PETER A.] PEYSER [of New York]: . . . When we previously discussed this with the Parliamentarian the point was made that it could not be amended on the other side by having the bulletproof vest amendment amended by adding cameras and other equipment. It is not a germane fact to this issue and the type of equipment we are dealing with and discussing, and for that reason it should be ruled out of order. . . .
>
> MR. VOLKMER: . . . I would like to speak on the point of order. As to the question of germaneness, as I understand it my amendment says, "including photographic equipment, fingerprint equipment," and then the words "for law enforcement purposes."
>
> Therefore, in my opinion anything that would be in there for law enforcement purposes would be germane. In other words, if somebody would offer an amendment for pistols, or offer an amendment for bullets, or offer an amendment for police caps or cars or anything else for law enforcement purposes, it is germane. This is not restricted just to a certain type of equipment. We have photographic equipment and fingerprint equipment. They are not related at all. Bulletproof vests are for law enforcement purposes.

7. 125 CONG. REC. 28123, 28124, 96th Cong. 1st Sess.

8. H.R. 2061.

THE CHAIRMAN: The Chair is prepared to rule.

The question really comes down to how to define and segregate categories of law enforcement equipment. The Chair is persuaded that the term, "photographic equipment and fingerprint equipment" is a generic category that deals with information rather than protection of law enforcement officers.

Bulletproof vests are within the different category of equipment for the protection of law enforcement officers. The Chair recognizes that this is a fine line, but rules that under the precedents the amendment is not germane to the pending amendment and the point of order is sustained. . . .

MR. ASHBROOK: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the Chair's ruling stand as the judgment of the Committee?

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

MR. ASHBROOK: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN: Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device. . . .

THE CHAIRMAN: Three hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. Ashbrook) for a recorded vote appealing the decision of the Chair.

Does the gentleman from Ohio (Mr. Ashbrook) insist upon his demand for a recorded vote?

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

Bill Restricting Antitrust Remedies Against Local Governments—Senate Amendment Relating to Funds for Antitrust Activities of Federal Agency

§ 3.79 To a House bill restricting remedies under existing antitrust law against local governments, but not addressing authority of a federal agency to prosecute antitrust actions or the availability of appropriated funds to that agency for that purpose, a Senate amendment included in a conference report repealing a limitation in an appropriation law for that year on the use of funds by that agency to conduct antitrust actions against local governments was held not germane, since the amendment related to agency ac-

tivities and funds not addressed in the House bill.

The proceedings of Oct. 11, 1984, relating to the conference report on H.R. 6027, to clarify the application of the federal antitrust laws to the official conduct of local governments, are discussed in § 26.25, infra.

Imposition of Different Classes of Penalties

§ 3.80 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee is not germane.

The proceedings of Sept. 29, 1983, relating to H.R. 3231, the Export Administration Amendments Act of 1983, are discussed in § 4.55, infra.

Bill Relating to Acquisition of Buildings by Federal Government—Amendment To Provide Grants to Public and Private Agencies for Hospital Facilities

§ 3.81 To a bill relating to acquisition of buildings for use by the federal government, an amendment relating to grants to public and private agencies for hospital facilities was held not germane.

In the 79th Congress, a bill [9] was under consideration granting certain powers to the Federal Works Administration. The following amendment was offered: [10]

> Committee amendment offered by Mr. [Fritz G.] Lanham [of Texas]: At the end of the bill add the following new section:
>
> Sec. 13. In order to alleviate the acute shortage of hospital facilities outside the District of Columbia, the Federal Works Administrator is hereby authorized to make grants to public and private agencies for hospital facilities. . . .

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

> MR. [JAMES W.] WADSWORTH [Jr., of New York]: . . . It is apparent that this bill as reported by the Committee on Public Buildings and Grounds relates solely to the acquisition of buildings or facilities needed by the Federal Government, and for the use of the Federal Government alone. . . . This amendment, however, goes far beyond the field occupied by the bill and proposes that the Federal Government embark upon the building of hospitals by grants to the States . . . .

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9. H.R. 5407 (Committee on Public Buildings and Grounds).

10. 92 CONG. REC. 2373, 79th Cong. 2d Sess., Mar. 18, 1946.

The Chairman, William F. Cravens, of Arkansas, in ruling on the point of order, stated:[11]

The original bill deals solely with Federal Government construction for exclusive Government uses. The amendment is a departure and would bring in new matter not covered by the original bill.

Therefore, in the opinion of the Chair, it is not germane. The point of order is sustained.

Bill Authorizing Military Assistance for Israel and Funds for UN Forces—Amendment Expressing Sense of Congress With Respect to Peace Negotiations in Middle East

§ 3.82 To a bill authorizing military assistance for Israel and funds for the United Nations Emergency Force in the Middle East, an amendment was held to be not germane which sought to express the sense of Congress that the President should make every effort to bring about negotiations leading to a treaty of peace in the Middle East and to a resumption of diplomatic and trade relations between Israel and the Arab countries, and between the United States and the Arab countries.

During consideration of H.R. 11088[12] in the Committee of the Whole on Dec. 11, 1973,[13] a point of order was sustained against the following amendment:

MR. [ROBERT L. F.] SIKES [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Sikes: On page 4, after line 10, add a new Section 7:

It is the sense of Congress that every reasonable effort be made by the President to bring about meaningful negotiations between Israel and the Arab states directly concerned leading to a treaty of peace in the Middle East and to a resumption of diplomatic and trade relations between the United States and the Arab countries, and between Israel and the Arab countries."

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN:[14] Does the gentleman from Iowa insist on his point of order?

MR. GROSS: I do, Mr. Chairman. This amendment is window dressing. It calls upon the President to resume diplomatic and trade relations between certain nations and clearly goes beyond the scope of this bill.

MR. SIKES: Mr. Chairman, this amendment expresses the hope and

11. *Id.* at p. 2374.

12. A bill providing for emergency military assistance to Israel and Cambodia.

13. 119 CONG. REC. 40842, 40843, 93d Cong. 1st Sess.

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

asks the President to move to bring to the Middle East. It expresses the hope that we will be able to resume normal trade relations with all nations, and that other nations, the Arabs and the Israelis, will be able to resume diplomatic and normal trade relations. I feel that it does not impose additional requirements. I feel that it adds to and supplements the language of the bill, and that the point of order should not be sustained.

THE CHAIRMAN: The Chair has studied the amendment and will state that the amendment goes to the question of negotiations involving Arab and United States trade and diplomatic relations and is not within the purview of this legislation. The Chair sustains the point of order of the gentleman from Iowa. Are there further amendments? If not, under the rule, the Committee rises.

Bill Establishing Price Supports for Agricultural Commodities—Amendment Relating to Acreage Allotments and Marketing Quotas

§ 3.83 To a bill establishing one year price support levels for several agricultural commodities, an amendment relating to acreage allotments and marketing quotas, as well as price supports, of another commodity for that year was held to go beyond the scope of the bill and was held to be not germane.

On Mar. 20, 1975,[15] during consideration of a bill concerning emergency price supports for 1975 crops,[16] a point of order was sustained against the following amendment offered in the Committee of the Whole:

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser: Page 3, immediately after line 16, insert the following new section:

"Sec. 3. Notwithstanding any other provision of law, there shall be no acreage allotment, marketing quota or price support for rice effective with the 1975 crop of such commodity." . . .

MR. [THOMAS S.] FOLEY [of Washington]: . . . The amendment is not germane to the bill, and violates rule XVI, clause 7.

H.R. 4296 deals with price supports, established prices, and loan rates for wheat, feed grains, cotton, and milk under sections 103, 105, 107, and 201 of the Agricultural Act of 1949.

The bill does not relate to acreage allotments, or marketing quotas on any commodity. The amendment offered would affect the provisions of the Agricultural Adjustment Act of 1938.

Accordingly, the amendment is not germane to the bill, and I therefore press my point of order against the amendment. . . .

MR. PEYSER: . . . The reason I offered the amendment was because of

15. 121 CONG. REC. 7666, 94th Cong. 1st Sess.

16. H.R. 4296.

the ruling of the Chair dealing with the Conte amendment some hour or so ago, where we were discussing it, and the Chair ruled in favor of nuts and fruits, and some other items, and I therefore felt that introducing the question of rice would be substantially within the germaneness of this bill as the other items that have been offered, and that the Chair had ruled in favor of.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The Chair has heard the point of order made by the gentleman from Washington (Mr. Foley), and has listened to the response made by the gentleman from New York (Mr. Peyser).

The Chair would observe in respect of its earlier ruling on the amendment offered by the gentleman from Massachusetts that the earlier amendment was a price support amendment. The purpose of the bill under consideration, as the gentleman from Washington has already pointed out, runs to price supports. Acreage and allotments and marketing quotas are not within the scope of the bill, and the Chair rules, therefore, that the amendment is not germane, and sustains the point of order.

Bill Prohibiting Certain Kinds of Interference With Elections—Amendment To Prohibit Poll Taxes

§ 3.84 To a bill seeking to prevent pernicious political activities by making it unlawful for certain individuals to use their authority for the purpose of interfering with or affecting the election or nomination of any candidate for certain public offices, an amendment making it unlawful to require the payment of state poll taxes as a prerequisite for voting was held not germane.

In the 76th Congress, a bill[18] was under consideration which sought to prevent "pernicious political activities." The bill included a committee amendment[19] making it unlawful for certain federal and state employees to use their official authority for the purpose of interfering with or affecting the election or nomination of candidates for designated public offices. The following amendment was offered to the bill:[20]

> Sec. 1. (a) It is unlawful for any person, whether or not acting under the authority of the laws of a State or subdivision thereof, to require the payment of a poll tax as a prerequisite for voting or registering to vote at any election for a President or Vice President or Presidential elector or Member of the Senate or Member of the House of Representatives of the United States.

17. John Brademas (Ind.).

18. S. 3046 (Committee on the Judiciary).

19. See 86 CONG. REC. 9446, 76th Cong. 3d Sess., July 10, 1940.

20. *Id.* at p. 9455. The amendment was offered by Mr. Lee E. Geyer (Calif.).

With respect to such amendment, the following proceedings took place:[1]

> MR. [SAM] HOBBS [of Alabama]: Mr. Chairman, I make a point of order against the amendment that it is not germane to that section of the bill or those sections of the bill to which it is addressed nor to any section of the bill. . . .
>
> THE CHAIRMAN:[2] . . . The Chair is of the opinion that the amendment offered by the gentleman from California is in no way related to the provisions of the pending bill; that is, in no way related so as to make the amendment germane in accordance with and under the rules of the House. The amendment relates to the franchise of the voters in the several States, and the bill under consideration so far as the Chair can observe, and the Chair has read it carefully, in no way enters that field. For the reasons stated, and principally and wholly upon the ground that the amendment is not related to the bill under consideration, and wholly eliminating the constitutional question or any other question, the Chair holds that the amendment is not germane, and sustains the point of order.

§ 4. Committee Jurisdiction of Subject Matter as Test

In ruling on the germaneness of amendments to bills, the Chair has frequently considered whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill. Thus, in some cases, lack of such committee jurisdiction may at the outset cause the Chair to uphold a point of order against the amendment. On the other hand, in other cases, even the fact that a subject has in fact been considered by a committee during its markup of a particular bill does not determine the germaneness of an amendment concerning such subject when offered on the House floor.[3]

The fact that an amendment is offered in conjunction with a motion to recommit the bill with instructions does not affect the requirement that the subject matter of the amendment be within the jurisdiction of the committee reporting the bill.[4]) Committee jurisdiction of a subject is not necessarily determinative on questions of germaneness, however; the modern tendency seems to be to view such jurisdiction as but one factor in the determination of the germaneness of amendments.

In particular, Committee jurisdiction is not determinative as a test of germaneness of an amendment, where the text to which it is

1. *Id.* at pp. 9455, 9456.
2. John W. McCormack (Mass.).
3. See § 8.16, infra.
4. See § 23.3, infra.

offered already contains matter that overlaps the jurisdiction of several committees, particularly where the amendment does not demonstrably affect a law within another committee's jurisdiction.[5]

Besides the germaneness rule, amendments on the House floor may be precluded by Rule XXI, clauses 5(a) and 5(b). The first of these clauses prohibits the offering of appropriations to bills reported by committees other than the Committee on Appropriations. Rule XXI, clause 5(b), as added in the 98th Congress, prohibits a tax or tariff measure from being offered as an amendment to a bill reported from a committee not having jurisdiction over those measures.[6]

The Chairman of the Committee of the Whole may determine the germaneness of an amendment based upon the discernible committee jurisdictions over the subject of the bill and amendment without infringing upon the Speaker's prerogatives under Rule X to determine committee jurisdiction over introduced legislation.[7]

Bill Authorizing Environmental Research and Development by Environmental Protection Agency—Amendment Granting Permanent Regulatory Authority to Agency

§ 4.1 To a bill authorizing environmental research and development by an agency for two years, an amendment granting permanent regulatory authority to that agency by amending a law not being amended by the bill and not within the jurisdiction of the committee reporting the bill is not germane.

On June 4, 1987,[8] the Committee of the Whole had under consideration H.R. 2355, the Environmental Research and Development Authorization for fiscal 1988 and 1989, reported from the Committee on Science, Space and Technology. The bill had as its purpose the authorization of environmental research and development programs. An amendment was offered which sought to amend the Clean Air Act, a law not amended by the bill and one

5. § 4.18, infra.

6. See § 4.61, infra.

7. See the remarks of Chairman McHugh, of New York, during proceedings relating to H.R. 3603, the Food and Agriculture Act of 1981, discussed in § 4.71, infra. A point of order arising from apparent lack of committee jurisdiction over the subject matter of the provisions in question should be based explicitly on the issue of germaneness, rather than on the mere existence of the possible jurisdictional defect, which without more may be deemed not to state a proper point of order. See § 43.8, infra.

8. 133 Cong. Rec. 14739, 14753–55, 14757, 100th Cong. 1st Sess.

that was within the jurisdiction of the Committee on Energy and Commerce. The amendment, moreover, sought to provide new regulatory authority for the agency that was to conduct the research and development programs.

The Clerk read as follows:

H.R. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

section 1. short title.

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1987".

sec. 2. general authorizations.

(a) Environmental Research, Development, and Demonstration.—There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities, the following sums: . . .

(9) $55,866,600 for fiscal year 1988 for energy activities of which not more than $52,331,100 shall be for acid deposition research, and $56,216,900 for fiscal year 1989 for energy activities of which not more than $56,611,900 shall be for acid deposition research. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 12, after line 22, insert the following new section:

sec. 8. acid deposition control.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"sec. 181. emissions from utility boilers.

"(a) State Plans to Control Emissions.—Not later than one year after the enactment of this section, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for controlling emissions of sulfur dioxide and oxides of nitrogen from fossil fuel fired electric utility steam generating units in the State. The plan shall meet the requirements of subsections (b) and (c). . . .

"sec. 185. fees.

"(a) Imposition.—Under regulations promulgated by the Administrator, the Administrator may impose a fee on the generation and importation of electric energy. Such fee shall be established by the Administrator at such level (and adjusted from time to time) as will ensure that adequate funds are available to make interest subsidy payments in the amount authorized under section 187. . . .

sec. 102. revisions of new source performance standards for control of nitrogen oxide emissions.

Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(k) . . . The Administrator shall revise the standards of performance for emissions of nitrogen oxides from electric utility steam generating units which burn bituminous or subbituminous coal. . . .

Mr. Robert A. Roe, of New Jersey, made a point of order:

MR. ROE: . . . On the point of order, Mr. Chairman, the committee feels that the amendment as drafted by the gentleman from Vermont [Mr. Jeffords] has a regulatory purpose which goes beyond the R&D programs authorized by this bill. And for this reason the amendment is not germane. . . .

MR. JEFFORDS: Mr. Chairman, I would like to point out that section 2 of this bill states as follows, the first sentence after the title of section A: "There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities the following sums" and it delineates the amounts of those sums. Some of those are for activities which are authorized under the Clean Air Act. So we have money authorized here. The amendment I have will use little or no funds of those. There is nothing in here that says it is prohibited from using those funds. The amendment that I offered and as I say has no budgetary impact in addition to what is already authorized under this bill, it provides for the development of State plans to take care of the problems of acid rain. It authorizes studies which are research programs. It also authorizes development programs to control the emissions consistent with the Clean Air Act by amending the Clean Air Act to do that, both for stationary sources and mobile sources and also authorizes certain field experiments.

I believe it is well within the authority that is gathered and given by this bill which is a bill of general nature within the areas being authorized. So I feel it is well within the jurisdiction of the committee, there is no question about that and I believe it is germane.

THE CHAIRMAN:[9] . . . [T]he Chair is prepared to rule.

The Chair is ruling that the gentleman's amendment, the gentleman from Vermont, amends a law that does not come within the jurisdiction of the Committee on Science, Space, and Technology. In addition, the pending bill is research and development legislation and the gentleman concedes that he not only addresses a research issue, but addresses regulation regarding acid rain that is outside the jurisdiction of the committee reporting the pending bill.

The gentleman from New Jersey's point of order is sustained.

Bill Authorizing Environmental Research by Agency—Amendment Expressing Sense of Congress as to Agency's Enforcement Activities

§ 4.2 To a bill reported from the Committee on Science and Technology authorizing environmental research and development activities of an agency for two years, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement activity—a matter within the jurisdiction of the Committee on Energy and Commerce—was held not germane.

9. Nick J. Rahall, II (W. Va.).

On Feb. 9, 1984,[10] during consideration of H.R. 2899, the Chair sustained a point of order against an amendment as not being germane to the bill. The section of the bill, the amendment which was offered and the proceedings attendant thereto were as follows:

Sec. 2 (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $61,380,000 for fiscal year 1984 and $64,449,000 for fiscal year 1985 for activities authorized under the Clean Air Act . . .

(g) No funds authorized for appropriation pursuant to this Act may be used for any activities other than those authorized by this Act. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 7, after line 15, insert the following new subsection:

Sec. It is the sense of the Congress that, in the process of selecting hazardous waste sites and the placement of hazardous waste materials, the Environmental Protection Agency shall give priority to full cooperation with local citizens groups who are trying to protect and preserve the environmental quality of their communities.

MR. [JOHN D.] DINGELL [of Michigan]: . . . The amendment is a sense-of-Congress resolution, in a sense, that the Environmental Protection Agency will give priority to full cooperation with local citizen groups who are trying to protect and preserve the environmental quality of their communities.

Now, this is an unexceptionable section. . . .

But I observe that it does not belong in this particular legislation, nor does it belong in the particular place where it is offered.

Provisions relative to Superfund research were just stricken, but those were provisions relative to Superfund research and not with regard to any sense of Congress or sense of Congress instruction to the Environmental Protection Agency.

The rules of the House require that the language of the amendment must be germane to the bill and germane to the portion of the bill to which it is offered. It must seek to do the same thing by the same purposes.

One of the tests of the amendment for germaneness, but only one, is that the rules of the House require or, rather, have as a test that the jurisdiction to which the measure would be referred is one of the criterion that is used by the Chairman in determining whether or not the matter is germane. . . .

I observe that the fundamental purposes of the bill are different than the fundamental purposes of the amendment, as are the fundamental purposes of the sections immediately before or immediately after that.

It is clear that were this language offered to the bill it might conceivably go to quite a different committee than that which is now handling the legisla-

10. 130 CONG. REC. 2421, 2427, 2428, 98th Cong. 2d Sess.

tion on the floor. And for that reason, Mr. Chairman, I do insist on my point of order. . . .

MR. WALKER: . . . The gentleman from Pennsylvania would be loath to interfere in the jurisdictional areas of the gentleman from Michigan, but I would suggest to the Chair that this amendment does not at all. This amendment is, in fact, directed at the Environmental Protection Agency, the exact agency which is covered by this bill.

It is merely a sense of Congress resolution. It requires no new duties of the Environmental Protection Agency. It has no obligations upon this Congress or upon the House.

It is strictly a matter of expressing our will with regard to a matter of some importance in the whole matter of hazardous waste, and I suggest to the Chair that the matter is entirely germane in this bill that speaks purely to the agency to which the amendment is directed.

THE CHAIRMAN:[11] The Chair has heard both the gentleman from Michigan (Mr. Dingell) and the gentleman from Pennsylvania (Mr. Walker).

However, the Chair is going to rule that because this bill, although open to amendment at any point, is limited to authorizing appropriations to environmental research, development, and demonstration for the fiscal years 1984 and 1985 regarding the Environmental Protection Agency, that the particular amendment introduced by the distinguished gentleman from Pennsylvania (Mr. Walker) has to do with the selection of hazardous waste sites and their regulation, indicating that it is the sense of Congress that in the process of selecting hazardous waste sites and the placement of hazardous waste waters, the EPA shall give certain priorities. The Chair does sustain the point of order of the gentleman from Michigan that the particular amendment by the distinguished gentleman from Pennsylvania is not indeed germane to this bill.

11. Carroll Hubbard, Jr. (Ky.).

Bill Amending Federal Water Pollution Control Act—Amendment To Amend Clean Air Act

§ 4.3 To a bill reported from the Committee on Public Works and Transportation amending the Federal Water Pollution Control Act, an amendment amending the Clean Air Act (a statute within the jurisdiction of the Committee on Energy and Commerce) to regulate "acid rain" by controlling emissions into the air was held not germane as amending a law and dealing with a subject within the jurisdiction of another committee.

On July 23, 1985,[12] during consideration of the Water Quality Renewal Act of 1985,[13] the Chair sustained a point of order against

12. 131 CONG. REC. 20041, 20050–52, 99th Cong. 1st Sess.

13. H.R. 8.

the amendment described above. The proceedings were as follows:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 113, after line 13, insert the following new title:

TITLE II—ACID DEPOSITION CONTROL

section 1. short title.

This title may be cited as the "Water Quality Improvement and Acid Deposition Reduction Act of 1985".

sec. 2. purpose.

The purpose of this Act is to improve water quality, protect human health and preserve aquatic resources in the United States by reducing the threat of acid deposition.

Subtitle I—Acid Deposition Control and Assistance Program

sec. 101. amendment of clean air act.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"SUBPART 1—GENERAL PROVISIONS

"sec. 181. purpose of part.

"The purpose of this part is to decrease sulfur dioxide emissions in the 48 contiguous States by requiring certain electric utility plants and other sources to reduce their rates of sulfur dioxide emissions. The reduced rates shall be rates which (if achieved by those sources in the emissions baseline year) would have resulted in total emissions from such sources 12,000,000 tons below the actual total of sulfur dioxide which those sources emitted in the emissions baseline year. The reduction is to be achieved within 10 years after the date of the enactment of this part. Such reduction shall be achieved through—

"(1) a program under subpart 2 consisting of direct federally mandated emission limitations for 50 of the largest emitters of sulfur dioxide. . . .

MR. [M.G.] SNYDER [of Kentucky]: . . . The amendment which the gentleman offers is not germane. It is, with minor changes, substantially that embodied in H.R. 1030, which the gentleman introduced on February 7, 1985. The purpose of that bill was to decrease sulphur dioxide emissions by requiring certain electric utilities plants and other sources to reduce their rates of emissions. Since the bill made extensive amendments to the Clean Air Act, it was referred solely to the Committee on Energy and Commerce, who have jurisdiction of this matter.

Today we have almost identical provisions before us embodied in Mr. Conte's amendment which are far beyond the scope of the bill we are now considering, H.R. 8, and deal with the subject properly within the jurisdiction of another committee, that is, the Committee on Energy and Commerce.

The scope of H.R. 8 is limited to the Clean Water Act and does not include extensive amendments to the Clean Air Act as the gentleman has proposed. . . .

MR. CONTE: . . . Mr. Chairman, the amendment I feel is germane to the committee amendment. It deals with the same subject matter as contained in the bill.

For example, the committee amendment includes a program to address the acidification of this Nation's lakes. If implemented, this amendment would accomplish the same goal by controlling the source of this acidity. Also, the bill, as a whole, is concerned with the protection and improvement of water quality in this country. And this amendment directly addresses the protection of water quality by controlling acid rain.

For these reasons, the amendment is in order and germane to the bill. . . .

MR. [HOWARD C.] NIELSON of Utah: . . . The Public Works and Transportation Committee does have water pollution, but they do not have air pollution; they do not have air quality in their committee.

As the gentleman from Kentucky appropriately stated, this is the exclusive province of the Committee on Energy and Commerce and the Health and Environment Subcommittee of that committee. . . .

THE CHAIRMAN:[14] It is the ruling of the Chair that the amendment changes a law not amended in the pending bill and outside the jurisdiction of the reporting committee, and deals with the regulation of emissions not within the scope of the bill.

For that reason, the amendment is not german.

Bill Authorizing National Standards for Drinking Water—Amendment To Require International Agreements Relating to Drinking Water

§ 4.4 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was held to be not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee.

The proceedings of Nov. 19, 1974, relating to H.R. 13002, the Safe Drinking Water Act, are discussed in § 6.25, infra.

Provisions Temporarily Suspending Requirements of Clean Air Act—Amendment Prohibiting Federal Assistance Under Water Pollution Control Act

§ 4.5 To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment prohibiting federal assistance under that Act or under the Federal Water Pollution Control Act (within the jurisdiction of a different House committee) where there has been failure to comply with

14. Harry M. Reid (Nev.).

standards imposed by the amendment was held to be not germane.

On May 1, 1974,[15] during proceedings relating to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, the Committee of the Whole was considering an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements, including the temporary suspension of certain emission standards imposed upon automobile manufacturers. An amendment was offered which sought to impose restrictions on emissions, only for new automobiles, in designated geographical areas, through requirements affecting the manufacture, purchase, and registration of automobiles. The amendment also sought to withdraw state entitlements to federal assistance under the Clean Air Act or under the Federal Water Pollution Control Act. The latter act was within the jurisdiction of the Committee on Public Works. The amendment in the nature of a substitute, and the proposed amendment thereto, stated in part:

Sec. 4. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as for December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following . . . . The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within sixty days. . . .

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Chairman, I offer an amendment.

15. 120 CONG. REC. 12520, 12522–24, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Wyman: On page 59 insert immediately after line 13 the following: I. TEMPORARY SUSPENSION IN DESIGNATED AREAS

(a) Section 203 of the Clean Air Act (42 U.S.C. 1857f–2) is amended by adding at the end thereof the following new subsection:

"(d)(1) During and after the period of partial suspension of emission standards (as defined in paragraph (3)(A)—

"(A) it shall be unlawful for any person to register within an area designated in paragraph (3)(B) a new motor vehicle or new motor vehicle engine which is manufactured during the period of partial suspension of emission standards and which is not labeled or tagged as covered by a certificate of conformity under this part; and

"(B) no State shall permit any person to register a motor vehicle in violation of subparagraph (A).

"(2) During the period of partial suspension of emission standards . . .

"(B) it shall be unlawful for any manufacturer to sell . . . any new motor vehicle or new motor vehicle engine which is labeled or tagged as covered by a certificate of conformity unless such new motor vehicle or new motor vehicle engine is covered by a certificate of conformity issued (and in effect) under this part, or unless such new motor vehicle or new motor vehicle engine was manufactured prior to the period of partial suspension. . . .

"(E) it shall be unlawful for any dealer to sell any new motor vehicle or new motor vehicle engine which is not labeled or tagged as covered by a certificate of conformity to an ultimate purchaser unless such purchaser provides such dealer with a signed statement that such purchaser will not register such vehicle in an area designated under paragraph (3)(B) . . . .

"(B) Within sixty days after the date of enactment of this subsection and annually thereafter, the Administrator shall designate, subject to the limitations set forth in this subparagraph, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area without subsequent legislative authorization, any part of the United States outside the following air quality control regions as defined by the Administrator as of the date of enactment of this paragraph:

"(i) Phoenix-Tucson, intrastate.

"(ii) Metropolitan Los Angeles, intrastate.

"(iii) San Francisco Bay Area, intrastate. . . .

"(C) For purposes of this subsection and section 209(c) a motor vehicle shall be considered to be registered in a geographic area—

"(i) in the case of a motor vehicle registered by an individual if the individual's principal place of abode is in that area, or

"(ii) in the case of a motor vehicle registered by a person other than an individual, if the State of registration determines that such vehicle will be principally operated in such area.

"(D) Each State shall not later than sixty days following enactment of this Act, submit to the Administrator a plan for implementing subsection (d)(1)(B) of this section. Such plan shall contain provisions which give assurance that such State has one or more adequately financed agencies with sufficient legal authority to enforce such subsection (d)(1)(B) as determined in accordance with regulations of the Administrator.". . .

"(b) If a State fails to submit a plan under section 203(d) or if the Administrator determines (after no-

tice and opportunity for hearing) that such State is not adequately enforcing such a plan, then such State (including any political subdivision thereof) shall lose its entitlement to and may not thereafter receive any Federal grant or loan assistance under this Act or under the Federal Water Pollution Control Act."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment. . . . The amendment offered by the gentleman from New Hampshire (Mr. Wyman) is not germane because:

First, it amends sections 203, 204, 205, 206, and 209 of the Clean Air Act, provisions which are nowhere else amended by this bill (H.R. 14368).

Second, it, in effect, amends the Federal Water Pollution Control Act, by providing for termination of State grant eligibility under that act, if the State fails to take certain actions under this amendment. Clearly this is not germane. Moreover, it discusses a subject matter clearly within the jurisdiction of the Public Works Committee.

Third, the bill would limit State authority to register motor vehicles, a subject which is not addressed in this bill in any way. It also deals with Federal and State authority to adopt and enforce provisions relating to in-use vehicles, a subject which is not addressed in this bill in any way. It also deals with grant provisions which are not amended in any way by H.R. 14368. It subjects ultimate purchasers to regulation for the first time under the Clean Air Act and no provision of this bill refers to ultimate purchasers of motor vehicles.

MR. WYMAN: The gentleman is essentially trying to say that an amendment that relates to the standards or emissions controls on automobiles in a time and under a title that relates to clean air is not germane. I think it is so obvious that it is germane that the point of order should be overruled.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from West Virginia (Mr. Staggers) makes the point of order that the amendment offered by the gentleman from New Hampshire (Mr. Wyman) is not germane to the committee substitute for H.R. 14368.

The Chair has examined the amendment and is aware that it provides that States shall lose their entitlements to Federal grants under the Clean Air Act and under the Water Pollution Control Act for failure to comply with the provisions of the amendment.

While the committee substitute does amend several sections of the Clean Air Act to permit defined and limited variances from certain diverse provisions of that act, in order to coordinate the questions of energy supplies and environmental protection, the committee substitute does not affect entitlements under the Water Pollution Control Act, a matter within the jurisdiction of the Committee on Public Works.

As recently as December 14, 1973, when the Committee of the Whole was considering the Energy Emergency Act, Chairman Bolling ruled that to a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment suspending other provisions of all other environmental protection laws was not germane.

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16. William Jennings Bryan Dorn (S.C.).

For these reasons, the Chair feels that the amendment is not germane to the committee substitute and sustains the point of order made by the gentleman from West Virginia. .

Bill Authorizing Secretary of Interior To Investigate Water Conservation Projects—Amendments Substituting Corps of Army Engineers as Investigating Agency

§ 4.6 To a bill authorizing the Secretary of the Interior to investigate projects for the conservation and utilization of the water resources of Alaska, an amendment proposing that such investigations be made by the Corps of Army Engineers was held to be not germane.

In the 84th Congress, during consideration of a bill[17] concerned with conservation, development and utilization of the water resources of Alaska, an amendment was offered[18] as described above. A point of order was raised against the amendment, as follows:

MR. [CLAIR] ENGLE [of California]: The point of order is that the amendment is not in order inasmuch as it seeks to insert an entirely different agency into this legislation which deals exclusively with the Department of the Interior.

In defending the amendment, the proponent, Mr. Hamer H. Budge, of Idaho, stated:

Mr. Chairman, it appears to me that the amendment is germane. . . . It carries out the stated purposes of the legislation simply by a substitution of the agency to do the things which are called for in the legislation.

The Chairman,[19] in ruling on the point of order, stated:

The gentleman's amendment substitutes a department of the Government which does not come under the jurisdiction of the Committee on Interior and Insular Affairs, and therefore the Chair must rule that it is out of order.

Parliamentarian's Note: There are many rulings to the effect that the substitution of one agency for another, to administer the terms of a bill, may be germane, depending on whether the actual methods prescribed in the amendment for achieving the intended purpose are closely related to those contemplated by the bill. See § 7, infra, for further discussion.

17. H.R. 3990 (Committee on Interior and Insular Affairs).

16. 101 CONG. REC. 7403, 84th Cong. 1st Sess., June 1, 1955.

19. Chet Holifield (Calif.).

Effect of Incidental Provisions Within Jurisdiction of Another Committee—Bill Authorizing Alaska Pipeline; Judicial Review of Specified Claims Related to Construction as Permitted or Prohibited

§ 4.7 Committee jurisdiction is not the exclusive or absolute test of germaneness but is only one of the factors considered by the Chair when ruling on a point of order that an amendment is not germane; thus, the germaneness of an amendment in the nature of a substitute for a bill depends on its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

On Aug. 2, 1973,[20] the Committee of the Whole had under consideration H.R. 9130, a bill authorizing the construction of a trans-Alaska oil and gas pipeline under the authority of the Secretary of the Interior, and pursuant to procedural safeguards promulgated by the Secretary. The bill included a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted. A committee in the nature of a substitute was reported as an original bill for purposes of amendment. The committee amendment contained procedures and safeguards similar to those in the bill, and included an exception from the prohibition against judicial review, to provide a mechanism for expediting other types of actions challenging pipeline permits. The amendment also included the condition that all persons participating in construction or use of the pipeline be assured rights against discrimination as set forth in the Civil Rights Act. Points of order were raised against the amendment on the grounds that its provisions were not germane:

> THE CHAIRMAN:[1] Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.
>
> MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I wish to reserve a point of order to the committee amendment.
>
> The Clerk read as follows: . . .
>
> TITLE I
>
> Section 1. Section 28 of the Mineral Leasing Act of 1920 (41 Stat.

20. 119 CONG. REC. 27673–5, 93d Cong. 1st Sess.

1. William H. Natcher (Ky.).

449), as amended (30 U.S.C. 185), is further amended by striking out the following: ", to the extent of the ground occupied by the said pipeline and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon," and by inserting in lieu thereof the following ": *Provided*, That—

"(a) the width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary finds, and records the reasons for his finding, that in limited areas a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. . . .

Sec. 4. (a) Pipelines on public lands subject to this Act are subject to the provisions of the Gas Pipeline Safety Act of 1968. . . .

(c) The Secretary of the Interior shall report annually to the President, the Congress, the Secretary of Transportation and the Interstate Commerce Commission any potential dangers of or actual explosions or potential or actual spillage on public lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

MR. DINGELL: Mr. Chairman, I rise to make a point of order against the committee amendment just read.

THE CHAIRMAN: The Chair will hear the gentleman on his point of order.

MR. DINGELL: Mr. Chairman, I note first that the rule did not waive points of order.

Mr. Chairman, I cite now rule XVI, clause 7, and I note particularly section 794 relating to germaneness which reads as follows:

And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

I note as follows, Mr. Chairman, that the committee amendment provides for the establishment of a three-judge court and establishes certain conditions with regard to review which are not found in the original bill.

I note for the assistance of the Chair, that that language is not only not found in the bill, but that language, in my view, at least under the Rules of the House of Representatives, had it been introduced as a separate piece of legislation, would have been referred to the Committee on the Judiciary.

I note further, Mr. Chairman, that the committee amendment as presented to us today provides also language relating to conditions of employment and civil rights of persons, and the duty of the pipeline company to hire without discrimination as to race or creed or color.

I note, Mr. Chairman, that legislation relating to that matter, were it introduced as separate legislation, would have properly under the Rules of the House of Representatives have been referred to the Committee on the Judiciary.

I make the further comment with regard to the point of order just raised, Mr. Chairman, citing now Cannon's Precedents, page 203 2(b), and I quote:

A specific subject may not be amended by a general provision even when of the same class.

Section 203 of the bill addresses itself to the relationship of NEPA to the bill and judicial review of the Sec-

retary of the Interior's actions for compliance with NEPA. Specifically 203(d) of the bill limits judicial review on the basis of NEPA noncompliance.

Section 203(f) which was added by amendment, referred to earlier, is far broader in scope than section 203 as contained in the original bill.

Section 203(f) sets forth a unique procedure for judicial review of non-NEPA-related challenges.

Keeping in mind the fact that section 203(d) is itself part of an amendment and section 203(f) is a new provision as part of the same amendment it becomes clear that judicial review dealt with by section 203 of the original bill was limited to judicial review on the basis of NEPA.

The amendment, by incorporating the provisions found in section 203(f), deals with all forms of judicial review. Thus NEPA-related review is handled by the specific provision of section 203(d) and all other judicial review by section 203(f).

Therefore, the amendment is a general provision; that is, it deals with all forms of judicial review and is not germane to the specific provision found in the original bill which deals solely with judicial review on the basis of the National Environmental Policy Act.

I cite again Cannon's Precedents at page 203. I cite further with regard to the germaneness, now referring to page 202 in Cannon's Precedents that—

> One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The individual proposition in the original bill was that the Secretary of the Interior's actions were exempted from judicial review under NEPA.

The individual proposition contained in the amendment goes on to add that any other challenge to the right-of-way to which the United States is a party must be brought, according to subsection (f), to a three-judge district court referred to in the amendment.

These propositions are of the same class because both relate to judicial review.

The first proposition may be viewed as a negative proposition in that it exempts certain action from Judicial review on the basis of NEPA.

The second is a positive proposition; it establishes a special tribunal and special procedures for non-NEPA-based court challenges.

I again refer the Chair to Cannon's Precedents on page 202.

I cite further, Mr. Chairman—

> If a portion of an amendment is out of order because not germane, then all must be ruled out.

I would cite Cannon's Precedents at page 201. I would point out that—

> The burden of proof as to the germaneness of a proposition has been held to rest upon its proponents. . . .

MR. [JOHN] MELCHER [of Montana]: . . . The gentleman from Michigan is raising a point of order on the basis of the germaneness of . . . the entire committee amendment, but he refers to specific sections and his point of order should be limited to his reference to those sections. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Michigan (Mr. Dingell) makes the point of order the

amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill is not germane to the original bill on several grounds, one of which is that 203(f) of the committee amendment provides a procedure for expediting litigation of right-of-way, permit, or other authorization disputes in Federal courts which is not contained in the original bill.

The Chair has had an opportunity to examine the original bill and the committee amendment in the nature of a substitute, and notes that the original bill and the committee amendment both provide comprehensive schemes for the construction of the Alaska pipeline under the authority of the Secretary of the Interior. Both the bill and the committee amendment provide a series of safeguards to be followed by the Secretary in the issuance of permits and grants of rights-of-way. Included in the original bill—in section 203, is the prohibition against judicial review of any authorization granted by any Federal agency with respect to rights-of-way, construction, public land use, or highway or airfield construction on the basis of the National Environmental Policy Act of 1969.

This restriction against judicial review on the basis of environmental impact is also contained in section 203(d) of the committee amendment in a more limited form. Section 203(f) of the committee amendment then provides, in litigation not barred by section 203(d), a mechanism for expediting other actions challenging pipeline permits or authorizations.

On March 8, 1932, Chairman O'Connor ruled that to a bill restricting Federal court jurisdiction in certain cases, an amendment providing an exception from that prohibition was germane—Cannon's volume VIII, section 3024.

The Chair has also examined the decision of the present occupant of the Chair on October 20, 1971 (Congressional Record, page H37079) on the Alaska Native land claims bill, where, to a committee amendment seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

For these reasons, and because committee jurisdiction is not the exclusive or absolute test of germaneness, the Chair is of the opinion that the provision in the committee amendment relating to the expediting of litigation involving the pipeline permits or authorizations is merely incidental to the purpose of the original bill and is indeed directly related to the concept of judicial review contained in the bill. With respect to the other provisions of the committee amendment to which the gentleman from Michigan has made reference, the Chair is of the opinion that they, too, are incidental to the overall purpose of the bill. The Chair holds that the committee amendment is germane and overrules the point of order.

MR. DINGELL: Mr. Chairman, I rise to a further point of order.

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

MR. DINGELL: Mr. Chairman, citing again the language used by myself with regard to the earlier point of order, I would point now to the specific language of the committee amendment

at page 15, line 23(e), and all that follows through page 16, line 11, at the conclusion of the words "the Civil Rights Act of 1964."

Mr. Chairman, I would point out again the same arguments are available to me with regard to the first jurisdiction of committees. Second, with regard to the other matters cited by me earlier under the rules of germaneness as embodied in the rules and the precedents of this body, I would point out, Mr. Chairman, that where the language referred to in the amendment is part of a separate piece of legislation, it would have been referred again to the Judiciary Committee and not to the Committee on Interior.

I would point out further, Mr. Chairman, that this language is not found in the original bill, although it is found in the amendment. I would point out that again the failure of the committee to have that language in both the original bill and in the committee amendment renders the committee amendment subject to a point of order.

I would call particular attention of the Chair to the fact that the rule of germaneness was established by the wise men of this body throughout the years, that all Members of this body might have full notice of matters coming to the floor of the House and would not be surprised by matters which might be irrelevant to the jurisdiction of the committee which authored the legislation.

The rule of germaneness applies, Mr. Chairman, with equal validity to proceedings on the floor as well as to proceedings within the committee.

I again reiterate my point of order on the basis not only of matters cited by me now but cited by me in connection with the earlier point of order made by me. . . .

MR. MELCHER: . . . The title and section of the committee's amendment which the gentleman from Michigan refers to deals with construction of the Alaskan pipeline. Employment of people for that purpose is, indeed, part and parcel of the construction of the pipeline. The incidental feature of our committee handling and including such language in our amendment is only incidental to the bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has just ruled that the committee amendment is germane, and the ruling that was given by the Chair is broad enough to now cover the point of order just made by the gentleman from Michigan.

Therefore, the Chair for the reasons previously stated overrules the point of order.

Bill Designating Wilderness Areas—Amendment Providing Unemployment Benefits to Persons Affected by Bill

§ 4.8 To a bill reported from the Committee on Interior and Insular Affairs designating certain wilderness areas in Oregon, an amendment adding a new title to provide a program of unemployment benefits to persons affected by such wilderness designations was held to be not germane as addressing a

subject not contained in the bill and one within the jurisdiction of other committees of the House.

On Mar. 21, 1983,[2] during consideration in the Committee of the Whole of H.R. 1149 (Oregon wilderness designations), a point of order was raised and sustained as indicated below.

The bill was read as follows:

Sec. 2. (a) In furtherance of the purposes of the Wilderness Act, the following lands, as generally depicted on maps, appropriately referenced, dated December 1982 (except as otherwise dated), are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Mount Hood National Forest, which comprise approximately forty thousand nine hundred acres, are generally depicted on a map entitled "Columbia Gorge Wilderness—Proposed", and shall be known as the Columbia Gorge Wilderness . . .

Sec. 6. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of Oregon and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than Oregon, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Oregon. . . .

The Clerk read as follows:

Amendment offered by Mr. Young of Alaska: Insert before section 2 the heading "TITLE I—DESIGNATION OF WILDERNESS AREAS".

"Sec. 2. Add after section 6 the following:

"TITLE II—DEFINITIONS

"Sec. 20. As used in this title, the term—

"(1) 'Secretary' unless otherwise indicated, means the Secretary of the Department of Labor;

"(2) 'expansion area' means the Mount Hood, Willamette, Siuslaw, Umpqua, Rogue River, Siskiyou, Deschutes, Winema, Fremont, Ochoco, Wallowa-Whitman, Malheur, and Umatilla National Forests, and the Salem District of the Bureau of Land Management;

"(3) 'employee' means a person employed by an affected employer and, with such exceptions as the Secretary may determine, in an occupation not described by section 13(a)(1) of the Fair Labor Standards Act (29 U.S.C. 213(a)(1)) . . .

"Sec. 22. The total or partial layoff of a covered employee employed by an af-

2. 129 CONG REC. 6339, 6340, 6341, 6343, 6344, 6346, 6347, 98th Cong. 1st Sess.

fected employer during the period beginning the date of enactment and ending September 30, 1986, other than for a cause that would disqualify an employee for unemployment compensation, except as provided in section 24, is conclusively presumed to be attributable to the expansion of the Oregon portion of the National Wilderness preservation system. . . .

"Sec. 23. (a) The Secretary shall provide, to the maximum extent feasible, for retention and accrual of all rights and benefits which affected employees would have had in an employment with affected employers during the period in which they are affected employees. The Secretary is authorized and shall seek to enter into such agreements as he may deem to be appropriate with affected employees and employers, labor organizations representing covered employees, and trustees of applicable pension and welfare funds, or to take such other actions as he deems appropriate to provide for affected employees (including the benefits provided for in section 26(d)) the following rights and benefits:

"(1) retention and accrual of seniority rights, including recall rights (or, in the case of employees not covered by collective-bargaining agreements, application of the same preferences and privileges based upon length of continuous service as are applied under the affected employer's usual practices) under conditions no more burdensome to said employees than to those actively employed; and

"(2) continuing entitlement to health and welfare benefits and accrual of pension rights and credits based upon length of employment and/or amounts of earnings to the same extent as and at no greater cost to said employees than would have been applicable had they been actively employed. . . .

"Sec. 31. (a) A relocation allowance shall be paid upon application by an affected employee during the applicable period of protection if—

"(1) the Secretary determines that said employee cannot reasonably be expected to obtain suitable work in the commuting area in which said employee resides; and

"(2) the employee has obtained—

"(A) suitable employment affording a reasonable expectation of long-term duration in the area in which said employee wishes to relocate. . . .

MR. [JOHN F.] SEIBERLING [of Ohio]: Mr. Chairman, I make a point of order that the amendment is not germane, and also that it violates the provisions of the Budget Act. . . .

MR. [DON] YOUNG of Alaska: . . . Mr. Chairman, I argue that the amendment is germane. It has been heard before and has passed on previous actions of this body. I want to state that if the Parliamentarian will go back to the history of the House, this House has acted on the same exact amendment on a similar type bill in previous years. . . .

So my argument is that the amendment is germane to the bill, and it is relevant to the subject and the topic we are discussing today. We should give an opportunity to this body to decide, if the eastern establishment is going to have this wilderness, they are going to pay for it through their tax dollars to those who will be unemployed. . . .

THE CHAIRMAN:[3] The Chair is ready to rule.

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3. James L. Oberstar (Minn.).

The Chair has reviewed the amendment offered by the gentleman from Alaska.

H.R. 1149 does not relate to the question of unemployment relief to employees impacted by the wilderness designations in the bill.

The amendment contains matter not addressed on the bill and within the jurisdiction of other committees of the House and, therefore, is not germane to H.R. 1149.

The Chair sustains the point of order.

Parliamentarian's Note: Since the Chair sustained the point of order under the germaneness rule, he was not obliged to rule on the point of order under the Budget Act. The amendment provided new entitlement authority effective in fiscal year 1984 and thus violated sec. 303(a)(4) of the Budget Act, no budget resolution for that year having yet been adopted.

Bill Authorizing Appropriations for Nuclear Regulatory Commission—Amendment Prohibiting Use of Funds To Process Exports of Uranium

§ 4.9 Where a bill authorizing appropriations for an agency is reported from committees having jurisdiction over that agency, an amendment is germane which prohibits the use of such funds for any specified purpose to which the funds could otherwise be applied by that agency, notwithstanding an argument that the activities for which the use of funds is sought to be prohibited impinge on the jurisdiction of another committee; thus, to a bill reported from the Committees on Interstate and Foreign Commerce and Interior and Insular Affairs authorizing appropriations for all the annual activities of the Nuclear Regulatory Commission, including review and approval of exports of uranium, an amendment prohibiting the use of funds authorized in the bill to review, process or approve exports of certain uranium was held germane.

The proceedings of Nov. 5, 1981, relating to H.R. 4255, the Nuclear Regulatory Commission authorization for fiscal years 1982 and 1983, are discussed in Sec. 34.31, infra.

Bill Containing Diverse Titles Relating to Hazardous Waste Disposal—Amendment Creating Cause of Action for Victims of Improper Hazardous Waste Disposal

§ 4.10 Committee jurisdiction over the subject of an

amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions; thus, where a bill contained diverse titles relating to hazardous waste cleanup, including provisions relating to new uses of a trust fund to finance removal and remedial actions, compensatory relief through private suits, relocation costs, replacement of drinking water supplies and other disaster relief, and had been amended to include a provision relating to deed covenants in government surplus property conveyances (several of such provisions containing subject matter within the jurisdiction of committees other than the reporting Committee on Energy and Commerce), an amendment in the form of a new title creating a new federal cause of action for victims of improper disposal of hazardous waste, with amounts recovered from the liable private parties to go toward reimbursement of the trust fund for remedial expenses was held germane as within the general diverse class of remedies covered by the bill as a whole, where some of those remedies already were within the jurisdiction of the Judiciary Committee, which had jurisdiction over the subject of the amendment.

On Aug. 10, 1984,[4] during consideration of H.R. 5640 (superfund authorization), it was demonstrated that the test of germaneness of an amendment adding a new title to a bill is its relationship to the portion of the bill read, as perfected by amendments:

TITLE III—MISCELLANEOUS PROVISIONS (OF THE BILL)

CITIZENS SUITS

Sec. 301. Title I is amended by adding the following new section at the end thereof:

"CITIZENS SUITS

"Sec. 116. (a) Except as provided in subsection (b) or (c) of this section, any person may commence a civil action on his own behalf . . .

Sec. 402, (a)(1) Whenever any person has (during the applicable period) supplied any hazardous substance to 100 or more sites at which there is located an underground storage tank which is, or has been used for the storage of any

4. 130 CONG. REC. 23958, 23967, 23968, 23974–78, 98th Cong. 2d Sess.

hazardous substance, the person supplying such hazardous substance shall notify the State or local agency or department designated pursuant to subsection (b)(1) of the existence of any tank located at such site which is, or has been used for the storage of any hazardous substance. For purposes of this paragraph, the applicable period shall be the calendar year immediately preceding the calendar year in which this title was enacted.

(2) The Administrator shall promulgate regulations not later than 8 months after the date of the enactment of this title regarding the providing of notice under this section which is sufficient to obtain information concerning underground storage tanks which are, or have been, used for the storage of any hazardous substance and which are not located at a site referred to in paragraph (1). . . .

MR. [GUY V.] MOLINARI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Molinari: Page 50, after line 5, insert:

NOTICE BY FEDERAL AGENCIES

Sec. 303. Section 107(g) is amended by inserting "(1)" after "(g)" and by adding the following new paragraph at the end thereof:

"(2)(A) After the effective date of regulations under this paragraph, whenever any agency or instrumentality of the United States enters into any contract for the sale of real property which is owned by the United States and on which any Federally regulated hazardous waste was disposed of or stored for one year or more, the head of such agency or instrumentality shall include in such contract notice of the type and quantity of such hazardous waste and notice of the time at which such storage, or disposal took place. . . .

"(B) In the case of any real property owned by the United States on which any hazardous waste was stored for one year or more or disposed of, each deed entered into for the transfer of such property by the United States to any other person or entity shall contain a convenant warranting that all remedial action necessary to protect human health and the environment with respect to any such waste remaining on the property has been taken prior to the date of such transfer. . . .

THE CHAIRMAN:[5] The question is on the amendment offered by the gentleman from New York [Mr. Molinari].

The amendment was agreed to. . . .

Following consideration of Title IV, an amendment was offered:

MR. [BRUCE A.] MORRISON of Connecticut: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Morrison of Connecticut: page 66, after line 9, insert:

LIABILITY FOR CERTAIN DAMAGES

Sec. 501. (a) If an individual is exposed to a hazardous substance from a facility where disposal of such hazardous substance occurred, the following persons shall be liable to such individual (or his dependent) for damages which are compensable under this section and which are caused by such exposure.

(1) any person who owned or operated the facility at the time of such disposal or thereafter (other than a person who owned or operated the facility only after termination of such exposure);

5. Joseph G. Minish (N.J.).

(2) any person who generated the hazardous substance to which the injury individual was exposed . . .

(i) If a plaintiff who recovers any amount in an action under this section by reason of exposure to a hazardous substance has obtained any emergency relief under section 104(l) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 by reason of the same exposure . . . the plaintiff shall be required to reimburse the Hazardous Substance Superfund for any amount reflecting the costs of such relief, relocation, or drinking water supplies which the plaintiff recovered in the action under this section. . . .

MR. [HAROLD S.] SAWYER [of Michigan]: Mr. Chairman, I have a point of order on the amendment. . . .

Mr. Chairman, this amendment which is now being offered is not germane to the purpose of the bill as it now stands, and under Deschler's Procedure, chapter 28, section 1.2, it is the bill, as amended.

The amendment and the bill which it is amending is aimed at cleaning up dumpsites, and this, on the other hand, attempts to create an entirely new Federal action on behalf of persons seeking damages and create various Federal tort liabilities for individuals seeking damages.

Also in considering the point of germaneness of this amendment, the jurisdiction of committees should also be one of the considerations, and obviously this section is exclusively within the jurisdiction of the Committee on the Judiciary. Under section 1.4 of chapter 28 of Deschler's Procedure, that is another consideration. . . .

MR. MORRISON of Connecticut: Mr. Chairman, this amendment adds a new title to the bill. The amendment is designed to do several things. First, it is designed to protect human health and the environment by establishing liability where improper disposal of hazardous waste has injured an individual. When there is liability, those who are in charge of disposal will do so properly to avoid the liability.

Second, the amendment is designed to provide actual relief where people are harmed by hazardous waste. The amendment builds on the cleanup program we have in place, which is designed to force private parties to pay for the cleanup, and forces the same private parties to pay for the injuries they have caused.

Third, the amendment is designed to recover amounts that have been paid out from Superfund. . . .

The test of germaneness of a new title is whether the amendment is germane to the bill as a whole. The bill in this case has many provisions which accomplish the same purpose as this amendment by the same method.

There is no question that this amendment relates to the subject under consideration. The subject of this bill is hazardous waste, how we deal with it, and the liability of those who have improperly disposed of it. The whole purpose of the Superfund is to clean up hazardous waste sites to eliminate the threat they pose to people and the environment. The bill contains provisions giving individuals the right to go against private parties to ensure safe disposal of waste. Where people are harmed under Superfund, they have a right to get money from the fund to eliminate the harm.

The amendment clearly relates to the same subject. People are being

harmed by hazardous waste and we are providing a recourse in this amendment.

The clearest test of germaneness is whether the fundamental purpose of an amendment relates to the fundamental purpose of the bill to which it is offered. Under the precedents, in ruling on this question the Chair must compare the stated purpose of the bill with the purpose of the amendment. (106 CONG. REC. 5655, 86th Cong. 2d Sess., Mar. 15, 1960.)

Section 3 of the bill, the findings and objectives section, states very clearly what the fundamental purpose of the bill is. It says in subsection (5), "establish new Federal liability standards for injuries suffered by exposed individuals." This explicit statement of purpose is demonstrated throughout the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The test of germaneness of an amendment adding a separate or new title to the bill is its relationship to the portion of the bill read, as perfected by amendments.

The bill title I provides several new uses of the Superfund for removal and remedial actions and titles I and III of the bill together contemplate in more general terms compensatory forms of relief, either through private suits or under section 101 of CERCLA through a broad definition of remedial actions which under existing law cover potential compensation for relocation cost, to replace drinking water supplies and any emergency assistance under the Disaster Relief Act of 1974.

Title III of the bill has already been broadened by the amendment of the gentleman from New York [Mr. Molinari] which relates to deed covenants in surplus property conveyances. Other aspects of the text before the Committee relate to the jurisdiction of other committees.

The Chair might say that even as modified, there are provisions in title 3 that deal with other committee jurisdiction including the Judiciary Committee. As amended there are other provisions in the text before us that deal with other than cleanup issues.

Both the proponents and the opponents of the point of order have made some valid points, but the Chair feels the bill is still broad enough to support the germaneness of the amendment.

The Chair rules that the point of order will be overruled.

Bill Prescribing Functions of New Federal Energy Administration, Limited in Their Exercise in Accordance With Other Sections of Bill or Existing Law—Amendment Modifying Emergency Petroleum Allocation Act by Establishing Ceiling Prices for Petroleum Products

§ 4.11 To a section of a bill reported from the Committee on Government Operations prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by

other sections of the bill or any other provisions of law," an amendment to the Emergency Petroleum Allocation Act (an Act reported from the Committee on Interstate and Foreign Commerce and not otherwise amended by the bill) establishing specific ceiling prices for petroleum products was held not germane.

On Mar. 5, 1974,[6] during consideration of the Federal Energy Administration Act[7] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

> MR. [BENJAMIN S.] ROSENTHAL [of New York]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Rosenthal: On page 18, line 11 change Sec. 5 to Sec. 5(a).
>
> On page 20, after the period on line 2, add the following new subsection:
>
> "(b) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:
>
> "(j)(1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection. . . .
>
> "(5)(A) The President may, in accordance with the procedures and standards provided in this paragraph, amend the regulation under subsection (a) of this section to specify a different price for domestic crude oil, residual fuel oil, or refined petroleum products, or a different manner for determining the price, other than that provided in paragraph (2) or (3) of this subsection, if he finds that such different price or such different manner for determining such price is necessary to permit the attainment of the objectives of this Act. . . .
>
> "(10) The provisions of this subsection shall apply to all crude oil notwithstanding the provisions of subsection (e)(2) of this section and section 406 of Public Law 93–153 (87 Stat. 590). . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I rise to a point of order against the amendment. My point of order is that the amendment offered by the gentleman from New York (Mr. Rosenthal) is nongermane under rule XVI, clause 7. . . .

I do not wish to imply a position for or against the amendment by making this point of order, but I do feel constrained to block it because of the importance of getting this bill through under regular procedure. We must not allow this bill to be tied up in a thousand controversies as have been other energy bills.

The germaneness rule is one of the distinctive features of the procedures of this House. It dates back to our very beginning. There have been occasions

6. 120 CONG. REC. 5306–09, 93d Cong. 2d Sess.

7. H.R. 11793.

where this House has acted as though this rule was not applicable, and the legislation has been poorer as a result. I think the rule of germaneness should be strictly applied to H.R. 11793. It is a soundly conceived organization bill and we should consider it as such.

I realize there has been some question as to whether this bill does, in fact, grant policy and program authority. I have maintained from the beginning that this bill does not do so; and for that reason I was willing to support the amendment, recently adopted, which provides that nothing in the functions section of the bill shall be considered to set policy or grant program authority. The acceptance of this amendment underscores the lack of policy and program authority in the bill; and, of course, the Chair will have to take into account the significance of the adoption of this amendment because, to quote from Cannon, volume VIII, section 2910:

> (T)he Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time at which it is offered.

Let me explain exactly what the bill does. As it states in the "declaration of purpose" section:

> (I)t is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

The bill then proceeds to establish the administration. Section 5 sets out the general areas of interest of the new Federal Energy Administration. Section 6 transfers to the Agency authority from other offices and departments in the executive branch. In no way does this bill affect any of these substantive laws other than to change the location of responsibility for their execution. My committee did not amend the substance of these transferred laws, because their substance is within the jurisdiction of other committees. The remaining sections of the bill deal with typical administrative authorities granted to departments and agencies and the necessary arrangements for the transition to the new Agency. . . .

I would like to point out that this amendment cannot be held germane simply because it relates to laws being amended by this bill. Let me again quote Cannon, volume VIII, section 2909:

> (T)he rule of germaneness applies to the relation between the proposed amendment and the pending bill to which [it is] offered, and not to the relation between such amendment and an existing law of which the pending bill is amendatory.

There are, of course, numerous other precedents along the same lines, such as Cannon, volume VIII, section 3045, 2948, and 2946. The reason for this is that the House needs a way to protect itself from amendments which have not been properly considered.

> While the committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment. (Hinds, Vol. V, sec. 5825).

Also, as is to be found in Cannon, volume VIII, section 2912, one of the functions of the rule requires that germaneness is to preclude consideration of legislation which has not been considered in committee. Other committees have considered or are considering

the subject of this amendment, and this amendment is germane to their legislation. The Chair has in the past stated that amendments dealing with subject matter in the jurisdiction of another committee are not germane—Record, June 7, 1972, at page H5347; April 20, 1972, at page H3377; May 22, 1972, at page H4764–65. While I can sympathize with those who feel obliged to respond to the energy crisis by offering substantive energy policy and program amendments, these amendments are not appropriate to this organizational bill.

H.R. 11793 is a reorganization bill; it is not a policy or program bill. The House has long recognized the distinction between policy bills and organizational bills. The very fact that we have established a Government Operations Committee with responsibility for, and I quote from rule XI, clause 8: "Reorganizations in the executive branch," is evidence of the long appreciation of this House for the distinct legislative area of reorganization. If we begin to allow policy and program authority to be added to reorganization bills, an important barrier between the work of my committee and the work of other legislative committees will have been ruptured. . . .

MR. ROSENTHAL: . . . The subject matter of H.R. 11793 is the establishment of a new Federal Energy Agency whose Administrator is authorized to regulate energy prices and is admonished, in section 5, to "promote stability in energy prices." The subject matter of my amendment is the achievement of stability in energy prices, clearly the same as the subject matter of a major portion of the legislation itself.

House interpretations of the germaneness rule hold that "the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill" and "an amendment should be germane to the particular paragraph or section to which it is offered," House rule XVI, section 794.

My amendment goes to a fundamental purpose of the bill—bringing about stability in energy prices—and it appears as a part of the "functions" section which requires such stability.

My price rollback amendment is germane for additional reasons:

No House rule or precedent prohibits the Government Operations Committee from granting new power or creating new policy in a bill of this kind—so long as the power or policy is directly related to the purpose for which the agency is being created. In fact numerous provisions already in H.R. 11793 and in other Government Operations' bills to reorganize and consolidate, create new powers and set new policy.

For example, the committee, in the Federal Energy Act, has already expressly established new policies and created new powers not elsewhere authorized by law:

Section 4(i) amends and revises a Federal conflict of interest statute—section 208 of title 18, United States Code—technically within the jurisdiction of the Post Office and Civil Service Committee.

Another provision, section 17, authorizes a study of and report on oil and gas reserves not now required by law—probably a subject within the jurisdiction of the Interior or Commerce Committee.

The point here is that the committee has already seen fit, in H.R. 11793, to

create new policies the subject matter of which might properly be said to belong in other committees.

Moreover, the Government Operations Committee has a long history of establishing new policies and creating new powers that technically infringe on the jurisdiction of other committees.

For example:

The Department of Transportation Act, reported by the committee in 1966, dealt with: First, the safety compliance records of applicants seeking operating authority from the Interstate Commerce Commission—technically, Commerce Committee jurisdiction; second, authority over the formulation and economic evaluation of proposals for the investment of Federal funds in transportation facilities or equipment—technically, Banking and Currency jurisdiction; third, standards for economic evaluation of waste resource projects—technically, Public Works Committee jurisdiction.

It is simply impossible as well as unwise to attempt to separate organizational provisions on the one hand, from so-called policy provisions, on the other. In the past, the committee has never hesitated to legislate policy when those provisions were directly relevant to the functions of the agency created. It should not now attempt to do so. Organization and policy are inextricably bound together.

When the House entrusted to the Government Operations Committee the power to legislate the existence of new agencies, it also gave to the committee, of necessity, leeway to establish new policies and powers essential to the purposes of an agency. Examples of what might be characterized as policy as opposed to organizational provisions can be found in many other agency bills reported out of the Government Operations Committee.

The committee, in section 2 of the present bill—H.R. 11973—establishes as a purpose of the Federal Energy Administration the establishment of "fair and reasonable consumer prices" for energy supplies. Section 5, paragraph 5, establishes as a function of the Administrator, the promotion of "stability in energy prices to consumers." My amendment merely provides a mechanism by which this purpose and function can be carried out.

It is also relevant to the parliamentary challenge that section 6 of the bill transfers to the Federal Energy Administrator all functions of the Cost of Living Council over energy prices. A concomitant of the Government Operations Committee's authority to transfer functions from one agency to another is its right to condition that transfer. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . Mr. Chairman, though I agree with the commendable restraint of the Chairman of this Committee in not entering into functional areas of the bill, that it came beyond the Committee on Interstate and Foreign Commerce, nevertheless I cannot fail to agree with the gentleman from New York (Mr. Rosenthal), that it is utterly impossible in a bill this complex to separate procedural operations and functions from a subject matter with respect to which that official is designed to control.

This bill by the very amendment that was passed a minute ago by an overwhelming vote, referred to other sections of this act as giving sub-

stantive authority to the agency, so that the bill now reads: "To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this act or any other provisions of law," and then it says what he shall do.

Mr. Chairman, there are other sections of this bill which give substantive authority for transfer. This agency has no authority, as the gentleman from New York stated before, to deal with the question of prices except by virtue of the section on transfer on page 20 whereby transfers provide for this agency to exercise a broad area of authority.

Now, why may not this House choose, in determining what authorities are granted to the agency, whether this House desires to limit this authority to transferred authorities or to new ones? . . .

Further, the provisions of the act provide administrative procedures which have considerable influence on substance. The act in section 15 provides for information gathering power, which of course leads to the question of whether or not that information gathering power would ultimately be utilized for the purpose of extending or contracting the authority of the agency. . . .

THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order. . . .

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that the amendment is not germane to the bill under consideration.

The gentleman has made the further point of order that the amendment covers a subject matter not within the jurisdiction of the Committee on Government Operations, but within the legislative jurisdiction of another Committee of the House of Representatives.

The gentleman from New York, in urging the Chair to overrule the point of order, has cited many reasons. Part of the gentleman's statement deals with another section of the bill which has not been read at this time. Part of his remarks deal with the policy of the amendment, not with the parliamentary situation.

The Chair would not want to rule in this instance in such a manner that every law of the United States dealing with the energy question would be open to amendment in the pending bill.

The gentleman from New York (Mr. Rosenthal) referred during his argument to a bill in the 89th Congress creating a new Department of Transportation and delineating the duties of its Secretary. The Chair has examined the Congressional Record for the period when that bill was under consideration. An amendment was offered on that occasion directing the Secretary of Transportation to conduct a study of "labor laws as they relate to transportation," a matter within the jurisdiction of another committee, and to recommend procedures for settlement of labor disputes. A point of order was made against that amendment, and the Chairman at that time (the Honorable Mel Price of Illinois) ruled such an amendment out of order as not being germane to the bill under consideration.

The Chair would point out that the question of committee jurisdiction is

8. John J. Flynt, Jr. (Ga.).

not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

But this amendment clearly seeks to amend another law, the Emergency Petroleum Allocation Act of 1973, which is not sought to be amended in the bill under consideration.

Therefore, the Chair refers to a ruling made by Mr. Speaker Carlisle on March 17, 1880:

> When it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that the proposed amendment is a motion or proposition upon a subject matter different from that under consideration.

The Chairman of the Committee of the Whole House, John J. Fitzgerald of New York, on September 27, 1914, ruled that:

> For an amendment to be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment which would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane . . . is in the interest of orderly legislation.

In passing on the germaneness of an amendment, the Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time it is offered and not as originally referred to the committee. And it has been held that an amendment which might have been in order, if offered when the bill was first taken up, may be held not germane to the bill as modified by prior amendments.

The Chair, therefore, rules that the amendment seeks to amend a separate piece of legislation, namely, the Emergency Petroleum Allocation Act of 1973, which is not amended in the bill under consideration and sustains the point of order.

Overlapping Jurisdiction—Bill To Extend Federal Energy Administration; Amendment Terminating Agency and Transferring Functions to Other Agencies

§ 4.12 While committee jurisdiction over the subject of an amendment is a relevant test of germaneness, it is not the exclusive test where there is an overlap in jurisdiction between the committee reporting the bill and another committee.

On June 1, 1976,[9] during consideration of a bill (H.R. 12169) to extend the existence of the Federal Energy Administration (which would otherwise terminate), an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held germane as another reorganization proposal closely related to that contained in the law being amended. The amendment provided in part:

> The Clerk read as follows:

9. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

Amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs; the functions of the Office of Communications and Public Affairs. . . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior. . . .

Sec. 4. (a) The Director of the Office of Management and Budget shall take such action as may be necessary to insure the abolition of functions under section 2(a), in accordance with applicable laws and regulations relating to the abolition of functions.

(b) The Director of the Office of Management and Budget is hereby directed to take such action as may be necessary to insure that the transfer of functions does not result in any unnecessary duplication. . . .

Mr. John D. Dingell, of Michigan, having reserved a point of order against the amendment, the following exchange occurred:

THE CHAIRMAN:[10] Does the gentleman from Michigan insist upon his point of order?

MR. DINGELL: I do insist upon my point of order, Mr. Chairman. . . .

Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor.

If you will read the amendment, you will find that it transfers functions to the Energy Research and Development Administration, the Department of the Interior, and the Federal Power Commission. Nowhere in the bill before us or in the basic FEA statute are any of these agencies referred to. Furthermore, the amendment sets up a whole series of other responsibilities. It, first of all, transfers jurisdiction over litigation and has a lengthy savings clause which should have properly been referred to the Committee on the Judici-

10. William H. Natcher (Ky.).

ary. As the Chairman will note, that is the committee which has general jurisdiction over those areas of the Federal Constitution, both in the Constitution, and so forth. Beyond that, Mr. Chairman, the amendment imposes upon the Director of the Office of Management and Budget in at least two places certain responsibilities. For example, in the case of oversight responsibility under section 4(a), to insuring the abolition of the functions under section 2(a), something which is not in the original FEA statute and something which is not in the bill before us.

I would point out that the Director of the Office of Management and Budget is not here mentioned.

In addition to this, the Director of the Office of Management and Budget is required to make lengthy reports to special committees of the Congress which are not mentioned either in the bill, Government operation committees of the House and Senate, or in the basic FEA statute.

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. It is clearly obvious that no Member might have anticipated the removal of the FEA responsibilities to the Interior Department, the Federal Power Commission, or to ERDA, under the rules of the House or the language of the legislation which is brought to the floor; nor could any Member anticipate savings clauses with regard to litigation, or that there should be the transfer of matters relating to oversight to the Director of the Office of Management and Budget.

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . There are equal precedents pro and con on the germaneness of my substitute. It is a unique question.

I therefore believe that the policy must come into play. Upholding this point of order will create the following problems down the road.

First, the Senate, which has a bill, S. 2872, soon to be before it, is consid-

ering an entirely different FEA bill than H.R. 12169. This bill comes from its Government Operations Committee. It contains sections which parcel out the FEA like my amendment. So, if my substitute is found non-germane, then considering the usual conference committee procedures, the conference report on the FEA bill will probably also later be found non-germane—since it will still parcel out the FEA and thus be non-germane to what the House has passed.

Second, rule XVI, clause 7 of germaneness is of high value to the House. But, should it defeat a proposition which is merely an innovation on what would happen if the bill to be amended by it is defeated. Is the value of the rule of germaneness great when it negates for the House a chance to consider a sound alternative to a likely possibility?

Third, much ado has been made of the proposal for sunset legislation for Federal agencies. The Federal Energy Administration Act of 1974 contains, for all intent and purposes, a variety of this legislation unique to itself. Indeed, this is why the problem we are today facing even exists. Therefore, if my amendment in the nature of a substitute is rejected on a point of order, we in the House will have a tremendously counterproductive precedent to work with if and when sunset legislation for Federal agencies is enacted.

JURISDICTION

Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

PURPOSE

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions.

If a larger interpretation is placed on the bill—or the substitute—then defeat

itself of it would certainly be contrary to the rules and not permitted by the rules.

Other precedents to this point are numerous.

In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill—August 2, 1973. Both H.R. 12169 and the substitute propose to continue the functions of the FEA by Federal agencies. See very particularly the precedents of December 15, 1937, June 9, 1941, December 19, 1973. . . .

THE CHAIRMAN: The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Mrs. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—Public Law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII,

section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

Provisions To Regulate Production and Allocation of Energy Resources—Amendment To Reduce Energy Consumption by Reducing Federal Workweek

§ 4.13 To an amendment in the nature of a substitute for a bill reported from the Committee on Interstate and Foreign Commerce to conserve energy resources by regulating the production, allocation and use of those resources, an amendment to reduce energy consumption by the federal government through the implementation of a reduced workweek for federal civilian employees was held to go beyond the scope of the bill and to contain matters within the jurisdiction of the Committee on Post Office and Civil Service, and was held to be not germane.

During consideration of the Energy Emergency Act[11] in the Committee of the Whole on Dec. 14, 1973,[12] the Chair sustained a point of order against the following amendment:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Conte to the amendment in the nature of a substitute offered by Mr. Staggers: On page 44, immediately below line 21, insert the following:

(c) In order to assist the effective implementation of the purposes of this Act by the Federal Government in the area of Federal employment, the President, through such authority or authorities in the executive branch as he considers appropriate, shall prepare and submit to the Congress within ninety days after the date of enactment of this act a detailed and comprehensive plan for the establishment and institution, to the extent practicable, of a new basic administrative workweek of forty hours for Federal civilian employees in the executive branch . . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Massachusetts is not germane. The reasons, I think, are apparent to the Chair.

The amendment offered by my good friend would set up a 4-day workweek. I would be, I think, as surprised as the Chair if he were to find elsewhere in the bill and, indeed, on the basis referred to any reference to a 4-day, 40-hour workweek.

Obviously this matter is not within the jurisdiction of the Committee on Interstate and Foreign Commerce, but rather in the rules of Congress under the hands of the Committee on Post Office and Civil Service, if that committee has not voted away that power. I am not sure they did that some time back.

In any event, the amendment seeks to go far beyond the purpose and scope of the bill and deals with a whole new question, the workweek of Federal employees lying within the jurisdiction of a totally different committee. . . .

MR. CONTE: . . . Mr. Chairman, I think that the amendment is germane. If we look at section 122, which is the Employment Impact and Worker Assistance section, the first point of that section, (a) says that carrying out his responsibilities under this act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon employment.

I certainly feel this is germane. It takes that into consideration. It provides for a 40-hour workweek, 10 hours a day, keeping in mind the Civil Service laws and the overtime laws. If it does not go into effect and there is a shortage of energy, it is very, very possible, that a lot of Federal employees will be out of work much less than 40 hours a week.

Therefore, I hope the Chair will rule in my favor.

11. H.R. 11450.

12. 119 CONG. REC. 41756, 93d Cong. 1st Sess.

THE CHAIRMAN:[13] The Chair is prepared to rule. Despite the eloquent argument of the gentleman from Massachusetts, the fact of the matter is that the amendment goes well beyond the purposes of the section of the bill and the bill itself and the matter contained in the amendment surely comes within the jurisdiction of the Committee on Post Office and Civil Service.

Therefore, the point of order of the gentleman from Michigan is sustained.

Provisions Authorizing Secretary of Interior To Establish Petroleum Reserves—Amendment Giving President Authority Over Reserves Conditional Upon Subsequent Congressional Authorization

§ 4.14 To a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves, including naval petroleum reserves, on certain public lands, an amendment in the nature of a substitute containing similar provisions and authorizing the president to place petroleum reserves in strategic storage facilities "pursuant to any program subsequently authorized by Congress" was held germane, as not itself establishing a strategic storage facility (a matter within the jurisdiction of the Committee on Armed Services) but as merely conditioning the president's authority upon separate enactment of such program.

During consideration of H.R. 49 (relating to national petroleum reserves on public lands) in the Committee of the Whole on July 8, 1975,[14] Chairman Neal Smith, of Iowa, overruled a point of order against the following amendment:

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:

That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States . . . .

Sec. 2. No national petroleum reserve that includes all or part of an existing naval petroleum reserve shall be established without prior

13. Richard Bolling (Mo.).

14. 121 CONG. REC. 21631–33, 94th Cong. 1st Sess.

consultation with the Secretary of Defense, and when so established, the portion of such naval reserve included shall be deemed to be excluded from the naval petroleum reserve. . . .

(d) Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that not more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities. . . .

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, I have a point of order against the amendment on the basis that the amendment offered includes a sentence relating to strategic defense. The original bill, H.R. 49, had no such reference.

THE CHAIRMAN: Will the gentleman specify the language he refers to?

MR. HÉBERT: The language which I read, from section (d):

> Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that no more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities.

I point out, Mr. Chairman, that the original bill, as presented to the Committee on Rules, did not contain any such reference at all. Therefore, it is not germane. . . .

THE CHAIRMAN: The Chair is prepared to rule on this point of order.

The Chair would note that the language of the Melcher amendment referred to states "pursuant to any program hereafter authorized by the Congress."

The Melcher amendment does not set up a program nor authorize a program for strategic storage of petroleum; it merely refers to a program which may hereafter be authorized. If it did attempt to authorize a program not related to the committee amendment, then the decision on the point of order would be different.

However, since it does not, the point of order is overruled.

Provisions For Allocation of Petroleum Products and Coal—Amendment Waiving Provisions of Law in Order To Encourage Coal Production

§ 4.15 To an amendment in the nature of a substitute seeking to allocate petroleum products in order to stimulate exploration for and production of essential energy minerals, and containing a section intended to encourage the conversion to coal as an energy source and to require the proper allocation of coal to users thereof, an amendment proposing to expand domestic coal production by waiving certain provisions of law, not within the jurisdiction of the Committee which had reported the bill, which inhibit coal production was held germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[15] the Chair held that to an amendment in the nature of a substitute, the following amendment was germane:

MR. [LAMAR] BAKER [of Tennessee]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Baker to the amendment in the nature of a substitute offered by Mr. Staggers: On page 15, strike lines 13 and 14 and insert in lieu thereof the following:

"(d) Coal Production Authority.—The Administrator may take such actions as are necessary to assure an adequate supply of coal to attain the objectives of this section, including, but not limited to, the granting of exemptions from provisions of the Economic Stabilization Act which inhibit the ability of coal producers to obtain the necessary equipment and personnel for production and distribution of coal; and the granting of exemptions, on a case-by-case basis, from provisions of the Federal Coal Mine Health and Safety Act, in such cases as mines located above the water table or in which methane has not been detected as prescribed in section 303(h) of such Act, where it has been determined (1) that such provisions substantially reduce the ability of the producer to provide necessary supplies of coal in an economical manner, and (2) that the exemption will not materially affect the health and safety of employees of that producer.". . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment on these grounds. The amendment is not germane in that it deals with the subject matter of another committee, the Committee on Education and Labor; in that it purports to amend the Federal Coal Mine Health and Safety Act under the exclusive jurisdiction of that committee; and it proposes to assign to the Administrator the ability to grant exemptions under that act, which is in no wise amended or altered by this provision. . . .

MR. BAKER: Mr. Chairman, on page 5 of the bill under consideration, line 22, the President is urged to take such action consistent with the provisions of this act and is authorized to take under this act and any other act action to encourage full production by the domestic energy industry at levels which make possible the expansion of facilities required to insure against a protraction in any such increased levels of unemployment. The amendment would increase employment in its implementation.

On page 7, line 22, and on to page 8, the act calls for the production and extraction of minerals essential to the requirements of the United States. This would further enhance employment in the Nation.

Then on page 14 it says nothing in the paragraph should be interpreted as requiring such source to use a particular grade of coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Many of the small mines here would come under the provisions of this amendment.

I ask that the point of order be overruled.

15. 119 CONG. REC. 41748, 93d Cong. 1st Sess.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The language that appears on page 7, beginning at line 22, cited by the gentleman from Tennessee, says:

> (b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:
>
> "(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—
>
> "(1) fuels, and
>
> "(2) minerals essential to the requirements of the United States,
>
> and for required transportation related thereto;'.

The Chair believes that that language, together with the language cited on page 5 urging full production by the domestic energy industry, justifies the offering of this amendment which deals with coal production despite the point made by the gentleman from Texas with regard to the narrow construction of the section to which it is offered and, therefore, overrules the point of order.

The gentleman from Tennessee is recognized for 5 minutes in support of his amendment under clause 6 of rule XXIII.

Authorization to President To Ration Gasoline—Amendment Imposing User Charge as Part of Rationing Plan

§ 4.16 To a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities, including rationing of gasoline, among users of petroleum products, an amendment providing that any rationing proposal for individual users of gasoline should include payment of a user charge to qualify for additional allocations was held to constitute a tax which was not within the category of rationing authority in the substitute and was held to be not germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[17] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

> SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.
>
> (a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:
>
> "(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he

16. Richard Bolling (Mo.).

17. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

MR. [JAMES G.] MARTIN of North Carolina: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Martin of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "; *Provided, however*, That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a free or user charge on a per unit basis to the Federal Energy Administration."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

MR. MARTIN OF North Carolina: Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. . . .

This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

THE CHAIRMAN:[18] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

Tidelands Bill—Substitute Relating to Lease of Off-shore Lands

§ 4.17 To a bill relating to oil leases and seeking to estab-

18. Richard Bolling (Mo.).

lish the title of the states to lands beneath navigable waters within state boundaries, a substitute authorizing the Secretary of the Interior to lease off-shore lands, and establishing an agency to advise on the disposition of revenues from such leases was held to be not germane.

In the 82d Congress, during consideration of the tidelands bill,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Michael J.] Mansfield [of Montana]: Strike out all after the enacting clause and insert in lieu thereof the following: . . .
>
> Sec. 2. All moneys received by the Secretary of the Interior from leases issued pursuant to this act shall be held in a special account. . . .
>
> Sec. 3. There is hereby created a National Advisory Council on Grants-in-Aid of Education. . . . It shall be the function of the Council to formulate . . . a plan for the equitable allocation of the moneys available under section 2 for use as grants-in-aid of primary, secondary, and higher education.

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

> MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill under consideration. It provides a system of aid to education, which is not within the contemplation or purview of this bill.

The Chairman,[1] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Montana not only deals with oil leases, but undertakes to set up a new agency of Government and to divert the fund for educational grants and educational purposes, a subject which is within the exclusive jurisdiction of another committee of the House, namely the Committee on Education and Labor. In view of that fact the Chair is constrained to sustain the point of order.

Bill Relating to Development of Outer Continental Shelf Energy Resources—"Buy-American" Amendment Affecting Equipment Used

§ 4.18 To a title of a proposition reported from the Select Ad Hoc Committee on the Outer Continental Shelf comprehensively amending the Outer Continental Shelf Lands Act to impose diverse restrictions and conditions on the management and development of energy resources on the outer continental shelf, an amendment to require that vessels, rigs

19. H.R. 4484 (Committee on the Judiciary).

20. 97 CONG. REC. 9193, 82d Cong. 1st Sess., July 30, 1951.

1. Howard W. Smith (Va.).

and platforms used in such development be built and operated by domestic concerns was held germane as a further restriction similar in nature to those already contained in the title.

On July 21, 1976,[2] the Committee of the Whole had under consideration H.R. 6218, the Outer Continental Shelf Lands Act Amendments, which contained restrictions and conditions on the management and development of energy resources on the outer continental shelf, including safety regulations pertaining to the design and use of all equipment on the shelf, requirements for the federal purchase of resources extracted from the shelf, and limitations on export of such resources. An amendment was offered, as follows:

> MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Murphy of New York: Page 123, line 9, strike out the quotation marks and the period following such quotation marks and insert immediately after line 9 the following new section:
>
> "Sec. 29. Domestic Construction and Operation.—(a) Within six months of the date of the enactment of this section, the Secretary shall by regulation require that any vessel, rig, platform, or other vehicle or structure used more than one year after such date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the outer Continental Shelf be manned or crewed by citizens of the United States, unless specific contractual provisions or national registry manning requirements in effect on such date of enactment provide to the contrary. The Secretary shall also by regulation require that any vessel, rig, platform, or other vehicle or structure used more than one year after such date of enactment in the exploration, development, or production of the mineral resources located on or under the seabed and subsoil of the outer Continental Shelf and built or rebuilt more than one year after such date of enactment (1) be built or rebuilt in the United States, (2) be owned by citizens of the United States, (3) be operated by citizens of the United States, (4) be manned or crewed by citizens of the United States, and (5) when required to be documented, be documented under the laws of the United States. . . .

THE CHAIRMAN:[3] Does the gentleman from Florida (Mr. Gibbons) insist upon his point of order?

MR. [SAM] GIBBONS [of Florida]: Yes, sir, I do. . . .

This amendment is not germane to that. This amendment is a naked buy national requirement. This bill deals with the production of oil and resources of the Outer Continental Shelf. This amendment restricts where people can buy the material that goes into it for its ordinary production.

Another important reason why this amendment is out of order is that the

2. 122 CONG. REC. 23167, 23168, 94th Cong. 2d Sess.

3. William H. Natcher (Ky.).

jurisdiction of this ad hoc committee is severely limited by the rules of the House and by the resolution establishing the committee.

The rules of the House, rule X, clause 3, authorizes the Speaker to refer matters to a special ad hoc committee, such as this, with the approval of the House membership. An ad hoc committee is to be made up of members of the legislative committees that have jurisdiction over the matter.

This amendment is wholly within the jurisdiction of the Committee on Ways and Means. It is not within the jurisdiction of any of the three subcommittees that deal with this matter. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the Murphy amendment. The basis for my point of order is that the amendment violates rule XVI because it is not germane.

Cannon's Precedents—VII—states that committees are all creatures of the House and exercise no authority or jurisdiction beyond that specifically conferred by the rules or by the special delegation of the House itself. House Resolution 412, passed last year, which created the select committee strictly limited its jurisdiction to that of the Committees on Interior, Judiciary, and Merchant Marine and Fisheries.

The Murphy amendment is a so-called Buy American provision requiring vessels, rigs, and platforms be built in the United States. These protectionist restrictions of trade clearly fall within the jurisdiction of the Ways and Means Committee and obviously exceeds the jurisdiction given to the select committee under House Resolution 412.

Deschler's Procedure, chapter 28, section 33.1 covers the example of an Education and Labor bill in the 90th Congress amending the Fair Labor Standards Act. An amendment proposing to modify the Tariff Act of 1930 which was within the jurisdiction of the Committee on Ways and Means was held to be nongermane. The same chapter, section 4.8 cites another bill amending the Fair Labor Standards Act. An amendment modifying provisions with respect to the importation of merchandise was ruled nongermane.

Mr. Chairman, Deschler, chapter 28, section 4.16 states that committee jurisdiction over the subject of the amendment and of the original bill is not the exclusive test of germaneness, but in this case the amendment clearly invades another jurisdiction and is not integral to the purpose or effect of the bill according to our rules. The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The fundamental purpose of this bill is not protectionism or restriction of trade. . . .

MR. MURPHY of New York: Mr. Chairman, this amendment is clearly germane. One major purpose of the bill H.R. 6218 is to establish a policy for the management of oil and natural gas development in the Outer Continental Shelf. This goal is accomplished through numerous provisions which direct Secretary of the Interior and other Federal officials to assert regulatory authority over the individuals and mechanical equipment and devices involved in the exploration, development, and production of Outer Continental Shelf oil and gas. . . .

Simply put, the subject before the House is the broad issue of policy to

regulate the development of OCS oil and gas. The subject before the House is who will develop OCS resources, under what environmental, social, and economic controls. My amendment addresses this subject and is thus germane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I primarily rise because I think it is extremely important that we not establish a precedent respecting any jurisdiction which is too narrow in an ad hoc committee of this nature.

The very reason for appointing ad hoc committees is to give a certain flexibility and a certain scope to deal with the specific problem.

Mr. Chairman, as the gentleman from New York (Mr. Murphy) has very well pointed out, his amendment is a restriction on terms and conditions provided for in this bill which has been designated to this ad hoc committee.

It would seem to me that this is a ruling of vast importance because there may well be a time in this body when a number of ad hoc committees may be appointed as a necessary instrument for putting into effect the will of this body; and a narrow construction with respect to germaneness on the basis of the delegation of the jurisdiction of those committees would, in my opinion, be a very, very bad thing from the standpoint of future precedent.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Gibbons) makes a point of order against the amendment offered by the gentleman from New York on the grounds that it is not germane to title II of the committee amendment in the nature of a substitute.

The amendment would add a new section to the Outer Continental Shelf Lands Act to require that vessels, rigs and platforms used for the exploration and production of resources on the Outer Continental Shelf be built in the United States, operated by United States citizens, and documented under the laws of the United States. Section 208 of the committee amendment in the nature of a substitute to H.R. 6218 adds a variety of new sections to the Outer Continental Shelf Lands Act to impose requirements on and to offer guidelines for the development and production of the resources on the shelf. The committee amendment requires management of the shelf to consider all economic, social, and environmental values of such resources, imposes safety regulations on the design and use of all equipment on the shelf, requires leasing plans, subject to the approval of the Secretary, to detail the equipment and facilities to be used in development, and provides for the gathering of all information relative to the facilities and equipment to be used in such development. Additionally, section 208 adds sections to the existing act to insure the availability of domestic energy from shelf development by providing for Federal purchase of the resources and limiting export of such resources. The amendment offered by the gentleman from New York would add a further direction and restriction to those contained in section 208 of the committee amendment. For the reasons stated, the Chair feels that the amendment in this context is germane to the portion of the bill to which it is offered and therefore overrules the point of order.

Energy Conservation—Import Quotas

§ 4.19 To a title of a bill reported from the Committee on Interstate and Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

On Sept. 17, 1975,[4] the Committee of the Whole having under consideration the Energy Conservation and Oil Policy Act of 1975,[5] a point of order against an amendment to a title of the bill was sustained. The proceedings were as follows:

TITLE IV—ENERGY CONSERVATION MEASURES

PART A—ALLOCATION ACT AMENDMENTS AND OTHER ENERGY CONSERVATION MEASURES

Sec. 401. Restructuring of Allocation Act.

Sec. 402. Conversion to standby authorities.

Sec. 403. Definitions in Allocation Act.

Sec. 404. Amendments to section 4 of the Allocation Act.

Sec. 405. Mandatory gasoline allocation savings program.

Sec. 406. Retail distribution control measures.

Sec. 407. Direct controls on refinery operations.

Sec. 408. Inventory controls.

Sec. 409. Hoarding prohibitions. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 282, after line 16 insert the following:

Import Quotas on Petroleum Products From Certain OPEC Countries

Sec. 456. During calendar year 1976, and each calendar year thereafter, the aggregate quantity of petroleum products which may be imported into the United States from each country which is a member of the Organization of Petroleum Exporting Countries (other than Venezuela, Iran, Ecuador, Indonesia, Nigeria and any other member who did not participate in the petroleum products boycott of 1973) may not exceed an amount equal to the daily average of petroleum products imported into the United States from that country during the first six months of calendar year 1975, multiplied by 365.

Redesignate the succeeding sections of title IV accordingly.

Mr. John D. Dingell, Jr., of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the title of the amendment is "Import

4. 121 CONG. REC. 28905, 28924, 28925, 94th Cong. 1st Sess.

5. H.R. 7014.

Quotas on Petroleum Products From Certain OPEC Countries." The bill does not provide import quotas. The bill does direct the President to use, however, certain authorities which he has in connection with other statutes under subparagraph (b) in line 17 of page 249, but, as the Chair will observe, that is only a direction to the President to use certain powers which he has in connection with controlling domestic consumption of petroleum products. . . .

First of all, (the amendment) is offered I believe at the wrong place in the bill and, second of all, it is a proposal which is not properly in the bill since the Committee on Interstate and Foreign Commerce has no jurisdiction to impose import quotas, that lying under the rules of the House in the Ways and Means Committee.

Also, since this is an amendment of which the Members could not reasonably and logically have been apprised as required by the rules of the House from the title of the legislation now before the House and although I have some sympathy for the purposes and goals of the gentleman, I have to point out, nevertheless, the question is not a question which could or should properly be decided by the Committee at this time under the rules of the House. . . .

MR. GONZALEZ: . . . I would like to call the attention of the Chair to Deschler's Procedure, on page 374, citation 5.17, in which it is held very clearly and most emphatically:

> To a text seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

The purpose of the bill is to increase domestic supply, conserving and managing energy demand, and to establish standby programs for minimizing this Nation's vulnerability to major interruptions in the supply of petroleum imports.

My amendment is more definitive in that it provides through import quotas a means to encourage conservation, which is directly related to the broad purpose of this bill.

Now, in addition, the gentleman is arguing what I think is improper in his point of order. The gentleman is raising the point of committee jurisdiction. The gentleman says that this is not a matter within the jurisdiction of the gentleman's committee that has this bill here.

Well, I want to refer the Chair to page 369 of Deschler's Procedures, citation 416, which states that committee jurisdiction is not the exclusive or the absolute test of germaneness.

So I feel that based on Deschler's bible of procedure in our House, my amendment is not only germane, it is timely. It is proper and it is in order with what we are debating as the general scope and purpose of the legislation pending.

THE CHAIRMAN:[6] The Chair is ready to rule. The gentleman from Michigan and the gentleman from Ohio have made points of order against the amendment offered by the gentleman from Texas on the ground that it is not germane.

The gentleman from Texas replies with two citations from Deschler's Pro-

6. Richard Bolling (Mo.).

cedures, which appear to be to the point, but in the opinion of the Chair are not precisely on the specific point. There is not in this title of the bill, at least the Chair is unable to find a specific imposition of general import quotas on all petroleum products. There is not any specific imposition of general import quotas.

Furthermore, the Chair is of the opinion that in this particular case it is pertinent that the matter in the gentleman's amendment would properly be within the purview of the Committee on Ways and Means, rather than the Committee on Interstate and Foreign Commerce.

Therefore, on these grounds, relatively narrow grounds, the Chair rules that the points of order are valid and rules that the amendment is not in order.

Provisions Conferring Discretionary Authority To Restrict Exports of Energy Resources—Amendment To Prohibit Exportation of Petroleum Products for Particular Uses

§ 4.20 To a proposition conferring broad discretionary authority on an executive official, an amendment directing that official to take certain actions in the exercise of that authority is germane; thus, to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in military operations in Indochina was held germane as a delineation of the broad authority conferred by that substitute.

On Dec. 14, 1973,[7] during consideration of H.R. 11450 (the Energy Emergency Act), the Chair held the following amendment to be germane to the amendment in the nature of a substitute to which it was offered:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Ms. Holtzman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos.". . .

7. 119 CONG. REC. 41753, 93d Cong. 1st Sess.

MR. [JAMES T.] BROYHILL of North Carolina: Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example. . . .

MS. HOLTZMAN: Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that that subject is germane, and that my amendment is germane to the bill.

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

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

> To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products. . . .

The amendment offered by the gentlewoman from New York (Ms. Holtzman) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. Broyhill).

8. Richard Bolling (Mo.).

Bill Providing for Tax Incentives To Conserve Energy—Amendment Prohibiting Purchase of Fuel Inefficient Automobiles by Federal Government

§ 4.21 To a bill reported from the Committee on Ways and Means providing for taxes and tax incentives to conserve energy, an amendment prohibiting the purchase or leasing of fuel inefficient autos by the federal government was held to be not germane, as being beyond the scope of the bill and as dealing with a subject (that of government purchases) properly within the jurisdiction of another committee.

During consideration of the Energy Conservation and Conversion Act of 1975[9] in the Committee of the Whole on June 13, 1975,[10] the Chair sustained a point of order against the following amendment:

> Amendment offered by Mr. Tsongas: Page 71 insert after line 20 the following:
>
> SEC. 312. PROHIBITION OF PURCHASE OF FUEL INEFFICIENT AUTOMOBILES BY THE FEDERAL GOVERNMENT.

9. H.R. 6860.

10. 121CONG. REC. 18816, 18817, 94th Cong. 1st Sess.

(a) Prohibition of Purchase of Fuel Inefficient Automobiles.—No agency of the Federal Government may purchase or lease any 1977 or later model year automobile if the fuel mileage rating of such automobile is less than the minimum fuel mileage standard applicable to such automobile.

(b) Minimum Fuel Mileage Standard.—For purposes of subsection (a)—the fuel mileage standard for a 1977 model year automobile shall be 17; for a 1978 automobile, 18; for a 1979 automobile, 19; for a 1980 or later model year automobile, 20.

(4) Fuel Mileage Rating.—The fuel mileage rating of any automobile shall be the fuel mileage rating determined for such automobile under section 4084(e) of the Internal Revenue Code of 1954 or, if such section does not apply with respect to such automobile, the fuel mileage rating of such automobile shall be determined under such section as if such section did apply to such automobile. . . .

MR. [AL] ULLMAN [of Oregon]: . . . I make the point of order that this amendment is not germane to the bill, on two counts.

First, there is nothing in either this title or the bill relating to Government purchases. Second, the matter contained in the amendment is not properly under the jurisdiction of the Committee on Ways and Means. It is not a tax matter, and therefore, it is nongermane to the bill. . . .

MR. [PAUL E.] TSONGAS [of Massachusetts]: Mr. Chairman, I would like to make three points in response to the point of order.

First, quite obviously, the thrust of my amendment is fuel efficiency. It refers to the same standards that we discussed on the floor and voted on with respect to the Sharp amendment, the Fisher amendment, and the Ottinger amendment among others.

My amendment applies to the standards of the U.S. Government as those amendments applied to the U.S. public and to automobile manufacturers, but the thrust of my amendment is fuel efficiency. That, indeed, is what this bill is all about.

Second, it does not authorize the Government purchase of automobiles, which would be the proper jurisdiction of the Committee on Government Operations. It simply sets standards of efficiency for Government vehicles as an aid to encourage conservation, which is the function of this bill and the function of the Committee on Ways and Means.

Third, it is, in a sense, a revenue amendment in that it refers to savings, both in terms of the purchase of automobiles and of gasoline by the U.S. Government, and thus does come properly under the domain of the Committee on Ways and Means and in that committee's jurisdiction. . . .

THE CHAIRMAN:[11] The Chair is ready to rule.

The amendment offered by the gentleman from Massachusetts (Mr. Tsongas) provides in part as follows:

> Prohibition of Purchase of Fuel Inefficient Automobiles.—No agency of the Federal Government may purchase or lease any 1977 or later model year automobile if the fuel mileage rating of such automobile is less than the minimum fuel mileage standard application to such automobile.

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11. William H. Natcher (Ky.).

There is nothing in the bill that deals with purchasing and leasing authority, the Chair would have to advise the gentleman from Massachusetts (Mr. Tsongas); and in addition, the subject matter of Government purchases is not within the jurisdiction of the committee in charge of the bill on the floor, the Committee on Ways and Means.

Therefore, the point of order must be sustained.

Energy Conservation—Fusion Research

§ 4.22 To a title of a bill reported from the Committee on Interstate and Foreign Commerce entitled "Conversion from Oil or Gas to other fuels," but referring only to industrial conversion from oil or gas to coal, an amendment adding a new section increasing the authorization of the Energy Research and Development Administration to promote the practical application of fusion energy (a matter within the jurisdiction of the Joint Committee on Atomic Energy and not within the scope of the title of the bill), was held to be not germane.

On Sept. 18, 1975,[12] during consideration of the Energy Conservation and Oil Policy Act of 1975[13] 13 in the Committee of the Whole, Chairman Richard Bolling, of Missouri, sustained a point of order against an amendment to the pending title of the bill:

TITLE VI—CONVERSION FROM OIL OR GAS TO OTHER FUELS

Sec. 601. Extension of authority to issue orders.

Sec. 602. Extension of enforcement authority. . . .

Sec. 606. Incentives to open new underground mines producing low sulfur coal. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: On page 338, after line 25, insert a new section.

"Sec. 607. An additional $100,000,000 is authorized for the Energy Research and Development Administration for a high priority program exclusively geared to the practical application of fusion energy."

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Michigan reserves a point of order.

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Washington reserves a point of order. . . .

12. 121 CONG. REC. 29333–35, 94th Cong. 1st Sess.

13. H.R. 7014.

MR. MCCORMACK: Mr. Chairman, my point of order is that the amendment comes to the wrong bill and to the wrong committee. The authorization for nuclear research should come to the Joint Committee on Atomic Energy and the Energy Research and Development Administration. . . .

I make my point of order, Mr. Chairman, on the ground that this amendment is out of order because the jurisdiction falls exclusively with the Joint Committee on Atomic Energy and the Energy Research and Development Administration.

THE CHAIRMAN: The gentleman from Michigan (Mr. Dingell) also reserved a point of order against the amendment.

Does the gentleman wish to be heard on his point of order?

MR. DINGELL: . . . I would like to commend my good friend, the gentleman from Texas (Mr. Gonzalez) for offering what I think is a very well written amendment. Unfortunately, no hearings have been held on it, and it has not been considered.

I would point out to the body that the germaneness rule requires that the character of the amendment be such that the membership would have reasonably been apprised that amendments of that sort might be placed before the body. Unfortunately, the character of the amendment is such that it provides certain authorities for ERDA, the Energy Research and Development Agency.

Unfortunately, I do not think there is any way that anyone here could have anticipated amendments dealing with adding authorities or changing authorities within ERDA. . . .

MR. GONZALEZ: . . . In arguing the point of germaneness, I will address myself first to the remarks of the gentleman from Washington (Mr. McCormack). . . .

If we are going to debate on a point of order the merits of the amendment, it is contrary to the clear indication in Deschler's Procedure, one of which decisions I quoted yesterday, on page 73, which says that one does not look to the material content of the general purposes of the bill to determine the specificity—there is a good Watergate word—the specificity of the pending amendment.

The gentleman says, "This is the wrong church, the wrong pew. It ought to go over here into another bill.". . .

Facetiously, let me say that we can make that comment about the last 6 months and say that this bill before the committee has been in the wrong committee and in the wrong place for the last 6 months.

Let me say, however, that in Deschler's Procedure, both cases that I cited yesterday in the Record clearly control the situation here.

I cannot think of anything more germane than this amendment to the section of the bill that is talking about research and development. It is actually authorizing moneys for that purpose. . . .

As to the point of the second gentleman, the gentleman from Michigan (Mr. Dingell), his contention again comes repetitiously as yesterday. He talks about the sanctity of committee jurisdiction. Deschler's Procedure and particularly that citation I quoted yesterday clearly says that that shall not be a governing factor in determining whether or not an amendment is germane to a pending bill. The jurisdic-

tion of a committee is not the controlling factor with respect to germaneness. . . .

THE CHAIRMAN: The Chair is ready to rule.

The title of title VI is exceptionally broad, in the opinion of the Chair.

If the content of title VI were as broad as the title, the Chair believes that the arguments of the eloquent gentleman from Texas (Mr. Gonzalez) might bear more weight. But it is the content of the pending title and not its heading against which the germaneness of the amendment must be weighed.

The Chair has had the opportunity to examine with some care all of title VI and also language on pages 17 and 18 of the committee report which deals with title VI. The Chair will not read from those words except to say that the Chair only refers to those words in that they support his view that title VI actually deals with the conversion from oil or gas to coal and thus the scope of the title is quite narrow. The amendment therefore does not fit the rule of germaneness despite the eloquence of the gentleman from Texas and the Chair feels compelled to rule that the amendment is not germane to title VI and therefore sustains the various points of order.

Parliamentarian's Note: As the Chair indicates above, the scope of a title of a bill is determined by the provisions contained therein, not by the phraseology of the formal heading of the title.

Provisions Establishing Procedures for Designating Priority Projects Within Synthetic Fuels Program—Amendment Authorizing Temporary Waivers of Laws Inconsistent With Projects

§ 4.23 For an amendment establishing procedures for designating priority projects within a federally financed synthetic fuels program and expediting procedural decision-making deadlines, but not waiving substantive laws that might affect completion of those projects, a substitute amendment authorizing the president to waive any provision of law (if not disapproved by Congress) inconsistent with the approval, construction and operation of synthetic fuel projects was held not germane as a prospective temporary repeal of those substantive laws within the jurisdiction of other committees and beyond the narrow class of procedural waivers in the original amendment.

On June 26, 1979,[14] the Committee of the Whole had under consideration an amendment to

14. 125 CONG. REC. 16683–86, 96th Cong. 1st Sess.

the Defense Production Act Amendments of 1979 (H.R. 3930) when the following substitute for the amendment was offered and, a point of order having been raised, was held to be not germane:

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio as a substitute for the amendment offered by Mr. Udall: Page 8, after line 13, insert the following new subsection:

"(g)(1) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

"(A) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(B) take final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking final action on any such permit, approval, or authorization, such officer or agency shall publish notification thereof in the Federal Register.

"(2)(A) Within 6 months after the date of the enactment of this section, and from time-to-time thereafter, the President shall—

"(i) identify those provisions of Federal law or regulations (including any law or regulation affecting the environment or land leasing policy) which the President determines should be waived in whole or in part to facilitate the construction and operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section; and

"(ii) submit any such proposed waiver to both Houses of the Congress.

"(B) The provisions of law so identified shall be waived with respect to the construction and operation of such facility to the extent provided for in such proposed waiver if 60 days of continuous session of Congress have expired after the date such notice was transmitted and neither House of the Congress has adopted during that period of continuous session a resolution stating in substance that such House disapproves of that waiver. The term 'continuous session of Congress' shall have the same meaning as given it in section 301 of this Act.".

Redesignate the following provisions accordingly. . . .

THE CHAIRMAN:[15] Does the gentleman from Oregon (Mr. Weaver) insist on his point of order?

MR. [JAMES] WEAVER [of Oregon]: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. WEAVER: Mr. Chairman, the amendment says the President shall identify provisions of Federal law or regulations. They are unidentified law or regulations, other than to say they deal with the environment and land use policy.

If these provisions of law so identified are submitted to the Congress, they will be waived. In other words, it affects law outside the bill we have before us. It amends unidentified law. . . .

15. Gerry E. Studds (Mass.).

MR. BROWN of Ohio: . . . Mr. Chairman, I rise in opposition to the point of order raised against my amendment.

My amendment is clearly germane not only to the bill before us but also to the Defense Production Act which the bill amends. On page 5 of this very bill, lines 17 through 21, language similar to that contained in my amendment can be found, and I quote:

> (c) Purchases, commitments to purchase, and resales under subsection (b) may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods as the President deems necessary . . .

And then it goes on, and the quotation is ended.

That relates to what I offer in my amendment with reference to the President and his opportunity to waive existing law.

Similar language to that in my amendment providing for waiver of existing laws can be found in title 3 of the Defense Production Act which section 3 of H.R. 3930 would amend.

Mr. Chairman, the Defense Production Act is a very broad bill inasmuch as it deals with our national defense. Title 50, United States Code, section 2091, says, and I quote:

> Without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts.

My amendment is a broad waiver provision, but it is no broader than those waiver provisions found in the Defense Production Act and in section 3 of H.R. 3930, which again is designed to amend the Defense Production Act.

Therefore, Mr. Chairman, I would argue to the Chair that my amendment is germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The waivers of existing law found both in the amendment offered by the gentleman from Arizona (Mr. Udall) and in the bill and statute itself are, in the judgment of the Chair, waivers with respect to a very narrow class of existing law. The statute itself makes reference to provisions of law relating to the "making, performance, amendment, or modification of contracts," a specific reference to a narrow phase of law.

The Chair would cite Deschler's Procedure, chapter 28, section 33:

> To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a commodity outside the class of those covered by the bill and was ruled not germane.

The amendment offered by the gentleman from Arizona (Mr. Udall) does not purport to waive all inconsistent Federal statutes. The substitute offered by the gentleman from Ohio (Mr. Brown) would permit waiver of all provisions of law within the jurisdiction of other committees and is, in the opinion of the Chair, therefore, in effect a temporary prospective repeal of any other law which otherwise would interfere with the construction of any facility financed by this bill, and the Chair sustains the point of order.

Bill Providing for Synthetic Fuel Program for Defense Purposes—Amendment Requiring Commercial Fuels To Contain Certain Percentage of Synthetic Fuel

§ 4.24 Where a bill pending before the Committee of the Whole amended the Defense Production Act to direct the President to achieve a national production goal of synthetic fuels to meet defense purposes, and there was pending an amendment only to increase the amount of that goal and to provide funding to meet that goal, a substitute for the amendment requiring that any fuel sold in commerce contain a certain percentage of synthetic fuel, and requiring the Secretary of Energy to promulgate regulations setting such percentage, was held not germane as going beyond the scope of the amendment and containing matter not within the jurisdiction of the reporting committee (Banking, Finance and Urban Affairs).

During consideration of the Defense Production Act Amendments of 1979 (H.R. 3930) in the Committee of the Whole on June 26, 1979,[16] amendments offered as a substitute for pending amendments were ruled out as going beyond the scope of the pending amendment and therefore not germane. The proceedings were as follows:

The Clerk read as follows:

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Sec. 3. (a) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091) . . . .

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 305. (a) The President, utilizing the provisions of this Act and any other applicable provision of law, shall attempt to achieve a national production goal of at least 500,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than five years after the effective date of this section. The President is authorized and directed to require fuel and chemical feedstock suppliers to provide synthetic fuels and synthetic chemical feedstocks in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. . . .

(c) Not later than July 1, 1981, the Secretary shall prescribe, by rule, the minimum percentage replacement fuel, by volume, required to be contained in the total quantity of gasoline and diesel fuel sold each year in commerce in the United

16. 125 CONG. REC. 16663, 16668, 16673, 16674, 96th Cong. 1st Sess.

17. Gerry E. Studds (Mass.).

States in calendar years 1982 through 1986 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1987. . . .

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Wright: Page 5, line 2, strike out the period after "section" and insert in lieu thereof "and at least 2,000,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than ten years after the effective date of this section."

Page 10, line 23, strike "appropriated $2,000,000,000" and insert in lieu thereof "appropriated from general funds of the Treasury not otherwise appropriated or from any fund hereafter established by Congress after the date of enactment of this sentence not to exceed $3,000,000,000". . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendments offered by Mr. Jeffords as a substitute for the amendments offered by Mr. Wright: Page 5, line 8, add new subsections "(b)" through "(f)".

(b) Of the total quantity of gasoline and diesel fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel shall constitute the minimum percentage determined in accordance with the following table: . . .

[In calendar years 1982 through 1986, the percentage determined by the Secretary under subsection (b) of this section; 1987, 1988, and 1989, 10 per cent (etc.)]

MR. [WILLIAM S.] MOORHEAD of Pennsylvania: Mr. Chairman, as much as I support the concept of the substitute of the gentleman from Vermont—I believe I am a cosponsor of his bill—I do not believe it is a proper part of this legislation in that it is not germane.

First, it is not germane to the Wright amendment which is a production amendment and a defense production amendment.

This amendment is a regulatory amendment dealing with "replacement fuels sold in commerce." It is not a production bill.

The same language is contained further down. It regulates the amount of synthetic fuel and diesel fuel sold each year in commerce in the United States and the guts of the bill are regulatory, rather than production aimed. Therefore, this amendment is not germane to the Wright amendment or to the bill. . . .

MR. JEFFORDS: Mr. Chairman, it seems to me that once the Wright amendment has been agreed to as being part of the bill, then a substitute which goes well beyond the original concept of the bill is also germane and in order.

I would point out that the Wright amendment, as I have said before, takes us totally out of just the needs for the Federal Government and goes

out into the area of sales in commerce. I think because the Wright amendment is being considered as germane, the substitute should also.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The amendment offered by the gentleman from Texas goes to goals for defense production of synthetic fuels and to the funds to achieve those goals. The amendment offered by the gentleman from Vermont, for reasons stated by the gentleman from Pennsylvania, is not solely related to defense production but rather goes to all diesel fuel and gasoline sold in commerce whether defense related or not and does not speak solely to the production of synthetic fuels for defense purposes. It is therefore beyond the scope of the Wright amendment and is not germane, and the Chair is also constrained to point out the subject matter of the amendment offered by the gentleman from Vermont does not lie within the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

For the foregoing reasons the Chair sustains the point of order.

Bill To Provide Financial Assistance for Synthetic Fuel Development for Defense Needs—Amendment Providing for Expedited Approval of Designated Projects Under Bill

§ 4.25 To a section of a bill amending the Defense Production Act providing financial assistance for synthetic fuel development to meet national defense needs, an amendment providing expedited review and approval of certain designated priority projects to be financed by the bill, thereby affecting time periods for procedural review specified in other laws, but not waiving provisions of substantive law which might prohibit completion of such projects, was held germane as not affecting substantive environmental or energy laws within the jurisdiction of other committees.

On June 26, 1979,[18] during consideration of the Defense Production Act Amendments of 1979[19] in the Committee of the Whole, Chairman Gerry E. Studds, of Massachusetts, overruled a point of order and held the following amendment to be germane:

Amendment offered by Mr. Udall: Page 8, after line 13 add the following new subsection and renumber the subsequent sections accordingly:

(g)(1)) The Secretary of Energy is hereby authorized to designate a pro-

17. Gerry E. Studds (Mass.).

18. 125 CONG. REC. 16681–83, 96th Cong. 1st Sess.

19. H.R. 3930.

20. 131 CONG. REC. 17810, 99th Cong. 1st Sess.

posed synthetic fuel or feedstock facility as a priority synthetic project pursuant to the procedures and criteria provided in this section. . . .

(h)(1) Any person planning or proposing a synthetic fuel or feedstock facility may apply to the Secretary of Energy for an order designating such facility as a priority synthetic project. . . .

(i) Not later than forty-five days after receipt of an application authorized under the previous section, the Secretary shall determine whether the proposed synthetic fuel or feedstock facility is of sufficient national interest to be designated a priority synthetic project. Upon reaching a determination the Secretary shall publish his decision in the Federal Register and shall notify the applicant and the agencies identified in subsection (h)(3). In making such a determination the Secretary shall consider—

(1) the extent to which the facility would reduce the Nation's dependence upon imported oil;

(2) the magnitude of any adverse environmental impacts associated with the facility and the existence of alternatives that would have fewer adverse impacts; . . .

(7) the extent to which the applicant is prepared to complete or has already completed the significant actions which the applicant in consultation with the Deputy Secretary anticipate will be identified under subsection (l) as required from the applicant; and

(8) the public comments received concerning such facility. . . .

(l) Not later than thirty days after notice appears in the Federal Register of an order designating a proposed synthetic fuel or feedstock facility as a priority synthetic project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Secretary of Energy and to the priority energy project—

(1) a compilation of all significant actions required by such agency before a final decision or any necessary approval(s) can be rendered;

(2) a compilation of all significant actions and information required of the applicant before a final decision by such agency can be made;

(3) a tentative schedule for completing actions and obtaining the information listed in subsections (1) and (2) of this subsection;

(4) all necessary application forms that must be completed by the priority energy project before such approval can be granted; and

(5) the amounts of funds and personnel available to such agency to conduct such actions and the impact of such schedule on other applications pending before such agency.

(m)(1) Not later than sixty days after notice appears in the Federal Register of an order designating a synthetic fuel or feedstock facility as a priority synthetic project, the Secretary, in consultation with the appropriate Federal, State and local agencies shall publish in the Federal Register a Project Decision Schedule containing deadlines for all Federal actions relating to such project. . . .

(3) All deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal agencies governed by such Schedule.

(4) Except as provided in subparagraph (3) above and in subsection (p) no deadline established under this section or extension granted under subparagraph (5) of the section may result in the total time for agency action exceeding nine months beginning from the date on which notice appears in the Federal Register of an order designating the proposed synthetic fuel or feedstock facility as a priority synthetic project.

(5) Notwithstanding any deadline or other provision of Federal law, the deadlines imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines for reviewing applications filed by the priority synthetic project. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Arizona is not germane. . . .

Mr. Chairman, it is well settled the amendment must be germane not only to the section but also to the bill.

Mr. Chairman, the bill relates to the Defense Production Act.

Mr. Chairman, under the amendment, a lengthy process is established whereunder the Secretary of Energy, who is not mentioned elsewhere in the bill, is authorized to designate synthetic fuel or feedstocks facilities as priority synthetic projects, pursuant to lengthy criteria which are set forth at the first and second pages and following.

So, Mr. Chairman, there is a whole range of broad new responsibilities imposed on the Secretary of Energy not found elsewhere, either in the Defense Production Act or in the bill before us, which are quite complex, very obvious, and which involve a lengthy amount of work and which involve amendment either directly or indirectly of a large number of Federal, State, and local statutes dealing with the project and permitting the project.

There is also an extensive procedural responsibility on both the Secretary and one which is imposed on the Governor of the State in which the action would occur.

For that reason, Mr. Chairman, a Member of this body could not very well anticipate as would be required by the rules of germaneness that an amendment of this sweep and breadth could be visited upon us. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a further point of order. . . .

I make a point of order against the amendment for the following reasons: The bill before us, H.R. 3930, amends the Defense Production Act of 1950 and it does so by extending the authority of the act and also providing for the purchase of synthetic fuels and synthetic chemical feed stock and for other purposes. An examination of the other purposes reveals nothing akin to the amendment before us. The amendment before us in effect seeks to apply the National Environmental and Policy Act of 1969, specifically on page 5 in subparagraph (d) to the facilities that would contract with the Government.

It appears to me that by attempting to do this, this is beyond the scope of the jurisdiction of this committee. It is within the scope of other committees' jurisdictions and certainly beyond the scope of the bill, which simply deals with contracts and purchases and not

the environmental qualities or activities of the people who seek to contract with the Government.

Therefore, the amendment is not germane and beyond the scope of the bill. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The pending bill creates authority to finance directly and indirectly synthetic fuel and chemical feed stocks, feedstock projects. . . .

What my amendment does is not to change any of the existing laws. It does not change any environmental protection laws or anything else, but it says we are going to have decisions. Within nine months after this is put on the fast track, we are going to get a yes or no decision on it. . . .

This amendment simply supplements the existing statutory procedures to achieve expedited approval or disapproval of various authorities necessary for the completion of synfuel projects created under the authority of the legislation; so the subject matter of the amendment is germane to the subject of the pending legislation. The point of order ought to be rejected, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule.

The bill before the committee bestows authority for loan guarantees to finance synthetic fuel or feedstock facility construction. The amendment of the gentleman from Arizona establishes a complex mechanism for expediting procedures for projects financed by loan guarantees under the bill.

The Chair is unable in response to the gentleman from Maryland to find any respect in which the amendment of the gentleman from Arizona would amend the National Environmental Protection Act, but merely provides that determinations made as to priority of synthetic projects eligible for expeditious review shall not be considered major Federal actions under that law.

In the opinion of the Chair, the totality of the Udall amendment constitutes essentially an expediting of procedures under authorities provided for in the bill and is, therefore, germane.

The Chair overrules the point of order.

Bill Relating to Military and National Defense Policy—Amendment Directing President To Submit Reports on Soviet Union's Compliance With Arms Control Agreements

§ 4.26 To a title of a bill containing matters within the jurisdiction of the committee reporting the bill, an amendment dealing solely with a matter within the jurisdiction of another committee is not germane; thus, to a title of a bill reported from the Committee on Armed Services, containing diverse provisions relating to national defense policy, military procurement and personnel, and amended to include conditions and restrictions on procurement funds in the bill that had reference to certain

considerations of foreign policy, an amendment directing the President to submit reports on the Soviet Union's compliance with its arms control commitments, a matter exclusively within the jurisdiction of the Committee on Foreign Affairs, was held not germane.

During consideration of H.R. 1872 (the Defense Authorization, fiscal 1986) in the Committee of the Whole on June 27, 1985,[20] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [JAMES A.] COURTER [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Courter: At the end of part C of title X (page 176, after line 8) insert the following new section:

sec. 1024. annual report on soviet compliance with arms control commitments.

Not later than December 1, 1985, and not later than December 1 of each year thereafter, the President shall submit to the Congress a report containing an update (since the most recent report to the Congress on the subject) of the President's findings regarding the Soviet Union's compliance with its arms control commitments, together with such additional information regarding the Soviet Union's compliance with its arms control commitments as may be necessary to keep the Congress currently informed on such matter. The President shall submit classified and unclassified versions of such report to the Congress each year. . . .

MR. [NORMAN D.] DICKS [of Washington]: . . . Mr. Chairman, I think this amendment is not germane to this particular piece of legislation and falls within the purview of the Foreign Affairs Committee.

Therefore, I would make my point of order and ask that it be sustained. . . .

MR. COURTER: There was, Mr. Chairman, an amendment by the gentleman from Pennsylvania [Mr. Foglietta] that was passed by this body. That amendment was concerning strategic defense initiatives. The last couple lines of that amendment, which is now part of the bill that we are considering says: "in a manner inconsistent with the Limited Test Ban Treaty, the Threshold Test Ban Treaty, the Outer Space Treaty, or the ABM Treaty."

Therefore, since the bill has been opened up with regard to treaties, I think that my amendment is valid and no point of order lies. . . .

THE CHAIRMAN PRO TEMPORE:[1] The Chair is prepared to rule.

The Chair will state that the gentleman's amendment directs that the President make findings on the Soviet Union's compliance with its arms control commitments. That is not within the jurisdiction of the Armed Services Committee. It is solely within the jurisdiction of the Foreign Affairs Com-

20. 131 CONG. REC. 17810, 99th Cong. 1st Sess.

1. Marty Russo (Ill.).

mittee, and the Chair sustains the point of order of the gentleman from Washington. . . .

After the ruling, the Chair responded to parliamentary inquiries:

THE CHAIRMAN PRO TEMPORE: The Chair will entertain a parliamentary inquiry from the gentleman from New Jersey [Mr. Courter].

MR. COURTER: I thank the Chair.

The parliamentary inquiry is whether this has been now broadened to include arms control agreements because an amendment has been adopted that in fact refers to arms control agreements, thus making my amendment permissible.

THE CHAIRMAN PRO TEMPORE: The Chair will advise the gentleman from New Jersey [Mr. Courter] that the Foglietta amendment to title II did not legislate on another country's commitment to its treaties; it merely made a linkage between funding for certain weapons systems in space in a manner consistent with U.S. treaty obligations and, therefore, the Chair felt that the Courter Amendment did not deal with the issues within the jurisdiction of the Armed Services Committee and sustained the point of order.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. WALKER: Mr. Chairman, as the Chair knows, the bill was broadened to include areas within the jurisdiction of the Foreign Affairs Committee several amendments ago when we had an amendment passed relating to Afghanistan. Given the fact that the bill has already been broadened, would that not also play a role in making the gentleman's particular amendment germane?

THE CHAIRMAN PRO TEMPORE: The Chair will state to the gentleman from Pennsylvania [Mr. Walker] the Chair is not aware of the fact that title X of the bill has been broadened to such an extent. That amendment referred to Defense Department equipment and its availability to Afghan refugees.

Parliamentarian's Note: The amendment to title II, which was the subject of Mr. Courter's inquiry, technically had no bearing on the germaneness of amendments to title X, but in any event none of the amendments cited contained matters exclusively within the jurisdiction of the Committee on Foreign Affairs, but were conditions on military funding.

Bill Requiring Information on Weapons Systems From Director of Arms Control Disarmament Agency—Amendment Prohibiting Agreements for Export of Any Nuclear Material Prior to Report to Congress

§ 4.27 To a section of a bill reported from the Committee on International Relations directing the Director of the Arms Control Disarmament

Agency to collect and transmit to Congress information on weapons systems, including certain military uses of nuclear material, an amendment prohibiting agreements for export of any nuclear material prior to a report to Congress on the impact of such transfers on arms control and disarmament policies was held to be a matter within the jurisdiction of the Joint Committee on Atomic Energy and to go beyond the scope of the section by including material with nonmilitary uses, and was held to be not germane.

On July 9, 1975,[2] during consideration of the Arms Control and Disarmament Act Amendments of 1975[3] in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The pending section of the bill and the amendment offered thereto were as follows:

ARMS CONTROL AND DISARMAMENT IMPACT STATEMENT

Sec. 103. Title III of the Arms Control and Disarmament Act (22 U.S.C. 2571–2575) is amended by adding at the end thereof the following:

ARMS CONTROL IMPACT INFORMATION AND ANALYSIS

"Sec. 36. (a) In order to assist the Director in the performance of his duties with respect to arms control and disarmament policy and negotiations, any Government agency preparing any legislative or budgetary proposal for—

"(1) any program of research, development, testing, engineering, construction, deployment, or modernization with respect to armaments, ammunition, implements of war, or military facilities, having—

"(A) an estimated total program cost in excess of $250,000,000, or

"(B) an estimated annual program cost in excess of $50,000,000, or

"(2) any other program involving weapons systems or technology which such Government agency or the Director believes may have a significant impact on arms control and disarmament policy or negotiations, shall, on a continuing basis, provide the Director with full and timely access to detailed information, in accordance with the procedures established pursuant to section 35 of this Act, with respect to the nature, scope, and purpose of such proposal.

"(b)(1) The Director, as he deems appropriate, shall assess and analyze each program described in subsection (a) with respect to its impact on arms control and disarmament policy and negotiations, and shall advise and make recommendations, on the basis of such assessment and analysis, to the National Security Council, the Office of Management and Budget, and the Government agency proposing such program.

"(2) Any request to the Congress for authorization or appropriations for—

2. 121 CONG. REC. 21853, 21854, 94th Cong. 1st Sess.

3. H.R. 49.

"(A) any program described in subsection (a)(1), or

"(B) any program described in subsection (a)(2) and found by the National Security Council, on the basis of the advice and recommendations received from the Director, to have a significant impact on arms control and disarmament policy or negotiations, shall include a complete statement analyzing the impact of such program on arms control and disarmament policy and negotiations.

"(3) Upon the request of any appropriate committee of either House of Congress, the Director shall, after informing the Secretary of State, advise the Congress on the arms control and disarmament implications of any program with respect to which a statement has been submitted to the Congress pursuant to paragraph (2). . . .

MR. [PAUL] SIMON [of Illinois]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon: Page 4, strike out the close quotation mark and the final period at the end of line 18 and insert immediately after such line the following:

"REPORTS ON SALES TO FOREIGN COUNTRIES OF NUCLEAR MATERIALS

"Sec. 37. No agreement between the United States and any foreign country providing for the sale or other transfer to such country of any nuclear material may be entered into, and no license for the sale or other transfer to any foreign country of any nuclear material may be issued, unless the Director had submitted a report analyzing the impact of such sale or other transfer on arms control and disarmament policies and negotiations to the National Security Council, and the Congress.". . . .

MR. [MIKE] MCCORMACK [of Washington]: Madam Chairman, I make a point of order against the amendment. The amendment deals with agreements that provide for the transfer of nuclear materials to foreign countries. This subject is under the jurisdiction of the Joint Committee on Atomic Energy. In terms of legislation, such transfers come within the purview of the Atomic Energy Act.

H.R. 7567 deals with the Arms Control and Disarmament Agency, whose main purpose is to authorize appropriations for that agency for the fiscal years 1976 and 1977.

In addition, the bill deals with the functions of the Director of the Arms Control and Disarmament Agency, requires various executive agencies to submit information about weapons systems to the Director, and requires the Director to submit certain information to the Congress.

The bill, H.R. 7567, which is now before us, does not deal with nuclear energy or the transfer of nuclear materials to other countries.

The words "nuclear materials," Madam Chairman, includes not only weapons material, it includes all isotopes, all pacing materials for people's hearts, and military and research material, all industrial and agricultural isotopes, all fuel for nuclear reactors of the Western European countries, and Japan.

Thus the amendment is much broader in scope than the bill.

Finally, section 123(d) of the Atomic Energy Act requires that all major agreements made by ERDA go to the

State Department and to the President, and then come to the Congress for 60 days for approval. They come directly to the Joint Committee on Atomic Energy. They lay on the House table for 30 days, and there is an automatic vote required on them within the last 5 days of that 30-day period. . . .

MR. SIMON: . . . This bill sets forth certain responsibilities for the Director of this Agency. In any bill setting forth responsibilities there will be overlaps, and there are overlaps with other agencies, as in section 36(a) in this bill. But clearly, we are defining the responsibilities of the Director of this agency. . . .

THE CHAIRMAN:[4] The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois goes to an issue which is peculiarly and specifically within the jurisdiction of the Joint Committee on Atomic Energy. The question of agreements on export sales of nuclear material is not within the purview of this bill and is not germane to section 103 of this bill. Section 103 merely requires the furnishing of information regarding the development of defense systems, and it does not extend in any manner to a prohibition of exportation of all nuclear materials.

Some nuclear materials may be in different classes, as was pointed out by the gentleman from Washington. There may be some nuclear material exported for peaceful purposes. In that regard the amendment offered by the gentleman from Illinois is not germane to section 103, is much too all inclusive in its effect, and the point of order is sustained.

4. Barbara Jordan (Tex.).

Bill Authorizing Funds for Weapons Development—Amendment Prohibiting Use of Funds Until President Resumes Arms Control Initiatives

§ 4.28 It is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill; thus, to a title of a bill authorizing appropriations for research on and development of military weapons, an amendment prohibiting the use of those funds for development of a certain weapon until the President resumes treaty initiatives toward arms control was held to be not germane.

During consideration of the Department of Defense Authorization for fiscal year 1982[5] in the Committee of the Whole on July 9, 1981,[6] the Chair sustained a point of order against the following amendment:

Amendment offered by Mr. Bedell: After section 203 insert the following new section:

5. H.R. 3519.

6. 127 CONG. REC. 15218, 97th Cong. 1st Sess.

LIMITATION ON FUNDS FOR MX MISSILE

Sec. 204. None of the funds authorized to be appropriated by section 201 may be obligated or expended for the full-scale development of an operational basing mode for the MX missile until the President—

(1) has completed his review of previous strategic arms limitation (SALT) negotiations;

(2) is prepared to resume strategic arms limitation negotiations with the Soviet Union, one of the principal aims of such negotiations being to establish a limit on the number of intercontinental ballistic missile launchers and deployable warheads available to both sides; and

(3) formally transmitted to the Soviet Union his desire to resume such negotiations.

MR. MELVIN PRICE (of Illinois): Madam Chairman, I make a point of order against the amendment. . . .

It is a violation of House rule 16 regarding germaneness. That rule requires instructions, qualifications, and limitations to be germane to the provisions of the bill.

It is my contention that the condition here is totally unrelated to the provisions of the bill and in fact lies within the jurisdiction of another committee. . . .

MR. [BERKLEY] BEDELL [of Iowa]: . . . Madam Chairman, I am not a specialist on rules, but it would appear to me very clearly that for us to say that we are not going to spend money on a system which would not be of value unless something else happens is perfectly germane and perfectly proper for us to do.

We do it in our small business disaster loans when we say small business disaster loans will not be made unless the Governor of the State declares there has been a disaster therein.

We do the same thing in regard to disaster payments for agriculture when we say that the people will not be eligible unless Federal crop insurance is there.

It appears to me that we have clearly pointed out in the debate that we have had that without SALT II it is at least questionable as to whether MX makes any sense at all, and if we do have rules in the House which say that we cannot have amendments which say that we will not spend money on something that is going to be valueless unless something occurs, if we have amendments that say that we cannot make the spending contingent upon that action which would be necessary to make the expenditure of any value, then I submit that we had better look at the rules of the House. . . .

THE CHAIRMAN PRO TEMPORE:[7] . . . [T]he Chair is prepared to rule on the point of order.

The amendment makes use of funds for the MX missile dependent upon certain actions by the President relative to the SALT negotiations. Since arms control issues are within the jurisdiction of the Foreign Affairs Committee and not the Armed Services Committee, and for same reasons stated by the Chair yesterday, in sustaining a point of order against the amendment offered by the gentleman from Washington, the Chair sustains the point of order of the gentleman from Illinois.

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7. Marilyn Lloyd Bouquard (Tenn.).

Bill Amending Laws on Military Procurement—Amendment Relating to Contracts Entered Into by Defense Department and Other Agencies

§ 4.29 To a title of a bill reported from the Committee on Armed Services amending several laws within the jurisdiction of that committee on the subject of military procurement and military departments, an amendment amending and extending the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and covering not only the Department of Defense procurement contract profits but also contracts entered into by other agencies not within the jurisdiction of the Committee on Armed Services was held to be not germane.

On June 26, 1985,[8] during consideration of the Defense Department Authorization, fiscal 1986,[9] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: At the end of Title VIII (page 143, after line 19), add the following new section:

SEC. 802. WAR PROFITEERING PROHIBITION ACT.

(a) Section 102 of the Renegotiation Act of 1951 (50 U.S.C. App. 1212) is amended by adding at the end thereof the following:

"(f) Certain Amounts Received After October 1, 1985.—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with Departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor during the period beginning on October 1, 1985, and ending on the date of the enactment of this subsection.".

(b) The last sentence of section 102(c)(1) of the Renegotiation Act of 1951 (50 U.S.C. App. 1212(c)(1)) is amended to read as follows: "For purposes of this title, the term 'termination date' means September 30, 1988.". . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . I make a point of order on the amendment offered by the gentleman from Texas, in that it is nongermane under the rule. The subject matter falls principally outside the jurisdiction of this committee, and the Renegotiation Act to which the amendment applies includes a variety of departments in the executive branch over which this committee has no jurisdiction or oversight or authority, and nothing in this bill pertains to it or would give rise to the amendment.

8. 131 CONG. REC. 17417–19, 99th Cong. 1st Sess.

9. H.R. 1872.

So I would insist, reluctantly, on my point of order. The amendment is well intended, and I cannot argue with the thrust of that either, but I do think at this point (it) is not germane, and I do insist upon my point of order. . . .

THE CHAIRMAN PRO TEMPORE:[10] The Chair is prepared to rule on the gentleman's point of order.

The amendment would make certain changes in, and extend the provisions of, the Renegotiation Act of 1951. That act was originally in the jurisdiction of the Committee on Ways and Means, but the Committee Reform Amendments of 1974 transferred specific jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs. The act covers contracts for procurement and construction necessary for the national defense, but the act covers not only the Department of Defense and the military departments, but also the Maritime Administration, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and such other agencies having a connection with the national defense as the President may designate. The title of the bill under consideration deals with procurement for the Department of Defense and the military departments, and not with other agencies outside the jurisdiction of the Committee on Armed Services.

Since the subject matter of the amendment goes beyond the coverage of the title and bill under consideration, and since it falls squarely within the jurisdiction of another committee, the Chair sustains the point of order.

10. Marty Russo (Ill.).

Defense Production Act—Amendment Establishing Committee To Consult With President on Administration of Act

§ 4.30 To the Defense Production Act of 1950, establishing a system of priorities and allocations for materials and facilities, an amendment proposing the establishment of a joint committee to consult with the President with respect to the administration of the act, was held not germane.

In the 81st Congress, during consideration of the Defense Production Act of 1950,[11] the following amendment was offered:[12]

> Amendment offered by Mrs. [Katharine P. C.] St. George [of New York] to the amendment offered by Mr. [Brent] Spence [of Kentucky]: On page 48, line 20, of the Spence amendment, add the following new section:
>
> Sec. —. (a) There is hereby established a Joint Economic Security Committee. . . .
>
> (b) The joint committee is authorized and directed to make a continuing study and investigation of, and advise and consult with the President with respect to, the administration of this act. . . .

11. H.R. 9176 (Committee on Banking and Currency).

12. 96 CONG. REC. 11740, 81st Cong. 2d Sess., Aug. 3, 1950.

A point of order was raised against the amendment, as follows:[13]

MR. [WRIGHT] PATMAN [of Texas]: . . . This is an attempt to set up in this bill a joint committee. I do not believe the amendment is germane or that it is in order.

The Chairman,[14] in ruling on the point of order, stated:

The amendment offered by the gentlewoman from New York undertakes to set up a joint committee of the two Houses of Congress, which is a subject that is not within the jurisdiction of the Committee on Banking and Currency.

The Chair holds that the amendment is not germane, and, therefore, sustains the point of order.

Bill To Amend Defense Production Act—Amendment To Amend Internal Revenue Code

§ 4.31 To a bill to amend the Defense Production Act of 1950, a committee amendment which would amend the Internal Revenue Code was held to be not germane. The rule of germaneness applies to committee amendments.

In the 82d Congress, a bill[15] was under consideration amending the Defense Production Act of 1950. The following committee amendment was read by the Clerk:[16]

Committee amendment: Page 12, line 7, insert:

(e) Title III of the Defense Production Act of 1950 is amended by adding at the end thereof the following new section:

Sec. 305. (a) No construction or expansion of plants, factories, or other facilities shall be (1) undertaken, or assisted by means of loans . . . by the United States under this or any other act, or (2) certified under section 124A of the Internal Revenue Code (relating to amortization for tax purposes) . . . unless the President shall have determined that the proposed location of such construction . . . is consistent . . . with a sound policy of (1) utilizing fully the . . . resources of the Nation. . . .

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

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the subject matter of the bill. It has to do with an amendment to the Internal Revenue Code, in respect to the acceleration of appreciation for tax purposes.

In support of the point of order, Mr. Foster Furcolo, of Massachusetts, stated:

13. *Id.* at p. 11741.
14. Howard W. Smith (Va.).
15. H.R. 3871 (Committee on Banking and Currency).
16. 97 CONG. REC. 7978, 82d Cong. 1st Sess., July 11, 1951.

. . . There is nothing in the Defense Production Act of 1950 relating to amortization for tax purposes.

The following exchange[17] related to the point of order:

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, of course a committee amendment occupies no different status than an amendment offered by a Member from the floor. This amendment undertakes to add to this bill a provision which has no relation at all to the Defense Production Act of 1950. It relates to amortization for taxation purposes, the so-called 5-year amortization program. . . .

MR. [KENNETH B.] KEATING [of New York]: Supplementing what the gentleman has said with regard to the certification under this section of the Internal Revenue Code any legislation in that respect, of course, would have to come from the Committee on Ways and Means. . . .

The very fact that in this amendment are included matters which are properly under the cognizance of other committees of the House, in my judgment, makes it not germane to this bill.

MR. [ALBERT M.] RAINS [of Alabama]: Mr. Chairman, this amendment in this particular act has reference to defense plants or to plants engaged in the defense effort. It is true that in this particular amendment reference is made to the Internal Revenue Act and to tax amortization certificates. . . .

The Chairman,[18] in ruling on the point of order, stated:

To [the committee] amendment the gentleman from Michigan [Mr. Wolcott], the gentleman from Massachusetts [Mr. Furcolo], and several others raise a point of order and have advised the Chair as to why the point of order should be sustained.

The Chair . . . desires to read one paragraph from Cannon's Procedure in the House of Representatives:

> . . . It is not in order during consideration of the bill to introduce a new subject and the rule applies to amendments offered by the Committee as well as to amendments offered from the floor.

The amendment offered by the committee goes beyond the purview of the bill, House bill 3871, and beyond the jurisdiction of the Committee on Banking and Currency in attempting to amend other statutes in connection with this bill.

The amendment refers not only to the bill under consideration but to other acts. It also refers to section 124(a) of the Internal Revenue Code, invading the jurisdiction of another standing committee of the House.

The Chair is therefore constrained to sustain the point of order.

Bill Authorizing Military Expenditures—Amendment Prohibiting Use of Funds Except in Accordance With Congressional Policy Declaration

§ 4.32 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except

17. *Id.* at pp. 7978, 7979.

18. Wilbur D. Mills (Ark.).

in accordance with certain congressional declarations as to our foreign policy with respect to Southeast Asia was held to be not germane.

In the 90th Congress, during consideration of supplemental military authorizations for fiscal 1967,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Henry S.] Reuss [of Wisconsin]: On page 4, line 10, after "$624,500,000", insert:
>
> **Title IV—Statement of Congressional Policy**
>
> Sec. 401. None of the funds authorized by this Act shall be used except in accordance with the following declaration by Congress. . . .
>
> . . . (2) its support of efforts being made by the President of the United States and other men of good will throughout the world to prevent an expansion of the war in Vietnam. . . .
>
> . . . (3) its support of the Geneva accords of 1954 and 1962. . . .

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

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I rise to a point of order on the ground that the amendment is not germane to the bill. The bill before the House is a supplemental authorization bill. The amendment contains no limitation. It declares a matter of policy which obviously is under the jurisdiction of another committee. . . .

In defending the amendment, the proponent, Mr. Reuss, stated:[1]

> By stating the circumstances under which the authorization may be pursued, [the amendment] is well within the precedents of this body, and the mere fact that a portion of the language relates to the foreign policy specialty of the House Committee on Foreign Affairs is entirely irrelevant.

The Chairman, Daniel D. Rostenkowski, of Illinois, in ruling on the point of order, stated:[2]

> The Chair is of the opinion that the subject matter of the amendment comes within the jurisdiction of the Committee on Foreign Affairs, and not the Committee on Armed Services which reported the bill now before the Committee. . . .
>
> The Chair, applying one of the accepted tests for germaneness, is of the opinion that the amendment is essentially on a "subject other than that under consideration" and is not germane to the bill under consideration.[3]

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19. H.R. 4515 (Committee on Armed Services).

20. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

1. *Id.* at p. 5140.

2. *Id.* at p. 5141.

3. Substantially the same amendment was later ruled out of order when sought to be offered by Mr. Reuss as part of a motion to recommit the bill with instructions. See § 23.3, infra.

For another amendment in the form of a statement of congressional policy, held to be germane because

A similar ruling was subsequently made with respect to an amendment offered by Mr. Sidney R. Yates, of Illinois.[4]

Bill Authorizing President To Arm Vessels—Amendment Relating to Insurance for Men Serving on Vessels

§ 4.33 To a bill authorizing the President to arm American vessels, an amendment relating to insurance for men of the armed forces who might serve on such vessels was held to be not germane.

In the 77th Congress, a joint resolution[5] was under consideration which stated in part:[6]

> *Resolved, etc.,* That section 6 of the Neutrality Act of 1939 (relating to the arming of American vessels) is hereby repealed; and, during the unlimited national emergency proclaimed by the President on May 27, 1941, the President is authorized, through such agency as he may designate, to arm, or to permit or cause to be armed, any American vessel as defined in such act. The provisions of section 16 of the Criminal Code (relating to bonds from armed vessels on clearing), shall not apply to any such vessel.

The following amendment was offered:

> Amendment offered by Mr. [Edouard V. M.] Izac [of California]: In line 11, after period, add the following: "For life insurance protection to the families of armed guard detachment detailed as guns' crews on American vessels so armed, all personnel on active duty in the Navy, Marine Corps, and Coast Guard on the date of enactment of this joint resolution, shall be granted insurance under sections 602 (a), (b), (c), and (d) of the National Service Life Insurance Act of 1940, without further medical examination if application therefor is filed within 120 days after the date of enactment of this joint resolution."

Mr. Sol Bloom, of New York, having made the point of order that the amendment was not germane, the Chairman, Clifton A. Woodrum, of Virginia, ruled as follows:[7]

> [The amendment] relates to a provision for insurance for men who arm these vessels, a provision fairly within the jurisdiction of committees other than the Foreign Affairs Committee. Unquestionably the amendment is not germane to this resolution and the Chair, therefore, sustains the point of order.

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placing certain restrictions on the use of funds authorized in the bill, see § 32.1, infra.

4. 113 CONG. REC. 5141, 90th Cong. 1st Sess., Mar. 2, 1967.

5. H.J. Res. 237 (Committee on Foreign Affairs).

6. See 87 CONG. REC. 8026, 77th Cong. 1st Sess., Oct. 17, 1941.

7. *Id.* at p. 8027.

Bill Authorizing Construction of Ships for Navy—Amendment Requiring Information to Taxpayers as to Proportion of Tax Spent on Military

§ 4.34 To that section of a bill authorizing an appropriation for the construction of ships for the Navy, an amendment requiring the Secretary of the Treasury annually to inform each federal taxpayer what proportion of his tax payment is spent in military and naval expenditures was held not germane.

In the 75th Congress, a naval authorization bill[8] was under consideration which stated in part:[9]

> Sec. 5. There is hereby authorized to be appropriated out of any money in the Treasury of the United States not otherwise appropriated, such sums as may be necessary to effectuate the purposes of this act.

A committee amendment was read as follows:

> Page 3, line 20, after the word "act", insert the following: "which purposes shall include essential equipment and facilities at navy yards for building any ship or ships herein or heretofore authorized."

The following amendment was offered to the bill:[10]

> Amendment by Mr. [Herman P.] Kopplemann [of Connecticut]: Page 3, line 22, at the end of section 5, strike out the period, insert a comma and the following: "and each Federal income-tax payer shall be informed annually by the Treasury of the United States of the proportion of every dollar of his tax which is spent on all military and naval expenditures including disbursements of every nature resulting from past wars, military and naval engagements."

The Chairman,[11] ruling on a point of order raised by Mr. Carl Vinson, of Georgia, stated:

> The gentleman's amendment introduces an entirely new subject and refers more to taxes or revenues, over which another committee of the House has jurisdiction, so that the matter would not be within the jurisdiction of the Naval Affairs Committee at all. The amendment offered by the gentleman is not germane to the section, and the Chair sustains the point of order.

Provisions Establishing Study of Use of Merchant Marine for Defense Purposes—Amendment Waiving Coastwise Trade Laws for Commercial Vessels

§ 4.35 To a title of a bill containing diverse provisions re-

8. H.R. 9218 (Committee on Naval Affairs).
9. 83 CONG. REC. 3672, 75th Cong. 3d Sess., Mar. 18, 1938.
10. *Id.* at p. 3674.
11. John J. O'Connor (N.Y.).

lating to the authority of the Secretary of Defense, amended to establish a study of the use of the merchant marine for defense purposes, an amendment waiving the coastwise trade laws (a matter within the jurisdiction of the Committee on Merchant Marine and Fisheries) for not more than two undesignated commercial passenger vessels was held germane, where the amendment was not in the form of a private bill and was related to national security issues.

The proceedings of May 30, 1984, relating to H.R. 5167, the Defense Department authorization for fiscal 1985, are discussed in § 3.45, supra.

Bill Authorizing Appropriations for Armed Forces—Amendment Imposing Permanent Restrictions on Withdrawals of Troops From Korea

§ 4.36 Where a bill reported from the Committee on Armed Services authorized appropriations and personnel strengths for the armed forces for one fiscal year and contained minor conforming changes to existing law, a section of an amendment in the nature of a substitute imposing permanent restrictions on troop withdrawals from the Republic of Korea, in part making reduction of troop strength contingent upon conclusion of a peace agreement on the Korean peninsula, was held to be not germane (pursuant to a special order allowing such a point of order) since proposing permanent law to a one-year authorization and containing statements of policy contingent on the enactment and administration of laws within the jurisdiction of the Committee on International Relations.

On May 24, 1978,[12] the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of

12. 124 CONG. REC. 15293–95, 95th Cong. 2d Sess.

Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated:[13]

> *Resolved,* That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles . . . and other weapons . . . and to prescribe the authorized personnel strength for each active duty component . . . of the Armed Forces and of civilian personnel of the Department of Defense . . . and for other purposes. After general debate . . . the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. . . .

The proceedings of May 24, 1978, were as follows:

> THE CHAIRMAN:[14] When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. 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 Armed Services now printed in the reported bill as an original bill for the purpose of amendment.
>
> The Clerk read as follows:
>
> > *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".
>
> MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, in accordance with the rule, House Resolution 1188, I make a point of order that section 805 of the committee amendment in the nature of a substitute, if offered as

13. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

14. Dan Rostenkowski (Ill.).

a separate amendment to H.R. 10929 as introduced, would be in violation of clause 7 of House Rule XVI regarding germaneness. This provision which deals with the withdrawal of troops from Korea, and section 805 which deals with the withdrawal of troops from Korea, is not germane to the Department of Defense authorization bill.

Mr. Chairman, a key criterion in determining germaneness is a committee's jurisdiction over a matter. The Korean troop withdrawal issue falls clearly within the jurisdiction of the Committee on International Relations. Both sections 805(a) and 805(b) fall clearly within the jurisdiction of the Committee on International Relations, pursuant to clause 1, subparagraph (k) of House Rule X.

Compelling evidence of the primary jurisdiction of the International Relations Committee over the issue of troop withdrawal from Korea is found in the fact that all legislation, the President's arms transfer request, and related reports have been referred solely to the International Relations Committee.

Thus, there can be no doubt that the issue of the Korean troop withdrawal lies within the jurisdiction of the Committee on International Relations, and accordingly section 805 is not germane to this bill.

In addition, the issue of U.S. troop withdrawal from Korea is not relevant to either the subject matter or to the purpose of H.R. 10929, as introduced. As introduced, H.R. 10929 consists entirely of provisions relating to the annual authorizations for the Department of Defense. It contains no general policy provisions for the Department of Defense. It contains no general policy provisions of any type, let alone any policy provisions relevant to the withdrawal of U.S. troops from Korea. It is well established that an amendment of a general and permanent nature is not germane to a bill containing only temporary authorizations.

Thus, by what ever test of germaneness one examines, section 805 is not germane to H.R. 10929. . . .

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

I submit, Mr. Chairman, that, first of all, the question of germaneness does not depend on what committee it might be referred to sequentially. In fact, the whole idea of sequential referral is a relatively new concept. I believe, in fact, that it has only been practiced in this House during this present Congress, and perhaps a few times previously.

H.R. 10929, is the annual authorization bill for the Department of Defense. It traditionally covers a wide variety of topics relating to defense. I would point out that the title of the bill after it lists the various items that the gentleman from Wisconsin has already referred to concludes, "and for other purposes."

Traditionally, matters related to the defense of our country which the Com-

mittee on Armed Services has regarded as being of importance have been included in this annual legislation year after year. Section 805 is no different from any of the other matters we have traditionally handled under "general provisions."

It is true that the gentleman's committee has had legislation before it regarding the transfer of American equipment to Korean forces; but section 805 refers to the stationing and positioning of U.S. ground forces; "no ground combat units of the 2d Infantry Division," and so on and so forth. It makes no reference to any transfer of equipment to Korean forces. We are providing here for the stationing of troops in an area that is of great importance to our national security. If that is not something which is within the concern of the Committee on Armed Services, then I do not know what our proper area of responsibility is.

Subsection (b) of section 805 spells out the recommendations of the committee as to what the minimum ground combat strength of our Armed Forces stationed in the Republic of Korea should be based on information we gleaned in an on-the-spot visit to Korea in January; so it is clearly within the province of the Committee on Armed Services. The gentleman from Wisconsin does not dispute that. The gentleman could not dispute it; but to suggest that because if it were introduced as a bill under today's procedures it might have been referred sequentially to the gentleman's committee or to some other committee, completely misses the point. If the size and location of Armed Forces of the United States are not a responsibility of the Committee on Armed Services, and are instead the responsibility of the Committee on International Relations, then something is very drastically wrong in this House.

Further, Mr. Chairman, the authority to determine where American Forces shall be stationed is clearly within the province of the Congress. The Constitution provides that Congress shall not only "raise and support armies," but that we shall provide for the "regulation and governing of the land and naval forces," in section 8 of article I.

Congress has previously enacted the war powers bill, which limits the authority of the President as far as the stationing of troops abroad is concerned. The Constitution does not give a broad grant of power to the Commander in Chief alone in stationing troops abroad. He has no constitutional power to put troops wherever he wants to, because Congress has determined that he cannot put troops abroad under certain conditions without the expressed approval of the Congress of the United States.

Well, if we can limit the President's ability to send troops overseas, it follows that we can also limit his ability to bring those troops back home, if in the opinion of the Congress, we determine that that withdrawal action, which certainly is the case of Korea, would increase the risks of war.

So, Mr. Chairman, I urge that the point of order be overruled. Section 805 is clearly within the authority of the committee. It is clearly germane to the broad purposes of the bill and the House should have the right to vote on this important question.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Wisconsin makes a point of order against section 805 of the committee amendment in the nature of a substitute recommended by the Committee on Armed Services, on the grounds that section 805 of said amendment would not have been germane if offered to the bill H.R. 10929, as introduced.

As indicated by the gentleman from Wisconsin, the special order providing for consideration of this measure, House Resolution 1188, allows the Chair to entertain a point of order on the basis stated by the gentleman, that section 805 of the committee amendment would not have been germane as a separate amendment to H.R. 10929 in its introduced form.

The bill as introduced and referred to the Committee on Armed Services contains authorizations of appropriations and personnel strengths of the Armed Services for fiscal year 1979. It contains no permanent changes in law or statements of policy except for minor conforming changes to existing law relating to troop and personnel strengths.

Section 805 of the committee amendment in the nature of a substitute prohibits: First the withdrawal of ground combat units from the Republic of Korea until the enactment of legislation allowing the retention in Korea of the equipment of such units, and second, the reduction of combat units below a certain level in the Republic of Korea until a peace settlement is reached between said Republic and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula.

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

For the reasons stated, the Chair sustains the point of order.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Chairman, the Chair may have just stated a novel concept which has never before been heard in a ruling. That is that the sequential referral rule somehow serves as the basis for jurisdiction, and thus can support a point of order dealing with a section in a bill such as the one before us.

The parliamentary inquiry I have is this: Simply because under the new

procedure adopted for the first time in this Congress the rules allow sequential referral at the discretion of the Speaker, does that mean that a committee that has primary jurisdiction, such as the Committee on Armed Services, may be challenged on the floor and have a point of order sustained removing a provision that might be partially under the jurisdiction of another committee on a sequential referral?

THE CHAIRMAN: The ruling of the Chair does not stand for that proposition.

MR. BAUMAN: Mr. Chairman, the gentleman from Maryland understood the Chair to say that the argument of the gentleman from Wisconsin was persuasive to the Chair regarding jurisdiction. If that is the case, it seems to me every committee of this House is somehow going to be challenged on the floor henceforth if its jurisdiction is shared to the slightest degree by another committee.

THE CHAIRMAN: All the Chair has stated is that section 805 is not germane to the introduced bill, and the rule provides that the point of order would lie on that ground.

MR. BAUMAN: Mr. Chairman, I have this further parliamentary inquiry:

Then the ruling of the Chair is based on germaneness of this amendment to this bill and does not go to any effect the sequential jurisdiction would have on the provision?

THE CHAIRMAN: The gentleman is correct.

The point of order having been sustained against the nongermane portion of the committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to the special rule.

Bill Increasing Armed Forces—Amendment Creating Committee To Study Military Policy

§ 4.37 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment proposing the creation of a joint congressional committee to make a study of the military policy of the United States, was held to be not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[15] the following amendment was offered:[16]

Amendment offered by Mr. [Jacob K.] Javits [of New York]: Page 48, line 24, insert the following new section and renumber the succeeding sections accordingly:

Sec. 21. (a) There is hereby established a joint congressional committee to be known as the Joint Committee on Military Policy. . . .

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

16. 94 CONG. REC. 8710, 80th Cong. 2d Sess., June 17, 1948.

(b) It shall be the function of the committee to make a continuous study of the military policy of the United States with respect to (1) its capability to enable the United States to discharge its international responsibilities; (2) the dominance of civilian control in the military policy; (3) the training and orientation in citizenship of the personnel of the armed forces; and (4) the participation of personnel of the armed forces in the foreign and domestic affairs of the United States. . . .

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

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that the amendment is not germane and not in order on this bill.

In defense of the amendment, the proponent stated:

MR. JAVITS: . . . It is germane . . . because it seeks to provide for the coordination of the military and the foreign policy of the United States, and for the training of selectees not alone in military matters, but in citizenship and the purposes for which they are being called upon to serve.

The Chairman,[17] in ruling on the point of order, stated:

The Chair is prepared to rule. The Chair has examined the amendment proposed by the gentleman from New York. The subject matter of the gentleman's amendment proposing the creation of a special congressional committee comes under the jurisdiction of the Committee on Rules which, of course, makes the amendment not germane and not in order.

Bill Increasing Armed Forces—Amendment to Internal Revenue Code

§ 4.38 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment seeking to amend the Internal Revenue Code is not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[18] the following amendment was offered:[19]

Amendment offered by Mr. [Herman P.] Eberharter [of Pennsylvania]: Amend H.R. 6401, on page 43, line 1, by inserting after the period the following: "Section 22 (b) (relating to exclusions from gross income) of the Internal Revenue Code is hereby amended by striking out 'January 1, 1949' wherever occurring therein, and inserting in lieu thereof 'January 1, 1951'. . . ."

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

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, it is with great

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

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

19. 94 CONG. REC. 8701, 80th Cong. 2d Sess., June 17, 1948.

reluctance that I make a point of order against the amendment. It has to do with the revenue laws and should be considered by the Ways and Means Committee. The amendment may be very meritorious but it is clearly out of order on this legislation.

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

MR. EBERHARTER: Mr. Chairman, I would like to be heard for a minute or two on the point of order.

Section 14 of the bill provides for the pay and allowances of the members who will be inducted under this bill. My amendment has reference to their pay and allowances and merely seeks to maintain the same rate of pay as is now in existence for the men in the armed services whose rate of pay will be changed in January next.

The Chairman,[20] in ruling on the point of order, stated:

The Chair has examined the text of the amendment offered by the gentleman from Pennsylvania [Mr. Eberharter]. Clearly the amendment proposes to legislate on the Internal Revenue Code which is legislation that would be within the jurisdiction of the Committee on Ways and Means. Therefore the Chair is constrained to sustain the point of order.

Provision To Subject Retired Military Officers Who Sell Products to Defense Department to Court Martial—Amendment Making Conduct Federal Penal Offense

§ 4.39 To an amendment in the nature of a substitute, providing in part that retired military officers who engage in selling products to the Department of Defense within two years after their retirement should be subject to court martial, a substitute amendment making such conduct a penal offense under a federal statute was held to be not germane.

On Apr. 7, 1960, a bill was under consideration relating to the employment of retired officers by defense contractors.[1] The following amendment was offered:[2]

. . . It shall be unlawful for a commissioned officer . . . within two years after release from active duty . . . to engage in any transaction, the purpose of which is to sell or to aid or assist in the selling of anything to the Department of Defense . . . and such officer shall not be entitled to receive any retired pay . . . for a two-year period from the date he engages in any such transaction. . . .

. . . Any retired commissioned officer subject to the Uniform Code of Military Justice who violates any provision of this Act shall be tried by a court-martial and shall, upon conviction be punished as a court-martial shall direct.

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

1. 106 CONG. REC. 7679–82, 86th Cong. 2d Sess. Under consideration was H.R. 10959 (Committee on Armed Services).

2. 106 CONG. REC. 7680, 86th Cong. 2d Sess., Apr. 7, 1960.

A substitute amendment, subsequently offered, stated:[3]

> That chapter 15 of title 18, United States Code is amended by adding at the end thereof the following new section: . . .
>
> Whoever violates any provision of this section shall be fined not more than $10,000.00 or imprisoned for not more than one year, or both.

The following point of order was made against the substitute amendment:[4]

> MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, I make the point of order that (the substitute amendment) is not germane to the amendment or the pending bill; that [it] attempts to create a new penal offense, whereas the amendment and the pending bill do not create any criminal offenses. I make the additional point of order that the committee reporting the bill does not have jurisdiction to consider the matter contained in this substitute.

The proponent of the substitute amendment, Mr. F. Edward Hébert, of Louisiana, defended the amendment as follows:[5]

> [The amendment] is relevant to the subject matter. It proposes to deal with the subject matter, which is the relationship between retired officers and defense contractors. . . .

The Chairman[6] ruled that the substitute amendment was not germane, stating the reasons for such ruling as follows:[7]

> [The] Kilday amendment deals with retired officers of the Armed Forces, whereas the Hébert substitute goes much further and deals with criminal penalties; deals with the Criminal Code and which, if offered as a separate bill would have to be referred to the Committee on the Judiciary. It is clearly outside the jurisdiction of the Committee on Armed Services.
>
> For those reasons, the Chair sustains the point of order.

—*Amendment To Prohibit Contractors From Hiring Retired Officers*

§ 4.40 To an amendment in the nature of a substitute prohibiting retired military officers from engaging in selling any product to the Department of Defense within two years after their retirement, and making violations of this restriction punishable by court martial, an amendment making it unlawful for contractors to hire retired officers within the two-year period and providing a fine for violations of this provision was held to be not germane.

During consideration of a proposition, discussed above,[8] making

3. *Id.* at p. 7681.

4. *Id.*

5. *Id.*

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

7. 106 CONG. REC. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.

8. See § 4.39, supra.

retired military officers subject to court martial, in certain circumstances, for participating in the sale of products to the Department of Defense,[9] the following amendment was offered to such proposition:[10]

> . . . It shall be unlawful for any person to employ such a retired commissioned officer . . . for the purpose of . . . assisting in the selling of anything of value to the Department of Defense. . . .
>
> Whoever violates any provision of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

The Chairman,[11] in ruling that the proposed amendment was not germane, referred to a previous ruling[12] and stated:[13]

> The same basis for the ruling that was made previously would apply here, in view of the fact that criminal penalties are involved.

9. 106 Cong. Rec. 7680, 86th Cong. 2d Sess., Apr. 7, 1960. Under consideration was H.R. 10959 (Committee on Armed Services).
10. 106 Cong. Rec. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.
11. Aime J. Forand (R.I.).
12. See § 4.39, supra.
13. 106 Cong. Rec. 7682, 86th Cong. 2d Sess., Apr. 7, 1960.

Bill Amending Universal Military Training and Service Act—Amendment Providing for Right of Those Covered To Vote Regardless of Age

§ 4.41 To a bill amending the Universal Military Training and Service Act, an amendment providing that all persons included within the scope of the bill be entitled to vote regardless of age, was held to be not germane.

In the 82d Congress, a bill[14] was under consideration which amended the Universal Military Training and Service Act. The following amendment was offered to the bill:[15]

> Amendment offered by Mr. Edwin Arthur Hall [of New York] to the amendment offered by Mr. [Graham A.] Barden [of North Carolina]: On page 19, line 25, insert a new section to read as follows:
>
> Sec. 2. All persons included within the scope of this act shall be entitled to vote regardless of age.

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

> Mr. [Carl] Vinson [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane.

14. S. 1–1951 (Committee on Armed Services).
15. 97 Cong. Rec. 3780, 82d Cong. 1st Sess., Apr. 12, 1951.

The Chair[16] sustained the point of order and said:

> . . . The Chair invites attention to the fact that the amendment . . . deals with a subject matter which is not dealt with in the pending bill nor by the act which the pending bill seeks to amend. The amendment . . . embraces a subject matter coming under the jurisdiction of another standing committee of the House and would seek to affect legislation which has been enacted, having been reported by another standing committee of the House and which does not come under the jurisdiction of the Committee on Armed Services which has reported the pending bill.
>
> Therefore, the Chair sustains the point of order.

The following exchange then occurred, concerning a unanimous-consent request that the amendment be voted upon:

> MR. [WILLIAM S.] COLE of New York: Mr. Chairman, in connection with the amendment which the Chair has just ruled out of order, in the discussion with reference to it, a possible inference has been created involving the integrity of every Member of the House. I ask unanimous consent that the committee may pass upon the amendment irrespective of the fact that it is not germane. . . .
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from New York?
>
> There was no objection.

16. Jere Cooper (Tenn.).

Bill To Provide Allowances for Military Dependents—Amendment To Amend National Service Life Insurance Act To Grant Further Benefits

§ 4.42 To a bill to provide family allowances for dependents of enlisted men of the Army, Navy and Coast Guard, an amendment proposing to amend the National Service Life Insurance Act to grant further benefits to such enlisted men, was held to be not germane.

In the 77th Congress, a bill[17] was under consideration to provide family allowances for dependents of enlisted men of the armed forces. An amendment was offered[18] as described above. Mr. Robert E. Thomason, of Texas, made the point of order that the amendment was not germane. The bill under consideration had been reported by the Committee on Military Affairs. The Chairman,[19] in sustaining the point of order, noted that, "The amendment . . . deals with national service life insurance, which is a

17. H.R. 7119 (Committee on Military Affairs).
18. 88 CONG. REC. 5029, 77th Cong. 2d Sess., June 8, 1942.
19. Alfred L. Bulwinkle (N.C.).

creature of the Ways and Means Committee. . . ."

Bill Increasing Veterans' Home Loan Guarantees—Amendment Requiring Federal Reserve Banks To Purchase Loans at Par

§ 4.43 To a bill to increase the amount that the Veterans' Administration might guarantee on a home loan, an amendment requiring the Federal Reserve banks to purchase all such loans at par from the Administrator was held to be not germane.

In the 90th Congress, during consideration of a bill[20] relating to veterans' housing loans, the following amendment was offered:[1]

> Amendment offered by Mr. [Wright] Patman [of Texas]: On page 2, immediately after line 5, insert: . . .
>
> (4) The Federal Reserve bank within whose district the property securing any loan made under this section is located shall, at the request of the Administrator, purchase such loan at par from the Administrator.

Mr. Edwin R. Adair, of Indiana, made a point of order against the amendment on the ground that it was not germane.

The Chairman, Charles E. Bennett, of Florida, in ruling on the point of order, stated:[2]

> There is no reference in this bill to the Federal Reserve Board. The Committee on Veterans' Affairs has no jurisdiction over the Federal Reserve Board. Therefore the Chair rules that the amendment is not germane to this bill and sustains the point of order.

Bill Providing Federal Aid to Returning Veterans—Amendment To Amend Servicemen's Dependents Allowance Act

§ 4.44 To a bill providing federal aid to returning war veterans to facilitate readjustment to civilian life, an amendment seeking to amend the Servicemen's Dependents Allowance Act was held not germane.

In the 78th Congress, during consideration of a bill[3] providing aid to veterans as described above, an amendment was offered[3] which sought to amend the Servicemen's Dependents Allowance Act.

In ruling on a point of order raised by Mr. John E. Rankin, of Mississippi, against the amend-

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20. H.R. 10477 (Committee on Veterans' Affairs).

1. 114 Cong. Rec. 7628, 90th Cong. 2d Sess., Mar. 26, 1968.

2. *Id.* at p. 7629.

3. S. 1767 (World War Veterans' Legislation).

4. 90 Cong. Rec. 4535, 78th Cong. 2d Sess., May 16, 1944.

ment, the Chairman, Mr. Fritz G. Lanham, of Texas, stated:[5]

> In the opinion of the present occupant of the chair, there is one very definite criterion with reference to determining whether or not an amendment is germane to a pending measure. It inheres in the jurisdiction of the committees of the House of Representatives. Its purpose is to prevent the House or the Committee of the Whole House on the state of the Union from being taken by surprise by amendments which could not have been anticipated by the committee reporting the bill within the borders of its jurisdiction.
>
> The measure to which the particular amendment offered by the gentleman from Missouri relates emanated from the Committee on Military Affairs and deals with allowances and allotments. That could not well have been anticipated by the Committee on World War Veterans' Legislation in its consideration of the pending measure. . . . The Chair sustains the point of order.

Bill Increasing Maximum for Veterans' Housing Loans—Amendment Excluding Certain Interest From Gross Income

§ 4.45 To a bill to encourage new residential construction for veterans' housing by increasing the authorized maximum for direct loans, an amendment to exclude interest on certain guaranteed loans from gross income was held to be not germane.

In the 85th Congress, during consideration of a bill[6] to encourage new residential construction for veterans' housing, the following amendment was offered:[7]

> Amendment offered by Mr. [Abraham J.] Multer [of New York]: On page 9 after line 20 insert a new section as follows:
>
> Interest on veterans' loans: Interest upon any loan which bears interest at a rate not exceeding 3½ percent per annum, and any part of which is guaranteed under title 3 of the Servicemen's Readjustment Act of 1944, as amended, shall not be considered gross income for purposes of taxation.

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

> Mr. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the pending bill. It seeks to amend the Internal Revenue Code, a subject matter not covered by the pending bill, a subject matter under the jurisdiction of another standing committee of the House, the Committee on Ways and Means.

The Chairman, Robert L. F. Sikes, of Florida, sustained the point of order.[8]

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5. *Id.* at p. 4536.

6. H.R. 4602 (Committee on Veterans' Affairs).

7. 103 CONG. REC. 4311, 85th Cong. 1st Sess., Mar. 25, 1957.

8. *Id.* at pp. 4311, 4312.

Bill Authorizing Activities of Coast Guard—Amendment Urging Consultation Between Secretary of State and Coast Guard Respecting Joint International Effort

§ 4.46 To a bill reported from the Committee on Merchant Marine and Fisheries authorizing various activities of the Coast Guard, an amendment urging the Secretary of State in consultation with the Coast Guard to elicit cooperation from other nations in an area where there were Coast Guard and other military operations, a matter within the jurisdiction of the Committee on Foreign Affairs, was held not germane.

During consideration of H.R. 2342 (Coast Guard authorization for fiscal 1988) in the Committee of the Whole on July 8, 1987,[9] the Chair sustained a point of order against the following amendment:

> Amendment offered by Ms. Snowe: Page 22, after line 11, add the following new section:
>
> INTERNATIONAL COOPERATION
>
> Sec. 26. (a) The Congress finds that—
>
> (1) the President, at the June 1987 Venice economic summit and in other international forums, has requested and is continuing to request additional support of United States allies in the Persian Gulf . . .
>
> (3) attacks on neutral shipping in the Persian Gulf threaten to limit the access of the United States and its allies to oil supplies from the region . . .
>
> (7) there have been reports, which the Congress notes with approval, that some allied governments are giving serious consideration to possible actions in support of Western interests in the Gulf;
>
> (8) a Western multilateral effort can best protect the interests of the United States and its friends and allies in the Persian Gulf;
>
> (9) an international effort can best sustain a long-term diplomatic commitment in support of a negotiated settlement to the Iran-Iraq war;
>
> (10) those United States allies whose military forces are constitutionally restricted to self-defense should share in the financial burden of protecting their interests in the Persian Gulf . . .
>
> (b) The Secretary of State, in consultation with the Secretary of the department in which the Coast Guard is operating, shall urge our European allies and Japan to join the United States in intensifying efforts to bring about a speedy and just solution to the Iran-Iraq war and in defending our mutual interests in the Persian Gulf. . . .
>
> MR. [EARL] HUTTO [of Florida]: . . . I make a point of order on this amendment. . . . I say this is not a foreign affairs bill. It is not made in order by the rule, it is not germane so I made a point of order. . . .

9. 133 CONG. REC. 19011–13, 100th Cong. 1st Sess.

Ms. [OLYMPIA J.] SNOWE [of Maine]: . . . I think the subsequent amendment that would be offered will expand the scope of this initiative. This amendment is similar and comparable to the attempts that will be made by similar amendments. So although the other amendments were not germane they were made in order by the Rules Committee. Therefore, given the fact that we are expanding ultimately the scope of this legislation, it seems to me only practical that we would include allied support in terms of the policy that might be developed by the House in the next few hours.

The Chairman:[10] If there are no further arguments on the point of order, the Chair is prepared to rule.

The primary purpose of the bill as amended is to authorize funds for the Coast Guard for fiscal year 1988 as well as to address other provisions within the purview of the Coast Guard and its operations. As the Chair reads the amendment of the gentlewoman from Maine, the operative purpose is to have the Secretary of State urge our European allies and Japan to join the United States in intensifying efforts to bring about a speedy and just solution to the Iran-Iraq war and defending our mutual interests in the Persian Gulf. Those are purposes outside the purview of this bill and the Chair would further state that the linkage to possible amendments which may hereinafter be adopted with reference to reflagging does not support the germaneness of this amendment. Those amendments are not yet adopted and do not prospectively justify an amendment of this sort. The Chair is constrained to sustain the point of order and rule the amendment of the gentlewoman from Maine out of order.

10. Robert W. Kastenmeier (Wis.).

Bill Amending Mutual Security Act—Amendment To Provide Submarine Patrols in Caribbean

§ 4.47 To a bill authorizing appropriations for military assistance under the Mutual Security Act, an amendment authorizing and directing the transfer of ships and supplies for purposes of providing submarine patrols in certain Caribbean areas was held to be not germane.

In the 85th Congress, a bill[11] was under consideration to amend the Mutual Security Act of 1954. The following amendment was offered to the bill:[12]

Amendment offered by Mr. [Gardner R.] Withrow [of Wisconsin]: On page 2, line 7, add the following new section:

There is hereby authorized and directed the transfer of such ships, arms, and supplies as may be necessary to provide adequate and comprehensive submarine patrols in the Caribbean areas embraced by bilateral agree-

11. H.R. 12181 (Committee on Foreign Affairs).

12. 104 CONG. REC. 8620, 85th Cong. 2d Sess., May 13, 1958.

ments between the United States and the Republics of Dominican Republic, Haiti, and Cuba in furtherance of military assistance agreements, but not limited to such agreements. . . .

The Chairman, Hale Boggs, of Louisiana, ruling on the point of order raised by Mr. Thomas E. Morgan, of Pennsylvania, that the amendment was not germane to the bill, stated:[13]

The amendment is obviously not germane. It comes within the exclusive purview of the Committee on Armed Services. Without elaboration the Chair will sustain the point of order.

Bill Amending Mutual Security Act—Amendment Establishing Joint Committee on Mutual Security

§ 4.48 To a bill amending the Mutual Security Act of 1954, an amendment to establish a joint committee on mutual security was held to be not germane.

In the 86th Congress, during consideration of a bill[14] to amend the Mutual Security Act, the following amendment was offered:[15]

Amendment offered by Mrs. [Marguerite S.] Church: On page 14, after line 23, insert the following:

. . . Sec. 701. (a) There is hereby established the Joint Committee on Mutual Security. . . .

(b) The committee shall conduct a full and complete investigation and study of the policies and purpose of, and operations under, the Mutual Security Act of 1954, as amended. . . .

Mr. Clement J. Zablocki, of Wisconsin, made a point of order on the grounds that the amendment "provides . . . for the creation of a Joint Committee on Mutual Security and such a proposal, under the rules of this House, should receive appropriate consideration by the Committee on Rules."[16] Mrs. Church having conceded the point of order, the Chairman[17] stated, "The point of order is sustained."

Bill To Control Subversive Activities—Amendment To Modify Immigration Laws

§ 4.49 To a bill comprising measures to control subversive activities, an amendment proposing modification of the immigration and naturalization laws was held not germane.

In the 80th Congress, during consideration of a bill[18] as described above, an amendment was

13. *Id.* at p. 8621.
14. H.R. 11510 (Committee on Foreign Affairs).
15. 106 Cong. Rec. 8536, 8537, 86th Cong. 2d Sess., Apr. 21, 1960.
16. *Id.* at p. 8537.
17. Wilbur D. Mills (Ark.).
18. H.R. 5852 (Committee on Un-American Activities).

offered[19] which related to deportation proceedings and which proposed an amendment to the Immigration Act of 1917. Mr. Karl E. Mundt, of South Dakota, having raised a point of order against the amendment, the Chairman[20] ruled as follows:[1]

> [The bill] comes from the Committee on Un-American Activities. That committee has no jurisdiction over legislation having to do with immigration and naturalization laws. Therefore, the Chair holds that the amendment is not germane.

Bill Regarding Payment of Claims Against Enemy Governments and Nationals—Amendment Regarding Court Jurisdiction and Procedures in Respect of Such Claims

§ 4.50 To a bill relating to the payment of claims against enemy governments and their nationals and to the disposition of property from which such claims were to be satisfied, an amendment was held to be not germane which related to the jurisdiction of courts over such claims and to procedures for adjudication.

In the 80th Congress, a bill[2] was under consideration which provided:[3]

> *Be it enacted, etc.—*
>
> TITLE I
>
> Section 1. The Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended, is hereby amended by adding at the end thereof the following new section:
>
> Sec. 39. No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this act, shall be returned to former owners thereof. . . .
>
> With the following committee amendment:
>
> On page 2, line 13, insert as follows:
>
> Sec. 2. No property or interest therein shall be applied to the payment of debts, under the provisions of section 34 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended during the period . . . ending 6 months after the date on which the report of the War Claims Commission . . . is received by the Congress.

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. (Bertrand W.) Gearhart [of California] as a substitute for the committee

19. 94 CONG. REC. 6139, 6140, 80th Cong. 2d Sess., May 19, 1948.

20. James W. Wadsworth, Jr. (N.Y.).

1. 94 CONG. REC. 6140, 80th Cong. 2d Sess., May 19, 1948.

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

3. See 94 CONG. REC. 567, 80th Cong. 2d Sess., Jan. 26, 1948.

4. *Id.* at p. 568.

amendment in the bill: Insert a new section . . . as follows:

Sec. 2. (A) No property . . . shall be applied to the payment of debts, under the provisions of section 34 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411) as amended, nor shall any part or any portion of the proceeds from the sale . . . of property . . . of Germany or Japan or any national of either of such countries . . . be applied to the satisfaction . . . of any claims of American nationals . . . except pursuant to a judgment . . . obtained in the manner . . . as in this title provided.

(B) The United States district court for the district wherein the claimant is resident . . . shall have exclusive jurisdiction to . . . render judgment on claims of American nationals . . . in respect of damage . . . inflicted . . . by measures of enemy governments. . . .

A point of order was raised against the amendment, as follows:[5]

MR. [ROBERT] HALE [of Maine]: Mr. Chairman, the amendment is not germane to the subject matter of the bill.

. . . Neither the title of the bill nor the language of title II purports to make any provision at all for the adjudication of claims.

The Chairman,[6] in ruling on the point of order, stated:

If the substance of the matter set forth in the amendment offered by the gentleman from California [Mr. Gearhart] were introduced as a separate bill in the House of Representatives, it would . . . be immediately referred by the proper authority to the Judiciary Committee for consideration. . . . The gentleman seeks to place the material of this bill under the jurisdiction of the Federal courts, which would be a matter not within the jurisdiction of the committee having charge of this bill.

Foreign Aid Bill Provisions Establishing Committee To Advise on Inflation Control—Amendment Affecting Postage on Packages Sent Abroad

§ 4.51 To that section of a foreign aid bill establishing a committee to advise, in part, on means of avoiding inflationary pressures, an amendment seeking to amend the postal laws with respect to postage on packages sent abroad was held to be not germane.

In the 80th Congress, a bill[7] was under consideration to promote world peace and the foreign policy of the United States by providing aid to certain foreign countries. The bill stated in part:[8]

Sec. 11. There shall be established and maintained, out of the funds au-

5. *Id.* at p. 569.
6. Thomas A. Jenkins (Ohio).
7. H.R. 4604 (Committee on Foreign Affairs).
8. See 93 CONG. REC. 11258, 80th Cong. 1st Sess., Dec. 10, 1947.

thorized under this act, a National Food Conservation Committee . . . for the purpose of advising on ways and means to conserve foods and foodstuffs, to avoid inflationary pressures on domestic food prices and food supplies, and generally to facilitate the purposes and objectives of this act.

An amendment was offered by Mr. George G. Sadowski, of Michigan, who stated in the course of ensuing discussion:

[The amendment] has to do with relief. It provides that a certain amount of this money that is being appropriated in this bill will be set aside to pay the postage on some of these relief packages that are going to Europe, being sent by private individuals. . . .

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

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, the amendment which has been added either as a new section or as an amendment to section 11, which has just been read, is not germane to this bill, in that it has to do with the postal rates and the Post Office Department.

The Chairman, Earl C. Michener, of Michigan, in ruling on the point of order, stated:[9]

[T]he gentleman's amendment is in effect an amendment to the postal laws of the United States and has had no committee consideration. The Committee on Foreign Affairs has no jurisdiction over the post office. Again, the section to which the amendment is offered deals with the establishment and maintenance of the funds authorized under the act, and so forth.

The Chair feels that the amendment is not germane to the particular section to which offered. . . .

Bill Relating to Humanitarian and Evacuation Assistance out of South Vietnam—Amendment Providing for Costs of Settlement of Evacuees in United States

§ 4.52 To a bill reported from the Committee on International Relations dealing with humanitarian and evacuation assistance out of South Vietnam, an amendment providing for payment of costs of immigration and settlement of evacuees in the United States was held to raise issues within the jurisdiction of the Judiciary Committee and was held to be not germane.

On Apr. 23, 1975,[10] during consideration of H.R. 6096 in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [GLENN M.] ANDERSON of California: Mr. Chairman, I offer an amendment.

9. *Id.* at p. 11259.

10. 121 CONG. REC. 11534, 94th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Anderson of California: On page 2, after line 2, insert the following new section:

"Sec. 3. The Federal Government shall provide funds for all necessary expenses incurred in the immigration and settlement of Vietnamese nationals in the United States of America, and all necessary costs incurred thereof, for a period of not less than five years under the provisions of Public Law 87–510, Sec. 2(b)(2)."

And renumber subsequents accordingly.

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, a point of order. . . .

Mr. Chairman, this amendment is not germane. It deals mostly with matters completely outside the scope of the bill.

The bill deals only with humanitarian aid and evacuation from South Vietnam. It does not deal with U.S. domestic programs or agencies or conditions. It is far more subject to a point of order than the previous amendment offered by the gentleman from California.

The amendment imposes duties on the Secretary of State, of HEW and the Attorney General, which are not contemplated in the bill. . . .

MR. ANDERSON of California: . . . My amendment really adds nothing new to what we are talking about here today. It says that the Federal Government shall provide funds for all necessary expenses incurred in the immigration and settlement of Vietnamese nationals in the United States. That is what we are talking about here today.

Now, most of us feel or hope, at least, that it is covered already in Public Law 87–510, section 2(b)(2), which is the Migration Refugee Act of 1962; but we are not sure about that. We are not clear about that.

What my amendment does is make clear what we are going to do with these refugees, that it is the responsibility of the Federal Government and not of State and local government.

THE CHAIRMAN:[11] The Chair is ready to rule. In the opinion of the Chair the legislation before us pertains to evacuation and humanitarian aid.

The amendment of the gentleman from California does go beyond that into the question of immigration and settlement. It is not within the purview of the Committee on International Relations. In the opinion of the Chair it is not germane and the Chair sustains the point of order.

Humanitarian Aid—Military Assistance

§ 4.53 To a bill reported from the Committee on International Relations authorizing funds to provide humanitarian and evacuation assistance and authorizing the use of United States troops to provide that assistance, an amendment authorizing funds for military aid to a foreign country (generally a subject within the jurisdiction of the Committee on Armed Services) to be used by that country to fur-

11. Otis G. Pike (N.Y.).

ther the fundamental purpose of the bill was held germane.

On Apr. 23, 1975,[12] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[13] in the Committee of the Whole, the Chair overruled a point of order against an amendment as indicated below:

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Stratton to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar:

Page 1, line 6; strike out "$150,000,000" and insert "$300,000,000".

Page 2, line 2; delete the period at the end of the line, insert a semicolon and add the following: "*Provided* that $150,000,000 of such sum shall be available to the President solely for military aid to South Vietnam to provide such protection as he may deem necessary to insure the delivery of the humanitarian assistance and evacuation programs authorized in this section."

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, I make a point of order. . . .

Mr. Chairman, military aid to Vietnam is not included in the jurisdiction of the Committee on Foreign Affairs. It is under the jurisdiction of the Committee on Armed Services. It is under the MACV account and DAV account, and the attempt has been made in the past to vest this jurisdiction in the Committee on Foreign Affairs. The committee does not have jurisdiction over this subject matter and cannot give military aid. As a result, the amendment is not germane, and I make that point of order. . . .

MR. STRATTON: . . . This amendment is perfectly in order. This would provide additional funds to the President to use, in his discretion, to provide protection for the humanitarian assistance and evacuation provided in the bill.

I would invite the Chair's attention to the fact that section 3 of the amendment refers in considerable detail to the military appropriations and to military actions, and that section 2 of the substitute provides funds to the President to be used notwithstanding any other provision of law on such terms and conditions as the President may deem appropriate.

The basic legislation and the Eckhardt substitute both refer to legislation that deals with military assistance to Vietnam, and therefore, this amendment is in order.

THE CHAIRMAN:[14] The Chair is prepared to rule.

There is within the bill the provision for humanitarian assistance and evacuation assistance. The amendment proposed by the gentleman from New York (Mr. Stratton) goes to aid, to provide for the delivery of military aid, to be sure, but it is to insure the delivery

12. 121 CONG. REC. 11509, 94th Cong. 1st Sess.

13. H.R. 6096.

14. Otis G. Pike (N.Y.).

of humanitarian assistance and the evacuation programs, and in that form the amendment is germane to the substitute, and the point of order is overruled.

Bill Providing Foreign Assistance Authorizations, Amended to Include Import Restrictions—Amendment Adding Further Import Restrictions

§ 4.54 While committee jurisdiction may be an appropriate test of germaneness where the bill as reported contains matter only within the jurisdiction of the reporting committee, where the bill is amended in Committee of the Whole to include matters within the jurisdiction of another committee, further similar amendments may be germane; thus, where a bill reported from the Committee on Foreign Affairs providing foreign assistance authorizations had been amended in Committee of the Whole to include diverse import restrictions (a matter within the jurisdiction of the Committee on Ways and Means), a further amendment adding a new title to provide a similar import prohibition against products from another designated country was held germane to the bill in its amended form.

On July 11, 1985,[15] during consideration of the International Security and Development Cooperation Act of 1985[16] in the Committee of the Whole, Chairman Les AuCoin, of Oregon, in overruling a point of order held the following amendment to be germane to the bill:

> MR. [WILLIAM B.] RICHARDSON [of New Mexico]: Mr. Chairman, I offer an amendment that would create a new title, title XIV. . . .
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Richardson: Page 154, after line 24, insert the following new section: . . .
>
> TITLE XIII.—BAN ON IMPORTING URANIUM AND COAL FROM SOUTH AFRICA AND NAMIBIA
>
> (a) Prohibition.—Notwithstanding any other provision of law, the following products of South Africa and Namibia may not be imported into the customs territory of the United States: coal, uranium ore, and uranium oxide.
>
> (b) Effective Date.—The prohibition contained in subsection (a) shall not apply to a contract or agreement entered into before the date of the enactment of this Act. . . .
>
> MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New Mexico [Mr. Richardson] on the ground that it violates

15. 131 CONG. REC. 18601, 18602, 99th Cong. 1st Sess.
16. H.R. 1555.

clause 7 of rule XVI of the rules of the House and is not germane to the bill. Clause 7 of rule XVI provides that no motion or proposition on a subject different from that under consideration shall be considered under color of amendment. One test of germaneness is whether the fundamental purpose of the amendment is germane to the fundamental purpose of the bill or title.

Another test of germaneness (is) whether the amendment is within the jurisdiction of the committee reporting the bill.

The sole purpose of the amendment is to prohibit the importation of uranium and coal from South Africa. Clearly this is a measure within the jurisdiction of the Committee on Ways and Means.

The bill as reported amends various acts within the jurisdiction of the Committee on Foreign Affairs. The fundamental purpose of the bill is to authorize appropriations for foreign development and security assistance programs for the fiscal year 1986.

The bill as reported contains no provisions to impose import prohibitions or other restrictions or sanctions on any product from South Africa or from any other country.

There were two amendments added yesterday which have already been referenced.

The only limitations in the bill as reported, however, relate to the use of foreign aid funds.

The amendment clearly does not relate to the subject matter or to the fundamental purpose of the bill or the title, since there is no fundamental purpose of the title pending.

The subject matter of the amendment, or rather the current title, now includes a matter relating to Mozambique, not to any import restrictions.

The subject matter of the amendment is also not within the jurisdiction of the committee reporting the bill.

Mr. Chairman, in my judgment, for all these reasons, the amendment fails every test of germaneness and I urge that the point of order be sustained. . . .

MR. RICHARDSON: . . . First of all, let me state that this is an issue of foreign relations between the Governments of the United States and South Africa.

Second, in this bill there have been import restrictions imposed on terrorist countries; Libya, Ethiopia, the Gilman amendment, the Hunter amendment.

Let me also make the case that this bill does not affect any tariffs, any duties or import fees, according to the tariff schedules of the United States for 1985.

This is a foreign relations matter. It is an important foreign policy statement between the United States and South Africa and it does not affect the jurisdiction of the Ways and Means Committee.

THE CHAIRMAN: The Chair is prepared to rule.

The pending amendment is not an amendment to the Mozambique amendment which just inserted a new title XIII, but rather a new title XIV. As a new title to the bill at the end of the bill, the test of germaneness is whether it is germane to the bill as a whole.

Title IV of the bill has been amended to include several import restrictions, specifically the Hunter amendment re-

garding imports from countries which harbor terrorists, and the Gilman amendment to the Miller amendment relating to imports from Libya.

Therefore, the Chair finds that the amendment is germane to the bill as a whole in its amended form and the point of order is overruled.

Parliamentarian's Note: It might be argued that a point of order could be made under Rule XXI, clause 5(b), that the amendment was a tariff amendment, as a total prohibition on imports. But as Mr. Richardson observed, there was no tariff under existing tariff law against uranium and coal imported from South Africa, so that a restriction on imports would not have affected the tariff schedules or revenue levels under existing law. Probably, an import prohibition amendment could only be considered a tariff measure within the meaning of Rule XXI, clause 5(b), where an effect on tariff schedules could be shown.

Different Classes of Penalties for Violation of Export Controls

§ 4.55 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee, is not germane; thus, to a title of a bill reported from the Committee on Foreign Affairs comprehensively amending the Export Administration Act, and addressing penalties for violating export controls within that committee's jurisdiction, such as revocation of export licenses and forfeiture of property interests and proceeds related to exports, an amendment authorizing the President to control imports by persons violating export controls was held non-germane, as a penalty not within the class covered by the title and by the Export Administration Act, and as a matter within the jurisdiction of another committee (Ways and Means).

During consideration of the Export Administration Amendments Act of 1983[17] in the Committee of the Whole on Sept. 29, 1983,[18] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

The text of title I reads as follows:

17. H.R. 3231.
18. 129 CONG. REC. 26467, 26484, 26485, 98th Cong. 1st Sess.

TITLE I—AMENDMENTS TO EXPORT ADMINISTRATION ACT OF 1979

REFERENCE TO THE ACT

Sec. 101. For purposes of this title, the Export Administration Act of 1979 shall be referred to as "the Act".

VIOLATIONS

Sec. 102. (a) Section 11(b) of the Act (50 U.S.C. App. 2410(b)) is amended by inserting after paragraph (2) the following new paragraphs:

"(3) Any person who conspires or attempts to export anything contrary to any provision of this Act or any regulation, order, or license issued under this Act shall be subject to the penalties set forth in subsection (a), except that in the case of a violation of an export control imposed under section 5 of this Act, such person shall be subject to the penalties set forth in paragraph (1) of this subsection. . . .

(b) Section 11(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) An exception to any order issued under this Act which revokes the authority of a United States person to export goods or technology may not be made unless the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate are first consulted concerning the exception.". . . .

"(f) Forfeiture of Property Interest and Proceeds.—Any person who is convicted of a violation of an export control imposed under section 5 of this Act shall, in addition to any other penalty, forfeit to the United States (1) any property interest that person has in the goods or technology that were the subject of the violation or that were used to facilitate the commission of the violation, and (2) any proceeds derived directly or indirectly by that person from the transaction from which the violation arose.". . . .

MS. [OLYMPIA J.] SNOWE [of Maine]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Snowe: . . . Page 3, insert the following after line 21:

"(4) Any individual or business concern that violates any national security control imposed under section 5 of this Act which the United States maintains cooperatively with other countries, or any regulation, order, or license related thereto, may be subject to such controls on the importing of its goods or technology into the United States or its territories and possessions as the President may prescribe.". . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order that the amendment is in violation of clause 7, rule XVI, and is not germane to the bill.

The tests of germaneness include whether the fundamental purpose of an amendment is germane to the fundamental purpose of the bill or title and whether an amendment contemplates a method of achieving that end that is closely allied to the method encompassed in the bill.

Another test of germaneness is whether an amendment, when considered as a whole, is within the jurisdiction of the committee reporting the bill and whether the amendment demonstrably affects a law within another committee's jurisdiction.

The Ways and Means Committee is the committee with jurisdiction over

restrictions on the importation of goods and services. Also, section 232 of the Trade Expansion Act of 1962 governs the control of imports that have an effect on national security. The gentlewoman's amendment clearly seeks to establish a separate mechanism and authority for controlling imports if the effect on the national security is related to high technology exports and, therefore, demonstrably affects a law within the jurisdiction of the Committee on Ways and Means.

Mr. Chairman, because I believe the amendment violates both of those tests of germaneness, I make a point of order that the amendment violates clause 7, rule XVI. . . .

MS. SNOWE: . . . First of all, let me indicate that the amendment I have offered meets the test of germaneness, I believe, as outlined in rule XVI, clause 7:

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The subject that we have under consideration is a bill that modifies the Export Administration Act. This act deals with the flow of goods between the United States and foreign countries, and with an organization we maintain cooperatively with other countries to regulate the flow of goods and technology between all countries of the world. Specifically, the report of the Foreign Affairs Committee states as the purpose of the act:

> The Export Administration Act of 1979 provides broad authority for controlling the export from the United States to potential adversary nations of civilian goods and technology.

The report goes on to state:

> The broad policy provision of the act allows considerable latitude to the executive branch to implement national security and trade policies.

The subject of my amendment, similarly, deals with the flow of goods between the United States and foreign countries. My amendment allows the executive branch authority to protect national security and to conduct a coherent trade policy.

My amendment provides the President certain powers, namely, the imposition of import controls, as a means of enforcing the cooperative agreements we maintain with other countries.

The amendment is offered to the violations section of the bill and, as such, merely extends the already existing powers available to punish violations under the Export Administration Act.

My amendment also meets the fundamental purpose test of germaneness. The Rules of the House under rule 16 indicate that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. In this instance, the fundamental purpose of both the bill and the amendment is to allow the United States to effectively regulate the flow of goods between countries. Deschler's Procedure, chapter 28, section A6.1 indicates:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill . . .

I would point out to the Chair that the bill we are considering contains language in section 322 of title III pro-

hibiting the import into the United States of South African Krugerrands or other gold coins minted in South Africa. Thus, the bill already contains specific language imposing import restrictions. The import control language in my amendment follows the purpose of the bill as reported by the Foreign Affairs Committee—that of controlling sensitive technology which is vital to our national security.

The House rules further indicate that a general subject may be amended by specific propositions of the same class. As elaboration, I cite section A9.21 of chapter 28 of Deschler's Procedure:

> Where a bill seeks to accomplish a general purpose by diverse methods, an amendment which adds a specific method to accomplish that result may be germane.

In this instance, the general purpose of the bill is to authorize U.S. participation in Cocom and to regulate the flow of sensitive technology between countries. My amendment sets forth a specific method, that of import control authority, as a means to accomplish the general purpose of the bill.

Deschler's Procedure further states in chapter 28, section A5.1:

> In determining the fundamental purpose of a bill and of an amendment offered thereto, the Chair may examine the broad scope of the bill and the stated purpose of the amendment and need not be bound by ancillary purposes that are merely suggested by the amendment.

I would point out to the Chair that my amendment has as its broad purpose the strengthening of our export policy and our relationship with our Cocom partners. That, as well, is what is addressed in the scope of the bill before us.

My amendment also meets the test of committee jurisdiction in determining germaneness. The Foreign Affairs Committee, under rule X, is given jurisdiction over:

> (1) Relations of the United States with foreign nations generally,
>
> (2) Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad, and
>
> (3) Measures relating to international economic policy.

My amendment falls generally under these jurisdictional grants, and specifically is covered by the authority of the Foreign Affairs Committee "to foster commercial intercourse with foreign nations and to safeguard American business interests abroad." . . .

THE CHAIRMAN:[19] The Chair is prepared to rule.

The Chair has examined the sanctions contained in the Export Administration Act and is satisfied that the act as amended by the pending bill does not contain authority to impose import sanctions, that the matter is within the jurisdiction of the Committee on Ways and Means.

The gentlewoman has cited a general jurisdictional claim of the Committee on Foreign Affairs; however, the specific jurisdiction over imports is within the jurisdiction of the Committee on Ways and Means.

The Chair would cite the precedent appearing at chapter 28, subsection 4.34 of Deschler's Procedure:

> To a title of a bill reported from the Committee on Interstate and

19. John F. Seiberling (Ohio).

Foreign Commerce containing diverse petroleum conservation and allocation provisions, an amendment imposing quotas on the importation of petroleum products from certain countries was held to be a matter within the jurisdiction of the Committee on Ways and Means and was ruled out as not germane.

The Chair would also cite chapter 28, subsection 4.30 of Deschler's Procedure wherein:

To a section of a bill reported from the Committee on Agriculture providing a 1-year price support for milk, an amendment expressing the sense of the Congress that the President shall impose certain tariff duties on imported dairy products was held to go beyond the purview of the pending section and to involve a matter within the jurisdiction of the Committee on Ways and Means, and was ruled out as not germane.

There are other similar precedents, but it seems to the Chair those are sufficient for purposes of supporting this ruling.

Accordingly, the Chair rules that the amendment of the gentlewoman is not germane to title I and, therefore, it is ruled out of order. The point of order is sustained.

Bill Imposing Penalties for Desecration of Flag—Amendment Placing Restrictions on Exporting Flag

§ 4.56 To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was held to be not germane.

In the 90th Congress, during consideration of a bill[20] to prohibit desecration of the flag, the following amendment was offered:[1]

Amendment offered by Mr. (John M.) Murphy of New York: On page 3, after line 19, insert the following new sections: . . .

Sec. 5. (a) The President of the United States shall prohibit the exportation from the United States of the flag of the United States in any case in which he determines that the use for which such flag is intended after such exportation is inconsistent with the respect which should be accorded the flag of the United States.

Mr. Byron G. Rogers, of Colorado, contended that the amendment was not germane.

The bill, it may be noted, had been reported by the Committee on the Judiciary, while the amendment relating to the exportation of the flag was a matter within the jurisdiction of the Committee on Foreign Affairs.

The Chairman,[2] in ruling on the point of order, stated:

The pending bill deals with the desecration of the flag. The amendment offered by the gentleman from New York is not germane because it deals with the question of the issuance of orders by the President relative to the exportation of goods, et cetera. The Chair

20. H.R. 10480 (Committee on the Judiciary).

1. 113 CONG. REC. 16495, 90th Cong. 1st Sess., June 20, 1967.

2. William M. Colmer (Miss.).

holds that the amendment is not germane, and sustains the point of order.

Bill Relating to Elections in Puerto Rico—Amendment Affecting Tax Laws Applicable to Puerto Rico

§ 4.57 To a bill relating to election of the Governor and members of the Supreme Court of Puerto Rico, an amendment relating to tax laws applicable to Puerto Rico was held not germane.

On June 16, 1947, a bill as described above was being considered under consent calendar procedure. The following amendment was offered to the bill:[3]

> Amendment offered by Mr. [Fred L.] Crawford [of Michigan] to the committee amendment:
>
> On page 7, line 20, after section 6, insert:
>
> Sec. 7. Section 3360(c) of the Internal Revenue Code is amended to read as follows:
>
> (c) Deposit of internal-revenue collections: Not to exceed 75 percent of all taxes collected under internal-revenue laws of the United States on articles produced in Puerto Rico . . . shall be deposited in a special fund . . . to be available for appropriation by Congress for the construction of public works . . . and for public relief and other public purposes in Puerto Rico.

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

> MR. [ANTONIO M.] FERNANDEZ [of New Mexico]: Mr. Speaker, I make the point of order that the amendment is not germane. The amendment is with respect to the collection of customs. The bill is limited solely to the political aspects of Puerto Rico and solely for the election of a governor and members of the Supreme Court. Furthermore, this amendment is one another committee of the House has jurisdiction over and our committee has not had anything to do with this amendment.

The Speaker,[4] in ruling on the point of order, stated:

> Unquestionably the amendment proposed is a matter that comes within the jurisdiction of the Committee on Ways and Means; therefore not germane to the pending amendment or to the bill. The Chair sustains the point of order.

Bill Amending Law To Reauthorize Rural Housing Loan and Grant Programs—Amendment Authorizing Pooling of Guaranteed Rural Housing Loans Under Another Law

§ 4.58 Committee jurisdiction is a relevant test of germaneness where the pending portion of the bill amends a law entirely within one committee's jurisdiction and the proposed amendment amends a law within another

3. 93 CONG. REC. 7079, 80th Cong. 1st Sess.

4. Joseph W. Martin, Jr. (Mass.).

committee's jurisdiction; thus, to a title of an omnibus housing bill amending a law within the jurisdiction of the Committee on Banking, Finance and Urban Affairs to reauthorize rural housing loan and grant programs, an amendment to another law within the jurisdiction of the Committee on Agriculture authorizing the pooling of federally guaranteed rural housing loans was held not germane as amending a law not amended by the pending title and within the jurisdiction of another committee.

On July 31, 1990,[5] the Committee of the Whole had under consideration title VI of the Housing and Community Development Act[6] when the amendment described above was offered. A point of order against the amendment was sustained, demonstrating that the test of germaneness to a pending title of a bill is the relationship of the amendment to the law being amended by that title, and not to other portions of the bill not then pending for amendment. The proceedings were as follows:

The text of title VI is as follows:

TITLE VI—RURAL HOUSING

SEC. 601. PROGRAM AUTHORIZATIONS.

(a) Insurance and Guarantee Authority.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1990 and 1991 in aggregate amounts not to exceed $1,906,220,000 and $2,091,200,000, respectively, as follows: . . .

MR. [DOUG] BEREUTER [of Nebraska]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bereuter: Page 358, lines 12 and 13, strike "this section" and insert "subsections (b) and (c)". . . .

Page 359, after line 18, insert the following new subsection:

(e) Agricultural Mortgage Secondary Market.—

(1) Expansion of Secondary Market Authority.—Section 8.0 of the Farm Credit Act of 1971 (12 U.S.C. 2279a) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A)(ii), by striking "or" at the end;

(ii) in subparagraph (B)(ii), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following new subparagraph:

"(C) a principle residence eligible for a loan that is guaranteed pursuant to or meets the requirements of subsection (f) of section 502 of the Housing Act 1949.";

(B) in paragraph (3), by inserting after the period at the end the following new sentence: "With respect to qualified loans described in the last sentence of paragraph (9), the

5. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

6. H.R. 1180.

term includes the Corporation and any affiliate of the Corporation."; and

(C) in paragraph (9), by inserting after the period at the end the following new undesignated paragraph:

"With respect to loans on agricultural real estate described in paragraph (1)(C), the term means the portion of a loan guaranteed by the Secretary of Agriculture pursuant to section 502(f) of the Housing Act of 1949, except that (A) subsections (b) through (f) of section 8.6 and sections 8.7, 8.8, and 8.9 shall not apply to the portion of a loan guaranteed by the Secretary. . . .

MR. [GLENN] ENGLISH [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, I object to the amendment on the grounds that it is nongermane to the bill under rule 16, clause 7 of the rules of the House, because the amendment seeks to make substantial and fundamental changes in a statute and subject matter not contemplated by the underlying bill, and because the amendment addresses a subject matter different from that under consideration by the House.

The amendment is nongermane because it proposes to amend a subject matter outside the scope of the underlying bill by altering the fundamental purpose of the Federal Agricultural Mortgage Corporation. The Federal Agricultural Mortgage Corporation was established under the Agricultural Credit Act of 1987 to act as a guarantor of certain agricultural real estate mortgage loans. The amendment would alter the fundamental purpose of the Corporation to allow it to act as a pooler of housing loans guaranteed by the Federal Government.

The amendment proposes to amend the Farm Credit Act of 1971, a statute not addressed in the underlying bill. The Farm Credit Act has as its fundamental purpose the governance of the extension of credit to farmers and ranchers. By contrast, H.R. 1108 has as its fundamental purpose the authorization of Federal housing programs.

Finally, the amendment addresses a subject matter within the jurisdiction of the Committee on Agriculture, the amendment has not been considered by this committee, and relevant precedents of the House hold that committee jurisdiction is a relevant test of germaneness when the pending text of the bill is entirely in one committee's jurisdiction and the amendment falls within another committee's purview. . . .

MR. BEREUTER: . . . Mr. Chairman, I would point out that the rural housing and housing generally is in the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

Title VII is a rural housing title. The amendment offered by this gentleman would enhance credit opportunities for rural housing.

Second, title VI, specifically section 608 of the bill, requires that the Agricultural Secretary consult with Farmer Mac when promulgating regulations to implement the Farmers Home Administration guarantee program.

Third, title VII, section 741, already discusses secondary markets in that it reauthorizes Ginnie Mae for 1 year.

Fourth, title VII, section 754, includes other secondary-market entities such as Fannie Mae and Freddie Mac regarding mortgage servicing transfer disclosures.

Finally, title I would create a housing trust. The title also requires estab-

lishment of a board to include Fannie Mae and Freddie Mac to oversee the trust.

THE CHAIRMAN:[7] The Chair is ready to rule.

The Chair concedes that there is some relationship between the housing and credit jurisdiction of the two committees, but title VI of the bill does not amend the Farm Credit Act, and the amendment amends that law which is within the primary jurisdiction of the Committee on Agriculture. Therefore, the Chair sustains the point of order that the amendment is not germane to title VI.

—Amendment Offered as New Title Expressing Sense of Congress That Congress Should Enact Legislation Providing for Enterprise Zone Program and Tax Incentives Affecting Housing

§ 4.59 To a bill broadly addressing the subjects of housing and community development within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, an amendment expressing the sense of the Congress that certain legislation, including an extension of the low-income housing tax credit, should be enacted, is not germane since the amendment deals with tax policy, a matter within the jurisdiction of the Committee on Ways and Means.

During consideration of the Housing and Community Development Act[8] in the Committee of the Whole on Aug. 1, 1990,[9] the Chair sustained a point of order against the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Bartlett: Page 594, after line 2, insert the following new title (and conform the table of contents, accordingly):

TITLE IX—GENERAL PROVISIONS

SEC. 901. SENSE OF CONGRESS REGARDING HOUSING TAX POLICY.

(a) Congressional Findings.—The Congress finds that tax policy is an integral component of effective housing and neighborhood revitalization policy.

(b) Sense of Congress.—It is, therefore, the sense of the Congress that the Congress should enact legislation during the 101st Congress providing a viable enterprise zone program, an individual retirement account program for homeownership, and an extension of the low-income housing tax credit. . . .

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Chairman . . . I make the point of order on the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI.

7. John P. Muntha (Pa).

8. H.R. 1180.

9. 136 CONG. REC. p.—, 101st Cong. 2d Sess.

This amendment, like the previous amendment, would express the sense of the Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I therefore make a point of order that the amendment is not germane to the bill. . . .

MR. BARTLETT: Mr. Chairman, as I said on the last point of order on the sense of Congress, housing policy is germane to a housing bill, and it is within the jurisdiction of the Committee of the Whole, which is the Committee that is considering this bill.

THE CHAIRMAN:[10] The Chair is prepared to rule.

An expression of the sense of Congress that there should be enacted in this Congress a viable enterprise zone program, individual retirement accounts, and extension of low income housing tax credits addresses matter of tax policy under the jurisdiction of the Committee on Ways and Means, and, therefore, the Chair sustains the point of order based on the prior ruling. The germaneness rule applies in the Committee of the Whole.

Bill Providing for Grant and Credit Programs for Housing and Community Development—Amendment Expressing Sense of Congress as to Tax Policies Affecting Housing

§ 4.60 The Committee of the Whole may not consider amendments expressing the sense of Congress on a subject unrelated to the pending bill and within the jurisdiction of a committee other than that reporting the bill; thus, to a bill dealing with housing and community development grant and credit programs (a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs), an amendment expressing the sense of Congress that other federal law should reflect a stated tax policy with respect to housing was held not germane as within the jurisdiction of another House committee (the Committee on Ways and Means) and dealing with the subject of housing by an unrelated method.

On Aug. 1, 1990,[11] during consideration of the Housing and Community Development Act[12] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

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

The Clerk read as follows:

10. John P. Murtha (Pa.).

11. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

12. H.R. 1180.

Amendment offered by Mr. Bartlett:

Page 594, after line 2, insert the following new section (and conform the table of contents, accordingly):

SEC. 902. SENSE OF CONGRESS REGARDING MORTGAGE INTEREST DEDUCTION.

(a) Findings.—The Congress finds that—

(1) homeownership is a fundamental American ideal, which promotes social and economic benefits beyond the benefits that accrue to the occupant of the home . . .

(3) it is proper that the policy of the Federal Government is, and should continue to be, to encourage homeownership . . .

(6) the current Federal income tax deduction for interest paid on debt secured by first and second homes is of crucial importance to the economies of many communities; and

(7) the continued deductibility of interest paid on debt secured by a first or second home has particular importance in promoting other desirable social goals, such as education of young people.

(b) Sense of Congress.—It is the sense of the Congress, therefore, that the current Federal income tax deduction for interest paid on debt secured by a first or second home should be preserved. . . .

MR. [DAN] ROSTENKOWSKI [of Illinois]: . . . Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI. This amendment would express the sense of Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, and I therefore make the point of order that the amendment is not germane to the bill. . . .

MR. BARTLETT: . . . First, this amendment, a sense of the Congress with regard to housing, is clearly germane to a housing bill. It is germane under clause 6, rule XVI in that the housing bill itself would seek to extend and amend certain laws related to housing, community and neighborhood development and preservation and related programs. . . .

The home mortgage deduction relates to housing. It is clearly germane to the bill.

It is clearly within the jurisdiction of the full House to consider a sense of the Congress on virtually any subject. It is within the jurisdiction of the Committee of the Whole to consider a sense of the Congress amendment as an amendment to a housing bill if the amendment relates to housing.

So first, it is germane. It does not direct another committee to do anything at all. It states that this Committee of the Whole believes that a mortgage interest deduction is an essential part of housing, and this is a housing bill.

Second, while an argument was made at the committee level in the Committee on Banking, Finance and Urban Affairs that it was not germane to it, that it was not within the jurisdiction of the Banking Committee, and I think that at least has some validity to it, although I do not think it is correct with regard to a sense of the Congress. The fact is that this is not the Banking Committee. Mr. Chairman, we are convened as a Committee of the Whole House. Four hundred thirty-five Members of this Committee of the Whole House has jurisdiction over a sense of the Congress with regard to this particular housing policy.

This is not the Committee on Ways and Means and it is not the Committee on Banking, Finance and Urban Affairs. It is the Committee of the Whole House.

Third, the bill, this sense of Congress does not provide for a tax or tariff measure. It is a sense of Congress. . . .

MR. [BILL] FRENZEL [of Minnesota]: . . . Mr. Chairman, the amendment which has just been raised by the gentleman from Texas is a sense-of-Congress resolution which relates to material under jurisdiction of another committee. It expresses a pious hope which many of us may share, but it has nothing to do with the bill in question. It is as if the House should make a resolution or a sense-of-Congress resolution that would say the Agriculture Department should plant more trees. That too would relate to housing, but in a very—in a manner such as is not acceptable under our rules. . . .

THE CHAIRMAN:[13] . . . The Chair is prepared to rule.

The gentleman from Illinois makes the point of order that the amendment offered by the gentleman from Texas is not germane to the bill. The bill comprehensively addresses the general subject of public housing and community development. The amendment offered by the gentleman from Texas adds to the bill an expression of the sense of Congress concerning tax deductions.

Although the topic is conceptually related to the topic of public housing, it addresses questions of tax policy, matters within the jurisdiction of the Committee on Ways and Means.

The Chair is guided by the precedent of February 9, 1984, cited in Deschler-Brown Procedure, Chapter 28, section 4.47 to a bill reported from the Committee on Science and Technology, authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, matters within the jurisdiction of the Committee on Energy and Commerce was held not germane.

Likewise to the pending bill addressing public housing and community development within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, an amendment expressing the sense of Congress on matters of tax policy is not germane. The point of order is, therefore, sustained.

Bill To Provide Employment Opportunities Through Projects To Renovate Community Facilities—Amendment Providing Tax Incentives for Enterprise Zones

§ 4.61 To a bill reported from the Committee on Education and Labor authorizing a program of financial assistance to provide employment opportunities to unemployed individuals in areas of high unemployment, in projects to repair and renovate community facilities, an amendment in the nature of a substitute proposed in a motion to recommit providing instead for

13. John P. Murtha (Pa.).

federal income tax incentives for enterprise zones through amendments to the Internal Revenue Code (and for other forms of special treatment for enterprise zones through amendment of other acts), was held not germane as unrelated to the subject matter of the bill and beyond the jurisdiction of the reporting committee, and was held to be a tax measure offered to a bill not reported by a committee with jurisdiction over tax measures, in violation of clause 5(b) of Rule XXI.

During consideration of the Community Renewal Employment Act[14] in the House on Sept. 21, 1983,[15] Speaker Thomas P. O'Neill, of Massachusetts, sustained a point of order against a motion to recommit with instructions to re-report the bill with an amendment. The text of the bill provided in part:

> Sec. 201. (a) Eligible participants shall be employed in community improvement projects under this title in one or more of the following activities:
>
> (1) activities to repair, rehabilitate, or improve public facilities, including (A) road and street repair, (B) bridge painting and repair, (C) repair and rehabilitation of public buildings and other community facilities, including public libraries, (D) repair, modernization, and moderate rehabilitation of public housing units, (E) repair and rehabilitation of water systems and water development projects, (F) repair and rehabilitation of public mass transportation systems, (G) erecting or replacing traffic control signs and removing road sign obstructions . . .
>
> (2) activities to conserve, rehabilitate, or improve public lands, including (A) erosion, flood, drought, and storm damage assistance and control . . .
>
> (3) public safety, health, social service, and other activities necessary to the public welfare, including (A) repairing or replacing fire hydrants and assisting in fire hazard inspections . . . (R) rodent and insect control activities, (S) hazardous materials surveys, and (T) employment counseling and placement services. . . .
>
> (d) Projects to be carried out under subsection (a)(2) shall be limited to projects on public lands or Indian lands except where a project involving other lands will provide a documented public benefit and reimbursement will be provided to the recipient for that portion of the total costs of the project which does not provide a public benefit. . . .
>
> MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Speaker, I offer a motion to recommit. . . .
>
> THE SPEAKER: The Clerk will read the motion to recommit.
>
> The Clerk read as follows:
>
> Mr. Erlenborn moves to recommit the bill, H.R. 1036, to the Committee on Education and Labor with instructions that the Committee re-re-

14. H.R. 1036.

15. 129 CONG. REC. 25111, 25138–45, 98th Cong. 1st Sess.

port the bill back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; AMENDMENTS OF 1954 CODE.

(a) Short Title.—This title may be cited as the "Enterprise Zone Act of 1983".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. PURPOSES.

It is the purpose of this Act to provide for the establishment of enterprise zones in order to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote revitalization of economically distressed areas primarily by providing or encouraging—

(a) tax relief at the Federal, State, and local levels;

(b) regulatory relief at the Federal, State, and local levels; and

(c) improved local services and an increase in the economic stake of enterprise zone residents in their own community and its development, particularly through the increased involvement of private, local, and neighborhood organizations. . . .

TITLE II—FEDERAL INCOME TAX INCENTIVES

SUBTITLE A—CREDITS FOR EMPLOYERS AND EMPLOYEES

SEC. 201. CREDIT FOR ENTERPRISE ZONE EMPLOYERS.

(a) Credit for Increased Enterprise Zone Employment and Employment of Disadvantaged Workers.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting immediately before section 45 the following new section:

"SEC. 44H. CREDIT FOR ENTERPRISE ZONE EMPLOYMENT.

"(a) In General.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) the economically disadvantaged credit amount of the taxpayer for such taxable year. . . .

TITLE IV—ESTABLISHMENT OF FOREIGN-TRADE ZONES IN ENTERPRISE ZONES

SEC. 401. FOREIGN-TRADE ZONE PREFERENCES.

(a) Preference in Establishment of Foreign-Trade Zones in Revitalization Areas.—In processing applications for the establishment of foreign-trade zones pursuant to an Act entitled "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," approved June 18, 1934 (48 Stat. 998), the Foreign-Trade Zone Board shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a foreign-trade zone within an enterprise zone designated pursuant to section 7871 of the Internal Revenue Code of 1954.

(b) Application Procedure.—In processing applications for the establishment of ports of entry pursuant to an Act entitled "An Act making

appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and fifteen, and for other purposes," approved August 1, 1914 (38 Stat. 609), the Secretary of the Treasury shall consider on a priority basis and expedite, to the maximum extent possible, the processing of any application involving the establishment of a port of entry which is necessary to permit the establishment of a foreign-trade zone within an enterprise zone.

(c) Application Evaluation.—In evaluating applications for the establishment of foreign-trade zones and ports of entry in connection with enterprise zones, the Foreign-Trade Zone Board and the Secretary of Treasury shall approve the applications to the maximum extent practicable, consistent with their respective statutory responsibilities. . . .

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Speaker, my point of order is on the grounds that the motion to recommit contains language of a tax bill which cannot be put on a nontax bill; and, second, the amendment is not germane to the bill under consideration. . . .

MR. ERLENBORN: Mr. Speaker, the gentleman from California (Mr. Hawkins) is correct in that there is language relative to tax law in the motion to recommit. I submit that the purpose of the motion to recommit and the purpose of the amendment would be to enact the enterprise zone proposal that has been supported very broadly in both Houses of the Congress, and that it would reduce unemployment in the communities across the country where we have high levels of unemployment, though I admit it would do so in a somewhat different manner. It would do so through tax incentives and the creation of real meaningful jobs in the private sector rather than public service type jobs.

Mr. Speaker, I hope it would be considered germane since the purposes are the same. We just have a better way of doing it.

THE SPEAKER: The Chair is ready to rule.

It is very obvious to the Chair that the motion to recommit offered by the gentleman from Illinois (Mr. Erlenborn) is not germane. This is a tax amendment, and the Committee on Education and Labor has no jurisdiction over it.

So the point of order is well taken under clause 7 rule XVI and under clause 5(b) rule XXI, and the point of order is sustained.

Conference Report on House Bill Authorizing Funds for Public Works Jobs—Senate Amendment Mandating Already Appropriated Funds for Public Works and Reclamation

§ 4.62 In a conference report on a House bill (originally reported from the Committee on Public Works and Transportation) authorizing funds for state and local governments to create new public works jobs, a Senate amendment adding a new title to mandate the expenditure of already appropriated funds for public works and rec-

lamation (as a purported disapproval of the deferral of such funds under the Impoundment Control Act) and to set a discount rate for reclamation and public works projects—matters within the respective jurisdictions of the Committees on Appropriations and Interior and Insular Affairs—was conceded to be nongermane and subject to a point of order under clause 4 of Rule XXVIII and to a motion to reject that portion.

On May 3, 1977,[16] the House had under consideration the conference report on H.R. 11 when the situation described above occurred; the proceedings were as follows:

> MR. [ROBERT A.] ROE [of New Jersey]: Mr. Speaker, I call up the conference report on the bill (H.R. 11) to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976, and ask unanimous consent that the statement of the managers be read in lieu of the report.
>
> The Clerk read the title of the bill.
>
> MR. [ROBERT A.] YOUNG of Missouri: Mr. Speaker, I make a point of order against the conference report.
>
> THE SPEAKER PRO TEMPORE:[17] The gentleman will state his point of order.
>
> MR. YOUNG of Missouri: Mr. Speaker, the inclusion of title II of the conference report on H.R. 11 is in violation of clause 4 of rule XXVIII of the Rules of the House of Representatives.
>
> Mr. Speaker, it should be obvious to my colleagues that this bill—H.R. 11—has come back from conference with an unrelated, nongermane amendment.
>
> Title 1 of this bill authorizes $4 billion to be channeled to State and local governments throughout the country to create new public works jobs. The goal is to reduce the Nation's high unemployment rate.
>
> In contrast, title 2 concerns previously approved water projects, with a principal goal of providing new flood control, water management and recreational benefits.
>
> The jurisdiction over title 2 currently rests with the Appropriations Committee, and no longer involves the Public Works Committee. Therefore, title 2 should be excluded from consideration now and allowed to be handled by the appropriate committee.
>
> My argument of nongermaneness is based on several precedents cited in Deschler's Procedure. May I call your attention to 4.25 of Deschler's chapter 28 which reads:
>
> > To a bill reported by the Committee on Public Works authorizing funds for highway construction and for mass transportation systems which use motor vehicles on highways, an amendment relating to urban mass transit (a subject within the jurisdiction of the Committee on Banking and Currency) and to rapid rail transportation and assistance to the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was ruled out as not germane. 118 Con-

16. 123 CONG. REC. 13242, 13243, 95th Cong. 1st Sess.

17. Abraham Kazen, Jr. (Tex.).

gressional Record 34111, 34115, 92d Congress, 2nd Session, Oct. 5, 1972.

I would also like to cite [4.9] reading:

An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban transportation, was ruled out as not germane. 116 Congressional Record 34191, 91st Congress, 1st Session, Sept. 29, 1970.

Finally I ask you to refer to 4.12 which reads:

To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was ruled out as not germane. 113 Congressional Record 16495, 90th Congress, 1st Session, June 20, 1967.

These precedents form the basis of my point of order—that title 2 is simply not germane to the local public works bill.

THE SPEAKER PRO TEMPORE: Does the gentleman from New Jersey (Mr. Roe) wish to be heard in debate on the point of order?

MR. ROE: No, Mr. Speaker. We concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey (Mr. Roe) concedes the point of order. The Chair sustains the point of order.

MR. YOUNG of Missouri: Mr. Speaker, I move, in conformity with the matter involved in the point of order, that the House reject title II of the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from Missouri (Mr. Young) is recognized for 20 minutes on his motion.

Bill Amending Laws Relating to Housing and Urban Renewal—Amendment Delaying Effectiveness Pending Revenue Legislation

§ 4.63 To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held to be not germane.

The proceedings of May 21, 1959, relating to the Housing Act of 1959, are discussed in § 31.11, infra.

Housing Bill Authorizing Urban Property Insurance—Amendment Inaugurating Urban Insurance for District of Columbia

§ 4.64 To an omnibus housing bill, in part authorizing urban property protection and reinsurance and establishing a National Insurance Development Corporation, an amendment which sought to inaugurate a new program of urban insurance for the

District of Columbia was held to be germane.

In the 90th Congress, during consideration of the Housing and Urban Development Act of 1968,[18] the following amendment was offered:[19]

> Amendment offered by Mr. [Edward J.] Patten [of New Jersey]: On page 211, immediately after line 14, insert the following:
>
> TITLE XI—DISTRICT OF COLUMBIA INSURANCE PLACEMENT ACT
>
> DECLARATION OF PURPOSE
>
> Sec. 1102. The purposes of this title are—
>
> (1) to assure stability in the property insurance market for property located in the District of Columbia;
>
> (2) to assure the availability of basic property insurance as defined by this title. . . .

A point of order was raised against the amendment, as follows:[20]

> MR. [WILLIAM E.] BROCK [III, of Tennessee]: I make a point of order against the amendment on the ground that it is not germane, it would create a special class of beneficiary, and it would invade the jurisdiction of another committee.

In defending the amendment, the proponent, Mr. Patten, stated:

> Mr. Chairman, as far as our having a right to amend this bill at this point without referring it to the District of Columbia Committee, I am pretty sure our rules permit such action. . . .

The Chairman,[1] in ruling on the point of order, stated:

> . . . The Chair has examined title X closely. The name of title X is "Urban Property Protection and Reinsurance". On page 189, under "Definitions," it is stated that—
>
> (11) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific;
>
> The amendment offered by the gentleman from New Jersey deals with a matter of insurance, which the Chair feels is within the scope of the pending bill. The District of Columbia is included in the pending bill. Therefore, the Chair holds that the amendment is germane and overrules the point of order.

Bill Relating to Urban Mass Transportation—Amendment Relating to Railroads

§ 4.65 An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban mass transportation, was held to be not germane.

In the 91st Congress, a bill[2] was under consideration which

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18. H.R. 17989 (Committee on Banking and Currency).

19. 114 CONG. REC. 20526, 20527, 90th Cong. 2d Sess., July 10, 1968.

20. *Id.* at p. 20528.

1. Charles M. Price (Ill.).

2. H.R. 18125 (Committee on Banking and Currency).

had been reported by the Committee on Banking and Currency and which sought in part to direct the Secretary of Transportation to study the feasibility of federal assistance to defray operating costs of urban mass transportation companies. An amendment was offered[3] directing the Secretary of Transportation to study the feasibility of federal acquisition and maintenance of all fixed railroad facilities, a subject within the jurisdiction of the Committee on Interstate and Foreign Commerce. A point of order was raised against the amendment, as follows:

> MR. [WRIGHT] PATMAN [of Texas]: The amendment relates to a type of transportation that is not under the Secretary of Transportation. The railroads are not under the Secretary of Transportation. They are not included in the bill. Therefore the amendment is not germane.

The Chairman[4] noted that the amendment contained matters within the jurisdiction of the Committee on Interstate and Foreign Commerce. Stating further that, "The amendment does go beyond the scope of the pending bill and is not germane," the Chairman sustained the point of order.

Bill To Reorganize Amtrak—Amendment Providing for Tax Incentives To Improve Amtrak

§ 4.66 While committee jurisdiction is not the sole test of the germaneness of an amendment, it is an appropriate test where the pending text is entirely within one committee's jurisdiction and the amendment falls entirely within that of another committee; thus, to a bill within the jurisdiction of the Committee on Interstate and Foreign Commerce reorganizing Amtrak through financial assistance and other methods, to improve rail passenger services, an amendment to achieve track improvements solely through tax incentives by amending the Internal Revenue Code, is not a related method and is not germane, since it would fall within the jurisdiction of the Committee on Ways and Means.

On July 25, 1979,[5] a point of order was sustained against an amendment to the Amtrak Reorganization Act of 1979[6] during

3. 116 CONG. REC. 34191, 91st Cong. 2d Sess., Sept. 29, 1970.
4. John J. McFall (Calif.).
5. 125 CONG. REC. 20601, 20602, 96th Cong. 1st Sess.
6. H.R. 3996.

consideration in the Committee of the Whole, Chairman Leon E. Panetta, of California, holding that the amendment was not germane:

Amendment offered by Mr. Madigan: Page 102, after line 8, insert the following new title:

TITLE V—TAX INCENTIVES

CERTIFICATION OF QUALIFIED TRACK

Sec. 501. (a) Application.—Any rail carrier which makes improvements in railroad track which it owns and which is used by the National Railroad Passenger Corporation pursuant to an agreement entered into under section 402 of the Rail Passenger Service Act may apply to the Secretary of Transportation for certification of such track as qualified track for purposes of section 48 of the Internal Revenue Code of 1954. Any such application shall be submitted in such form and contain such information as the Secretary may by regulation require. . . .

Sec. 502. (a) Additional 10-Percent Credit for Railroad Energy Property.—(1) Subparagraph (A) of section 46(a)(2) of the Internal Revenue Code of 1954 (relating to amount of investment tax credit) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iv) in the case of railroad energy property, the railroad energy percentage."

(2) Paragraph (2) of section 46(a) of such Code is amended by adding at the end thereof the following new subparagraphs:

"(F) Railroad Energy Percentage.—For purposes of this paragraph, the railroad energy percentage is—

"(i) 10 percent with respect to the period beginning on January 1, 1980, and ending on December 31, 1984, or

"(ii) zero with respect to any other period. . . .

(c) Credits With Respect to Railroad Energy Property To Be Refundable.—(1) Subsection (a) of section 46 of such Code is amended by adding at the end thereof the following new paragraph:

"(11) Refundable Credits for Railroad Energy Property.—

"(A) In General.—Under regulations prescribed by the Secretary, in the case of so much of the credit allowed by section 38 as is described in subparagraph (B)—

"(i) paragraph (3) shall not apply, and

"(ii) for purposes of this title (other than section 38, this subpart, and chapter 63), such credit shall be treated as if it were allowed by section 39 and not by section 38. . . .

MR. [EDGAR L.] JENKINS [of Georgia]: Mr. Chairman, I make a point of order against this amendment.

The bill that is now under consideration, H.R. 3996, is a bill which restructures the Nation's rail passenger system. The amendment which is being offered by the gentleman from Illinois (Mr. Madigan) very expressly amends the Internal Revenue Code. The amendment is clearly an income tax provision. It adds to the Internal Revenue Code, if I understand the amendment correctly, an additional income tax credit for investment in railway energy property.

The amendment is clearly not germane to the subject matter of the bill

before us which revises the Amtrak system. It is plainly inconsistent with the germaneness rule of the House.

I am going to also say, Mr. Chairman, that this new tax credit, which would be provided by the amendment of the gentleman from Illinois (Mr. Madigan), is refundable. It would be available despite the taxpayers' lack of tax liability. This is a concept which the jurisdictional committee, the Committee on Ways and Means, should consider and review very carefully before enactment. . . .

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Chairman, the gentleman from Georgia argues that my amendment is not consistent with the purpose of the bill and, therefore, for that reason not in order. As a matter of fact, my amendment is in order because it is consistent with the fundamental purpose of this bill. It is compatible and closely allied with the method of assisting Amtrak as provided in the bill and it does not become disqualified by the application of a committee jurisdiction test.

A basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII 2911; Deschler's Procedure 28.5). In determining this purpose, one must look to the text of the bill as the principal tool in determining purpose. The fundamental purpose of both the bill and the amendment is to provide Amtrak with the ability to provide safe, reliable, and comfortable intercity rail passenger service. . . .

While the purpose to be accomplished by my amendment is through a method not specifically contemplated by the bill in its present form, the result that is desired and the method to achieve that result are compatible and closely allied. The basic method set forth in the bill to strengthen Amtrak and the method set forth in my amendment are similar. . . .

Finally, it could be argued that committee jurisdiction is an obstacle to my amendment being considered. A parliamentary note in Deschler's Procedure (28:4.16) applies to this situation:

> The fact that the subject matter of an amendment lies within the jurisdiction of a committee other than that having jurisdiction over the bill does not necessarily dictate the conclusion that the amendment is not germane; for committee jurisdiction is but one of the tests of germaneness and in ruling on the question, the Chair must take into consideration other factors.

In conclusion, Mr. Chairman, I submit that my amendment is in order because it has as its fundamental purpose a purpose which is identical to that contained in the bill; the method proposed in the amendment uses a method of achieving the end result of better Amtrak performance in a way that is closely allied to the other methods used in the bill and, finally, the purpose of the amendment and the purpose of the bill are not only identical but use such closely allied methods that any objection based on committee jurisdiction is clearly outweighed when considering the germaneness of my amendment. I ask the Chair to find the amendment to be germane to H.R. 3996 and its consideration to be in order. . . .

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

The Chair agrees with the gentleman from Illinois (Mr. Madigan) that there are several tests of germaneness. All of the tests which may be relevant to the particular amendment must be satisfied. The fact is that committee jurisdiction is one of those tests. Since the amendment deals with taxing policy and falls within the jurisdiction of the Committee on Ways and Means, that appears to be a relevant test of germaneness in this instance.

Quoting in support of that ruling is rule XVI, section 798c of the Rules of the House of Representatives, page 497, which states:

> Committee jurisdiction is not the sole test of germaneness where the proposition to which the amendment is offered is so comprehensive (overlapping several committees' jurisdictions) as to diminish the pertinency of that test and the amendment as offered does not demonstrably affect a law within another committee's jurisdiction, or where the portion of the bill also contains language, related to the amendment, not within the jurisdiction of the committee reporting the bill—

But the text continues:

> But committee jurisdiction is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview.

In the opinion of the Chair, the amendment offered by the gentleman from Illinois does fall within the purview of the jurisdiction of the Committee on Ways and Means.

Therefore, the Chair sustains the point of order.

Omnibus Agriculture Bill Amended To Include Provisions Within Jurisdiction of Other Committees—Amendment To Make Eligibility for Price Support Programs Conditional on Compliance With Labor Standards

§ 4.67 To an omnibus agricultural bill authorizing a variety of commodity price support and payment programs within the jurisdiction of the Agriculture Committee, but amended to include provisions on subjects within the jurisdiction of other committees, such as ethanol (within the jurisdiction of the Committee on Energy and Commerce) and cargo preference (the Committees on Merchant Marine and Fisheries and Foreign Affairs), an amendment conditioning eligibility in such price support and payment programs upon the furnishing by agricultural employers of specified labor protection (normally within the jurisdiction of the Committee on Education and Labor) was held germane, as the bill had been amended to include matter beyond the exclusive jurisdiction of the Committee on Agriculture.

On Oct. 8, 1985,[7] during consideration of the Food Security Act of 1985[8] in the Committee of the Whole, the Chair, in overruling points of order against an amendment, reiterated the principle that committee jurisdiction is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committee's jurisdictions. The proceedings were as follows:

Amendment offered by Mr. Miller of California: At the end of the bill add a new Title XXI.

LIMITATION ON PARTICIPATION IN CERTAIN COMMODITY PRICE SUPPORT AND PAYMENT PROGRAMS

Sec. 21. (a) Any person who violates subsection (b), (c), or (d) shall be ineligible, as to any commodity produced by that person during the crop year which follows the crop year in which such violation occurs, for any type of price support, payment or any other program or activity described in any of paragraphs 1 through 5 of section 1202(a).

(b) Any agricultural employer shall provide the following to agricultural employees engaged in hand-labor operations in the field, without cost to such employees:

(1) Potable drinking water. . . .

(2) With respect to toilets and handwashing facilities—

(A) one toilet and one handwashing facility provided for each group of 20 employees, or any fraction thereof;

(B) toilet facilities with doors which can be closed and latched from the inside and constructed to ensure privacy. . . .

MR. [ARLEN] STANGELAND [of Minnesota]: Mr. Chairman, I make the point of order that the Miller amendment is not germane to H.R. 2100. . . .

One underlying rationale for the rule of germaneness is to preclude the consideration of subjects that were not considered by the appropriate committee when the bill was being considered by the Agricultural Committee; this is H.R. 2100. No such hearings were held by the Committee on Agriculture.

The primary jurisdiction over the subject matter of the Miller amendment is with the Committee on Education and Labor. A bill similar to the Miller amendment, H.R. 3295, was cosponsored by my colleague from California on September 12, 1985, and was only referred to the Committee on Education and Labor.

This amendment is an attempt to circumvent the rules of the House in the consideration of legislation by a major committee and to introduce a new subject, labor standards, into the agricultural legislation. . . .

MR. [GEORGE] MILLER of California: . . . Clearly, the amendment is germane, because the amendment provides the conditions upon which the benefits under this program shall be derived by farm owners throughout

7. 131 CONG. REC. 26548–51, 99th Cong. 1st Sess.

8. H.R. 2100.

this country. It is the conditions upon which the agricultural benefits that are put together, the billions of dollars in this program, shall be distributed.

It is also germane because it does not expand the jurisdiction of American labor law; it does not expand any existing law; it is clearly stated and it is well-ordered point of law that the OSHA Act, under which the Secretary of Labor has the ability to extend the protection for health and safety benefits is well settled that it already applies to the agricultural field.

There are a number of provisions of OSHA which are already settled in the law as provided to them, and this is one of them. This is one of them. So clearly we have the ability to take already existing law, with no extension of authority, and condition the distribution of agricultural benefits and participations in this program on that already-existing law. . . .

This amendment simply says that those standards, which have already been promulgated, which have already been settled, which have already been published, shall be one of the conditioning of the reasons for which there will be distribution of the benefits of this program. . . .

MR. [RICHARD] ARMEY [of Texas]: Mr. Chairman, the gentleman's amendment imposes field sanitation regulations on certain agricultural employers; mandates that the head of the Federal Department, Secretary of Agriculture, delegate the making of further rules and the investigation of violations to the head of another Federal Department, the Secretary of Labor, and renders violations of the regulations ineligible for the commodity price support.

First, the amendment does not meet the fundamental purpose of germaneness. The general rule is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The basic purpose of this bill is to reauthorize the Commodity and Farm Credit Programs and the Food Stamp Programs. Regarding the commodity price supports, the bill's objective is to bring crop price supports closer to market prices in order to make U.S. crops more competitive in the world market and additionally, as a result, to continue to protect farm income in certain ways.

There is no logical connection between the fundamental purpose of this bill and the basic purpose behind the gentleman's amendment. . . .

In effect, his amendment's real purpose is to establish a new, special occupational health and safety statute applicable to a limited class of agricultural workplaces. His amendment does not seek to further the legislative end of the matter sought to be amended but, rather, he is using the vehicle of the Commodity Price Support Program to simply enact his new agricultural field sanitation law and to create a penalty device to enforce it. . . .

MR. MILLER of California: Mr. Chairman, on the point of order raised, let us talk about whether or not this amendment is fundamental to this legislation that was raised by the gentleman from Texas. The fact of the matter is, this is absolutely fundamental to this legislation. The purposes of this legislation are to determine the conditions and the basis on which the benefits under this program,

whether it is an allotment program that we just determined here or whether it is the Commodity Program, whether it is support crisis, crop insurance, loans that are made to the agricultural community, the terms and conditions upon which these benefits will be made. . . .

This bill is riddled with conditions upon which those benefits will be addressed or which those benefits will be distributed.

So this adds nothing new in terms of new law. It simply provides an additional benefit. If you read through this legislation, throughout the legislation, there are conditions placed upon the size of the farm, the wealth of the farmers, the kind of land they till, the kind of land they set aside, whether or not they participate, whether or not they ship their crops overseas on American bottoms or not. All of those are conditions because we do not allow billions and billions of dollars to be distributed without some say so. So I suggest to you that is absolutely germane, Mr. Chairman, to have this condition be made a part of this legislation and a condition under the existing programs on which the benefits are distributed. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule on the points of order. . . .

The gentlemen from Minnesota and Texas make a point of order that the amendment offered by the gentleman from California [Mr. Miller] is not germane to the bill. Since the amendment is in the form of a new title to be inserted at the end of the bill, the Chair must consider the relationship of the amendment to the bill as a whole and as modified by the Committee of the Whole. The amendment would condition the availability of price support and payment programs authorized by the bill upon the furnishing by certain agricultural employers of specified labor protections. While it is true that jurisdiction over labor standards for agricultural employees is a matter within the purview of the Committee on Education and Labor and while the bill contains subject matter primarily within the jurisdiction of the Committee on Agriculture, the bill, as amended, also includes provisions within the jurisdiction of other committees including the Committee on Energy and Commerce, on ethanol, the amendment of Mr. Leach, the Committee on Merchant Marine and Fisheries which had the question of cargo preference and also the Committees on Ways and Means and Foreign Affairs. As indicated in Deschler's Procedure, chapter 28, section 4.1, committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions.

The Chair is also aware that regulations have been ordered to be promulgated by the Secretary of Labor pursuant to existing law to accomplish the purpose of the amendment. This situation is similar to the precedent cited in Deschler's chapter 28, section 23.6, where, to an omnibus agricultural bill, an amendment prohibiting any price support payments under the bill unless such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws

9. David E. Bonior (Mich.).

was held to be germane. For these reasons the question that was raised by the gentlemen from Minnesota and Texas on germaneness will not be sustained.

Provisions Amending Agriculture Act—Amendment Repealing Regulations Under Occupational Safety and Health Act

§ 4.68 To an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture, an amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals, notwithstanding provisions of the Occupational Safety and Health Act (a matter within the jurisdiction of the Committee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered.

On July 19, 1973,[10] during consideration of a bill to amend and extend the Agriculture Act of 1970[11] in the Committee of the Whole, it was demonstrated that the test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between the amendment and the bill for which the amendment in the nature of a substitute has been offered:

> MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:
> >
> > Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic

10. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess.

11. H.R. 8860.

Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

THE CHAIRMAN:[12] The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

Appropriation To Supply Farm Labor—Amendment Changing Selective Training and Service Act Relating To Induction of Farm Labor

§ 4.69 To a joint resolution providing an appropriation for supplying and distributing farm labor, an amendment seeking to amend provisions of the Selective Training and Service Act relating to induction of farm labor was held to be not germane.

In the 78th Congress, during consideration of a bill[13] providing an appropriation as above described, an amendment was of-

12. William H. Natcher (Ky.).

13. H.J. Res. 96 (Committee on Appropriations).

fered[14] relating to induction of farm labor. Mr. John Taber, of New York, made the point of order against the amendment that it was not germane to the bill.

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

> House Joint Resolution 96 provides an appropriation for supplying and distributing farm labor. The amendment . . . in effect amends the Selective Training and Service Act by providing for certain deferments. Legislation affecting the Draft Act automatically comes under the jurisdiction of the Committee on Military Affairs, not the Committee on Appropriations or the Committee on Agriculture. Therefore, in the opinion of the Chair, the amendment offered by the gentleman from South Carolina [Mr. Fulmer] is not germane to the pending resolution, and the Chair sustains the point of order.

Bill Providing for Loans to Farmers—Amendment To Provide for Loans to Commercial Fishermen

§ 4.70 To a bill providing financial relief for one class (agricultural producers), an amendment extending such relief to another class (commercial fishermen), particularly where relief to the latter class is within the jurisdiction of another committee, is not germane.

During consideration of the Agriculture Credit Act of 1978[16] in the Committee of the Whole on Apr. 24, 1978,[17] Chairman Don Fuqua, of Florida, sustained a point of order against the following amendment:

> MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer amendments, and I ask unanimous consent that the amendments be considered en bloc.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Oregon?
>
> There was no objection.
>
> The Clerk read as follows:
>
> > Amendments offered by Mr. Weaver: Page 20, line 7, insert "and Commercial Fishing" after "Agricultural."
> >
> > Section 202:
> >
> > Page 20, line 11, strike out "and ranchers" and insert in lieu thereof ", ranchers, or commercial fishermen".
> >
> > Page 20, line 12, strike out the comma and insert "or commercial fishing".
> >
> > Page 20, line 14, insert "or fishing" before "cooperatives". . . .
>
> MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make the point of order the amendment is not germane to title II of the bill. I cite the title of title II which is "Emergency Agricultural Credit Adjustment Act of 1978." The purposes of title II of the

14. 89 CONG. REC. 2165, 78th Cong. 1st Sess., Mar. 17, 1943.

15. Robert L. F. Sikes (Fla.).

16. H.R. 11504.

17. 124 CONG. REC. 11080, 11081, 95th Cong. 2d Sess.

bill are to make insured and guaranteed loans to bona fide farmers and ranchers who are primarily engaged in agricultural production, and to farm cooperatives, private domestic corporations or partnerships that are primarily and directly engaged in agricultural production.

No part of the bill deals with fishing activities or the fishing industry or has to do with establishing any loans or credits or otherwise providing financial assistance to any fishermen or those engaged in any fishing activity.

The whole structure and purpose of this title are limited to provision of credit to farmers and ranchers. Therefore, Mr. Chairman, I feel that the amendment is not germane to the title. . . .

MR. WEAVER: Mr. Chairman, I would like to say the Farmers Home Administration makes fish loans presently. This is a Farmers Home Administration bill. Certainly the fishermen should be given the right to borrow under this Emergency Loan Act.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Weaver) would add commercial fishermen to the category of those eligible under title II of the bill. Title II, as indicated in section 202 on page 20, establishes a new emergency agricultural credit adjustment program for bona fide farmers and ranchers who are primarily engaged and directly engaged in agricultural production and to other farming entities engaged in agricultural production. While this program would be available to farmers and ranchers, the Committee on Agriculture has chosen to treat them as a generic class of persons engaged in the production of agricultural commodities—a matter properly within the jurisdiction of that committee.

As indicated in Deschler's Procedure, in section 7.17 of chapter 28—

> To a bill providing relief for one class, an amendment to extend the relief to another class is not germane—

Especially where, as here, the class of recipients who may receive credit assistance is sought to be to commercial fishermen, matters which are within the jurisdiction of another committee of the House, as pointed out in the colloquy a few minutes ago. So, therefore, the Chair sustains the point of order against the amendment.

Provisions for Assistance to Agriculture Through Price Support Payments—Amendment To Restrict Imports in Competition With Domestic Agriculture

§ 4.71 To a proposal to provide financial assistance to domestic agriculture through a system of price support payments, an amendment seeking to protect that segment of domestic agriculture by restricting imports in competition therewith is not germane, since seeking to accomplish a purpose by an unrelated method within the jurisdiction of another committee.

During consideration of the Food and Agriculture Act of 1981[18] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings of Oct. 14, 1981,[19] were as follows:

MR. [STEVEN C.] GUNDERSON [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gunderson: Page 10, after line 13, insert the following new section (and redesignate succeeding sections accordingly):

CONGRESSIONAL FINDINGS

Sec. 107. (a) The Agricultural Act of 1949 (7 U.S.C. 1446) directs the Secretary of Agriculture to support the price of milk so as to assure the domestic production of an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet future anticipated needs.

(b) Section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) provides that whenever the Secretary of Agriculture has reason to believe that imports of any product render or tend to render ineffective or materially interfere with the effective operation of a price support or similar program of the United States Department of Agriculture or that such imports reduce substantially the amount of any product processed in the United States from any agricultural commodity for which such price or similar program is in effect, he shall so advise the President who shall, if he agrees there is reason for such belief, cause an immediate investigation by the United States International Trade Commission to determine the facts. If on the basis of such investigation, the President finds the existence of such facts, he shall impose fees not to exceed 50 percent ad valorem or quantitative limitations of not less than 50 percent of the quantity entered during a representative period on such imported products. . . .

(e) Congress finds that the $300 million added cost of the Dairy Price Support Program resulting from these imports does represent material interference with the Dairy Price Support Program and that the prospect of additional future costs will further interfere with achievement of the purpose and intent of the program.

(f) To relieve such interference, the Congress further finds that limitations on the import of milk protein products, including but not limited to casein, mixtures of casein, latalbumin, and whey protein concentrates or mixtures containing 5 percent or more of these products that may enter the customs territory of the Untied States in any calendar year should be established in accordance with Section 22 of the Agriculture Adjustment Act. Such annual limitation should be no more than the average of such imports into the United States during the five-year period preceding 1981. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the Gunderson amendment.

Clause 7 of rule XVI requires that "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

18. H.R. 3603.

19. 127 CONG. REC. 23896, 23898, 23899, 97th Cong. 1st Sess.

Section 795 of the rules of the House states that "an amendment inserting an additional section should be germane to the portion of the bill to which it is offered." Section 798 states that "an amendment must relate to the subject matter under consideration."

In my judgment, neither is true in the case of this amendment. The amendment would seek to restrict the importation of casein, a different subject matter altogether than that which is in title I of this particular bill.

Mr. Chairman, the Gunderson amendment tries to establish an annual limitation on the importation of casein, and it directs certain material to be sent to the U.S. International Trade Commission and refers to section 22 of the Agricultural Adjustment Act. That agency and that particular section of the act is normally the jurisdiction of the Ways and Means Committee. Bills relating to that act and that agency are usually referred to the Ways and Means Committee.

Therefore, I submit that this amendment is not germane to title I of this bill. . . .

MR. GUNDERSON: . . . There are three basic tests of germaneness under clause 7 of rule XVI: Subject matter, fundamental purpose, and committee jurisdiction. I believe that my amendment meets all three tests.

First of all, an amendment must relate to the subject matter under consideration. Mr. Chairman, title I of H.R. 3603 deals with the milk price support program. My amendment expresses a congressional finding that casein imports materially interfere with the dairy price support program and that a quota should be established.

In a similar situation involving a bill that would make oleomargerine and other imitation dairy products subject to the laws of the State or territory into which they are transported, the Chair ruled that an amendment requiring the USDA to perform certain inspections of plants producing imitation butter was, in fact, germane. (5 Hinds' Precedents § 5919.)

Second, the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. H.R. 3603 is offered "to provide price and income protection for farmers and assure consumers an abundance of food and fiber at reasonable prices." Mr. Chairman, it is apparent from the text of my amendment that it is designed to provide income protection for farmers by discouraging an increasing number of imitation products. It is also meant to assure that consumers have an abundance of wholesome and nutritious dairy products at a reasonable price rather than having those products forced out of the market by an increasing number of imitation products.

Finally, an amendment should be within the jurisdiction of the committee reporting the bill. Mr. Chairman, my amendment deals with the effect of casein on the domestic dairy price support program. This subject certainly is within the jurisdiction of the House Committee on Agriculture, who brought H.R. 3603 to the floor, since a subcommittee of that committee held hearings on this very subject in 1979.

It is arguable that the Committee on Ways and Means should have joint jurisdiction over the subject matter of this amendment. Yet, such joint jurisdiction does not affect its germaneness.

During the consideration of the farm bill in 1977, the Chair ruled that an amendment to the food stamp portion of the farm bill dealing with collections from certain food stamp recipients was germane despite the fact that both the Agriculture Committee and the Ways and Means Committee had possible jurisdiction over the subject matter of the amendment—1977 Congressional Record, page 25252.

Mr. Chairman, the past precedents suggest that my amendment is germane. I, therefore, urge the Chair to overrule the point of order.

THE CHAIRMAN:[20] The Chair is prepared to rule.

While the Chair is unclear whether the first part of the amendment merely recites what is already contained in section 22 of the Agricultural Adjustment Act, or whether it confers direct new tariff authority, the Chair believes that any amendment suggesting what the tariff levels on imported dairy products should be raises an issue within the jurisdiction of the Committee on Ways and Means.

Indeed, the Speaker has consistently referred section 22 amendments to that committee.

The Chair would also note that title I, to which this amendment is addressed, does not impose any particular tariff limitations. The Chair might also cite for purposes of precedent 121 Congressional Record, 7667, 94th Congress, 1st session, which related to H.R. 4296, emergency price supports for the 1975 crops. In that instance, to a bill reported from the Committee on Agriculture providing price supports for milk, an amendment expressing the sense of Congress that tariffs be imposed on imported dairy products was ruled out as not germane.

Therefore, for these reasons, the Chair is required to sustain the point of order.

MR. [E] DE LA GARZA [of Texas]: Mr. Chairman, I did want to question one part of the ruling of the Chair in which the Chair states that the Committee on Ways and Means has exclusive jurisdiction over items such as casein. It has always been my understanding that the Committee on Agriculture would have joint jurisdiction with the Committee on Ways and Means, and I would not like for the ruling of the Chair to be interpreted as dispossessing the Agriculture Committee from joint jurisdiction, because the area of concern involves both committees.

THE CHAIRMAN: The Chair would say to the gentleman that the Chairman of the Committee of the Whole would not make any ruling with respect to future jurisdictional matters. That is a matter for the Speaker to determine at the appropriate time. The Chair has ruled with respect to this particular amendment and sustained the point of order.

MR. DE LA GARZA: To which I have no objection, Mr. Chairman.

Bill Establishing Agricultural Price Supports—Amendment Restricting Authority of Secretary of Commerce Over Agricultural Exports

§ 4.72 To a bill reported from the Committee on Agri-

20. Matthew F. McHugh (N.Y.).

culture establishing emergency price supports for certain agricultural commodities, an amendment restricting the authority of the Secretary of Commerce under the Export Administration Act over the export of all agricultural commodities (a matter within the jurisdiction of the Committee on International Relations and covering a more general range of commodities) was held to be not germane.

During consideration of H.R. 4296 (an emergency price support program for certain 1975 crops) in the Committee of the Whole on Mar. 20, 1975,[21] the Chair sustained a point of order against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: Page 2, line 19, after the words "such crops.", insert the following: "Notwithstanding any other provision of law, neither the Secretary of Agriculture nor the Secretary of Commerce shall require or provide for the prior approval of or establish other conditions for the export sales of feed grains, wheat, soybeans, or other agricultural commodities.". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment as not germane to the bill. The amendment offered by the gentleman from Idaho affects the implementation of the Export Administration Act. This bill deals with amendments to the Agriculture Adjustment Act of 1949, as amended. The amendment deals with restrictions on exports and is not within the jurisdiction of the Committee on Agriculture, which has brought this bill to the floor.

The well-established precedent of the House is that the fundamental purpose of an amendment must be in consonance with the fundamental purpose of the bill. It is not in this case. The jurisdiction of the subject matter lies within the jurisdiction of the Committee on International Relations of the House. I make the point of order that the amendment is not germane and is in violation of rule XVI, clause 4. . . .

MR. SYMMS: . . . I would just say that the reason that we have had the difficulties both in the soybean market and the wheat market, which has caused the stimulation of the need for this legislation, is because of the haphazard misuse of export controls, which so much interferes with the foreign markets. Therefore, since the Secretary of Commerce has to be included, this is an appropriate amendment for the House to speak its will on this issue. . . .

THE CHAIRMAN:[22] The gentleman from Washington makes the point of order that the amendment offered by the gentleman from Idaho is not germane to the bill. The Chair is prepared to rule on this matter.

The subject of export controls administered by the Secretary of Commerce

21. 121 CONG. REC. 7651, 94th Cong. 1st Sess.

22. John Brademas (Ind.).

under the Export Administration Act is within the jurisdiction of the Committee on International Relations, and the issue of exportation of all agricultural commodities is beyond the purview of the pending bill. For these reasons, the Chair feels that the amendment is not germane to the bill and sustains the point of order.

Provisions Relating to Import Duties on Sugar—Amendment Eliminating Price Support Payments for Sugar

§ 4.73 To an amendment recommended by the Committee on Ways and Means dealing only with import duties and quotas on sugar, an amendment was held to be not germane which provided that such duties and quotas shall be the exclusive method of achieving a price objective for sugar and which by its terms eliminated all price support payments for sugar where such price supports were a matter within the jurisdiction of the Committee on Agriculture and a subject not dealt with in the Committee on Ways and Means' amendment but merely mentioned in the accompanying report.

On Oct. 6, 1978,[1] the Committee of the Whole had under consideration H.R. 13750, the Sugar Stabilization Act of 1978. An amendment recommended by the Committee on Ways and Means was reported:

THE CHAIRMAN:[2] The Clerk will now report the amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment recommended by Committee on Ways and Means: Page 7, strike out line 1 and all that follows thereafter down through line 24 on page 21 and insert the following:

TITLE II—IMPORT RESTRICTIONS ON SUGAR . . .

SEC. 202. PRICE OBJECTIVE AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVE.—(1) The price objective for each sugar supply year beginning after September 30, 1978, is 15 cents per pound, raw value.

(b) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 203. SECRETARIAL RECOMMENDATIONS REGARDING SPECIAL IMPORT DUTIES BACKUP QUOTAS.

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1. 124 CONG. REC. 34108, 34109, 34111, 34112, 95th Cong. 2d Sess.

2. Dan Daniel (Va.).

(a) SPECIAL IMPORT DUTIES.—(1) Not later than 30 days before the beginning of each sugar supply year which commences after September 30, 1979, the Secretary shall—

(A) on the basis of best available information, estimate whether the average daily price for United States raw sugar imports during such sugar supply year will be below the price objective; and

(B) if the estimation under subparagraph (A) is in the affirmative, recommend to the President that he impose such special import duties on the entry of such sugar (including, but not limited to, refined sugar) and, if appropriate, such sugar-containing products as the Secretary determines to be necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved. . . .

(b) BACK-UP QUOTAS.—Whenever the Secretary has reason to believe that the special import duties imposed on the entry of any sugar or sugar-containing product on the basis of any recommendation made by him under subsection (a), and adjusted pursuant to subsection (c), are not resulting in the price objective for the sugar supply year being achieved, the Secretary shall recommend to the President, as a further adjustment under subsection (c), that he impose in addition to such special import duties, such quotas, on a supply year quarter basis, on the articles concerned as the Secretary determines to be necessary to achieve such price objective. . . .

(c) REVIEW AND ADJUSTMENTS OF DUTIES AND QUOTAS.—The Secretary shall review, on a supply year quarter basis, the effect of all special import duties and quotas imposed as a result of recommendations made by him under subsections (a) and (b). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty or quota, or with respect to sugar or sugar-containing products to which any such duty or quota should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned. . . .

An amendment was offered by Mr. William A. Steiger, of Wisconsin:

MR. STEIGER: Mr. Chairman, I offer an amendment to the Ways and Means Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Steiger to the Ways and Means Committee amendment: Amend the section heading and subsection (a) of section 202, as proposed by the Committee, to read as follows:

SEC. 202. PRICE OBJECTIVES AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVE—(1) The price objectives for sugar supply years beginning after September 30, 1978, are as follows:

(A) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value. . . .

(e) RESTRICTIONS ON PRICE SUPPORT AUTHORITY.—During such time as this title has force and effect, except as provided in section 310, the imposition under subsection (a) of special import duties or quotas, as the case may be, with respect to sugar or sugar containing products shall be the exclusive method of achieving the price objective, and shall be in lieu of any statutory or regulatory mechanism established for the purpose of achieving, through direct payments, the price support level for producers and processors of sugar cane and sugar beets, notwith-

standing any other provision of law. . . .

Mr. Charles A. Vanik, of Ohio, made the following point of order:

MR. VANIK: Mr. Chairman, I oppose consideration of the amendment offered by Mr. Steiger since it is clearly nongermane to the substitute and title II before us.

The annotations to the rules of the House state that "restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill," (cite: rule XVI(7), § 800, p. 539) and further, that "the burden of proof is on the proponent of an amendment to establish its germaneness," (cite: rule XVI(7), § 794, p. 528) and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order. (June 20, 1975, p.—)

Mr. Steiger's amendment effectively prohibits the operation of existing law—law which is not repealed, not amended, and not even cited in the substitute before us.

For these reasons, I ask that Mr. Steiger's amendment be ruled nongermane to this substitute and title II. . . .

MR. STEIGER: Mr. Chairman, the Members will notice that the provision has been very carefully drawn so that it is an exclusive remedy. It says, if I may direct the attention of the Chair to page 2, the following:

> During such time as this title has force and effect . . . the imposition under subsection (a) of special import duties or quotas with respect to sugar or sugar-containing products shall be the exclusive method of achieving the price objective and shall be in lieu of any statutory or regulatory mechanism established otherwise, notwithstanding any other provision of law.

I would further, Mr. Chairman, direct attention to page 15 of the committee report of the Committee on Ways and Means. The Members will note on page 15 of that committee report that the Committee on Ways and Means says the following:

> The Department of Agriculture has pledged to the Committee that direct payments will be made under the 1949 Agricultural Act to guarantee processors/producers protection against any increases in the cost of production, as calculated under the 1977 Food and Agriculture Act, above the 15-cent price objective level. It is the committee's understanding and intent that direct payments will *not* be used to bring the price of sugar up to the 15-cent level; rather, the special import duties and quotas will be used to obtain the 15-cent figure. . . .

MR. VANIK: Mr. Chairman, on my point of order I specifically complain about the item that is included in the amendment offered by the gentleman from Wisconsin (Mr. Steiger), subsection (e) on page 2. I want to read the summary of H.R. 17350 in the report of the Committee on Ways and Means on page 11 in the third paragraph, second sentence:

> The Ways and Means Committee bill very clearly does not legislate any new direct payments authority; rather, it relies on existing law and commitment from the USDA to make direct payments to processors. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Ways and Means Committee amendment very clearly does not legislate any new direct support payments authority, a matter not within that committee's jurisdiction; rather, as stated on page 11 of their report, it is intended to rely on existing law and commitment from the U.S. Department of Agriculture to make direct payments to processors/producers to reflect any changes in the cost of production of sugar above the 15-cent price objective level.

The language on page 15 of the report cited by the gentleman from Wisconsin is not in the amendment but simply states an intent, and the Chair, therefore, holds the amendment not germane to the amendment recommended by the Committee on Ways and Means and sustains the point of order.

Bill Providing Price Support for Milk—Amendment Relating to Tariffs on Imported Milk

§ 4.74 To a section of a bill reported from the Committee on Agriculture providing a one year price support for milk, an amendment expressing the sense of the Congress that the President shall impose certain tariff duties on imported dairy products was held to go beyond the purview of the pending section and to involve a matter within the jurisdiction of the Committee on Ways and Means, and was held to be not germane.

During consideration of the emergency price supports bill for 1975 crops[3] in the Committee of the Whole on Mar. 20, 1975,[4] a point of order was sustained against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms:

Page 3, line 16, after the words "each quarter.", insert the following:

"It is the sense of Congress that the President shall impose at the earliest practicable date countervailing duties as proposed by the Department of Treasury on February 14, 1975, for dairy products imported into the United States from the European Economic Community.".

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment. . . .

The amendment deals with duties which are not within the jurisdiction of the Committee on Agriculture and are within the jurisdiction of the Committee on Ways and Means, eliminating various tariffs and trade acts authorized by the Congress and, consequently, does not relate to legislation before the committee at this time, and is in violation of rule XVI, clause 7. . . .

MR. SYMMS: . . . [T]he amount of dairy products purchased by the Com-

3. H.R. 4296.

4. 121 CONG. REC. 7667, 94th Cong. 1st Sess.

modity Credit Corporation in the last fiscal year equaled exactly the amount dumped on our markets, which were subsidized by foreign dairy products dumped on our markets and undersold, in direct competition to our producers, so I think the amendment is in order.

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

The gentleman from Washington (Mr. Foley) makes a point of order against the amendment offered by the gentleman from Idaho (Mr. Symms) on the ground that it is not germane.

The amendment relates to the subject of import restrictions and tariffs on dairy products, which subject is not within the purview of section 2 of the bill, nor is it within the jurisdiction of the Committee on Agriculture. The amendment is, therefore, not germane, and the Chairman sustains the point of order.

Provisions Directing Commodity Credit Corporation To Sell Surplus Dry Milk—Amendment Relating to Labeling Under Federal Food, Drug and Cosmetic Act

§ 4.75 To an amendment directing the Commodity Credit Corporation to sell surplus stocks of dry milk to domestic companies for the manufacture of casein (a matter within the jurisdiction of the Committee on Agriculture), an amendment to that amendment deeming as misbranded for purposes of the Federal Food, Drug and Cosmetic Act any food substitutes labeled as "cheese" (a matter within the jurisdiction of the Committee on Energy and Commerce), was held to be not germane.

During consideration of the Food Security Act (H.R. 2100) in the Committee of the Whole on Sept. 26, 1985,[6] the Chair sustained a point of order against an amendment to the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Boehlert: Page 37, after line 9, insert the following:

DOMESTIC CASEIN INDUSTRY

Sec. 215. (a) The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than one million pounds annually to individuals or entities on a bid basis.

(b) The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law in order to promote the strengthening of the domestic casein industry.

(c) The Commodity Credit Corporation shall take appropriate action to assure that the nonfat dry milk sold by the Corporation under this section shall be used only for the manufacture of casein.

5. John Brademas (Ind.).

6. 131 CONG. REC. 25023–25, 99th Cong. 1st Sess.

Redesignate succeeding sections in the subtitle accordingly. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Boehlert: At the end of section 211, after the word "date", insert the following new section:

SEC. 243. MISBRANDED FOOD SUBSTITUTES FOR CHEESE.

For purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), any food which is an imitation of cheese and which does not comply with any standard of identity in effect under section 401 of such Act for any cheese shall be deemed to be misbranded if its label contains the word "cheese". . . .

MR. [E] DE LA GARZA [of Texas]: . . . Mr. Chairman, this amendment addresses the Food and Drug Act, which is under the jurisdiction of the Committee on Energy and Commerce, and it therefore would not be germane to this legislation. We have no item in the bill that this amendment would be germane to. . . .

MR. JEFFORDS: Mr. Chairman, I would like to respond by saying it is difficult for me to see how anything that talks about cheese could not be relevant to the dairy provisions of the farm bill.

I recognize that there may be some others with concurrent jurisdiction, but certainly the protection of the cheese industry and the ability of our dairy farmers to ensure that imitation products are not sold under the guise of cheese certainly ought to be within the province of this committee. . . .

THE CHAIRMAN:[7] The Chair is prepared to rule.

The Chair will rule that No. 1, the amendment offered by the gentleman from Vermont [Mr. Jeffords] is to the Boehlert amendment and not to the farm bill in general, and the Boehlert amendment deals with Commodity Credit Corporation subsidies for dry milk; and so it is not germane to that amendment.

Second, the point of order raised by the gentleman from Texas [Mr. de la Garza] is correct in regards to the committee jurisdiction argument.

So the Chair will rule that the amendment is not germane to the Boehlert amendment.

Bill Amending Law Relating to Registration of Pesticides—Amendment Barring Award of Attorneys' Fees in Certain Civil Actions Brought Under the Law

§ 4.76 To a title of a bill reported from the Committee on Agriculture amending an existing law relating to registration of pesticides, an amendment providing that notwithstanding any other law, no attorneys' fees shall be awarded in certain civil actions brought under the law being amended was held not germane, as indirectly amending another law within the jurisdiction of another

7. David E. Bonior (Mich.).

committee governing fees in federal civil actions generally, where nothing in the pending title amended laws on that subject.

On Sept. 19, 1986,[8] during consideration of the Federal Insecticide, Fungicide and Rodenticide Act amendments of 1986[9] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above, demonstrating that an amendment must be germane to the pending title of the bill to which it is offered.

In lieu of amendments recommended by the Committee on Agriculture printed in the bill, the text of H.R. 5440 was being considered by titles as an original bill for the purpose of amendment, and Title I of H.R. 5440 was open for amendment at any point. Title I stated in part:[10]

SEC. 106. ADMINISTRATOR'S AUTHORITY TO REQUIRE DATA ON INERT INGREDIENTS. . . .

(b) PRIORITY LIST AND DATA REQUIREMENTS.—Section 3 (7 U.S.C. 136a) is amended by adding at the end thereof the following new subsection:

"(g) PRIORITY LIST AND DATA REQUIREMENTS FOR INERT INGREDIENTS.—

"(1) ESTABLISHMENT OF LIST.—Subject to paragraph (4), the Administrator shall establish a priority list of inert ingredients consisting of—. . .

"(B) inert ingredients (i) for which additional data are reasonably necessary to assess the risk that the inert ingredient may result in a pesticide causing an unreasonable adverse effect on the environment, (ii) that are similar in molecular structure to a chemical that is oncogenic, mutagenic, or teratogenic or causes another similarly significant adverse effect, and (iii) that have significant use in pesticides or to which there is significant exposure from pesticides. . . .

(2) "PUBLICATION OF LIST.—Not later than 90 days after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986, the Administrator shall publish the priority list required under paragraph (1). The Administrator shall publish revisions to such list at least annually. . . .

"(5) ADDITIONAL DATA.—

"(A) The Administrator shall determine whether additional data are required for an inert ingredient in a registered pesticide not later than 1 year after the inert ingredient is placed on the priority list under paragraph (1). The Administrator shall require submission of such data from each registrant of such pesticide under this Act or from manufacturers and processors of the inert ingredient under the Toxic Substances Control Act. Such data shall be submitted within a reasonable time but not later than 4 years after the date of the request. The Administrator may extend the period for the submission of data by not more than 2

8. 132 CONG. REC. 24728–30, 99th Cong. 2d Sess.

9. H.R. 2482.

10. 132 CONG. REC. 24149, 99th Cong. 2d Sess., Sept. 18, 1986.

years if extraordinary circumstances beyond the control of the registrant or producer prevent the submission of the necessary data.

"(B) Data requirements imposed under subparagraph (A) or a decision not to require data for an inert ingredient shall be subject to judicial review under section 16(b).

An amendment was offered, as follows:

MR. [RON] MARLENEE [of Montana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Marlenee: Page 43, line 7, insert after "section 16(b)." the following new sentence:

"Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines.". . .

MR. [HOWARD L.] BERMAN [of California]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Montana is in violation of clause 7 of House rule XVI which prohibits the consideration of amendments on a subject different from that under consideration. Mr. Chairman, the amendment offered by the gentleman from Montana carves out an exemption from the Equal Access to Justice Act, which authorizes the awarding of legal fees in certain cases brought against the Federal Government. The bill before us, H.R. 2482, amends the Federal Insecticide, Fungicide, and Rodenticide Act which concerns itself solely with the regulation of pesticides. Neither FIFRA nor this bill address the issue of the awarding of legal fees. Indeed, the amendment offered by the gentleman says that "Notwithstanding any other provision of law," indicating clearly that he intends to reach outside the scope of this bill and the law which it amends. The amendment goes to a totally different and nongermane matter to the business before the committee, and on this basis I ask that the point of order be sustained. . . .

MR. MARLENEE: . . . Mr. Chairman, my amendment, I submit, is germane for the following reasons:

First, the title of the bill it is for "other purposes" than amending FIFRA.

Second, other examples of enactments amended by this bill or by the underlying FIFRA Act are: The Federal Hazardous Substances Act; the Poison Prevention Packaging Act; the Federal Food Drug and Cosmetics Act; and title 5 of the United States Code.

Third, the section and the bill reauthorize programs and funding for the pesticide programs. It also adds a new program (reregistration—section 3 A of FIFRA) that is amended by my amendment. Both the section and the bill relate to fees and funding for the reregistration program. Some of that funding for the reregistration program will come from fees assessed against registrants (see page 42 of the bill) and some will come from appropriated funds (section 816 of the bill).

My amendment would state how some of those funds could not be utilized and I submit does not violate the rules of the House on germaneness.

Fourth, my amendment is narrowly drawn and applies only to "fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines.". . .

Fifth, this bill, other than the section I am amending, contains provisions relating to the actions against the United States for just compensation . . . .

The bill also contains provisions relating to the false statement statute (18 U.S.C. 1001) and prosecutions thereunder.

Sixth, section 9 of the FIFRA Act gives the EPA Administrator authority to obtain and execute warrants and section 12 authorizes the Administrator to make certain certification to the U.S. Attorney General. Section 701 of the act discusses patent term extension for registrations of pesticides. . . .

Seventh, I understand, although I have not seen the basis of Mr. Berman's point of order, that it asserts the nongermaneness of my amendment based on the fact that it amends the Equal Access to Justice Act.

However, section 2412 (b) and (d) of title 28 (Equal Access to Justice Act) specifically provide with respect to fees and expenses of attorneys that those subsections only apply "Unless expressly prohibited by statute," (subsection (b)) and "Except as otherwise specifically provided by statute," (subsection (d)).

It is submitted that this bill which reauthorizes the FIFRA programs and funding can be utilized to effect the exception provided for in the Equal Access to Justice Act. It is therefore submitted that my amendment is germane to this bill.

THE CHAIRMAN:[11] The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Montana (Mr. Marlenee) is not germane to the text of title I of H.R. 5440. The amendment waives all provisions of law which would otherwise permit the awarding of attorneys fees in FIFRA related court cases.

The Chair would first note that the gentleman's argument reaches into and relates to titles of the bill which have not yet been reached in the amendment process.

The law being waived, moreover, is not the FIFRA law, but is the Equal Access to Justice Act, a law within the jurisdiction of another committee and a law not amended or referenced in the pending title of the bill. Nothing in title I amends existing law pertaining to judicial review and procedures.

The gentleman from Montana has made the point correctly that the Equal Access of Justice Act says that there can be exceptions specified by other statutes.

However, that does not remove jurisdiction from the Judiciary Committee or necessarily change the test of germaneness of amendments to other laws. And therefore, in the opinion of the Chair, the amendment addresses an issue within the jurisdiction of another committee and is not germane to the pending title.

The Chair therefore sustains the point of order.

Bill Authorizing Secretary of Agriculture To Employ Grain Inspectors—Amendment Permitting Employees to Credit Private Service for Civil Service Retirement Purposes

§ 4.77 Committee jurisdiction over the subject of an

11. Matthew F. McHugh (N.Y.).

amendment is not the exclusive test of germaneness where the portion of the bill being amended contains language not within the jurisdiction of the committee reporting the bill, and the amendment relates to such language.

On Apr. 2, 1976,[12] the Committee of the Whole had under consideration a section of a bill[13] reported from the Committee on Agriculture authorizing the Secretary of Agriculture to employ official grain inspectors without regard to civil service appointment statutes upon his finding of their good moral character and professional competence. An amendment was offered permitting those employees to credit their prior private service as grain inspectors to their Civil Service retirement. The amendment was held germane as merely stating a further condition upon their status as federal employees.

The Clerk read as follows: . . .

(c) By amending subsection (d) and adding new subsections (e) . . . to read as follows:

"(d) Persons employed by an official inspection agency (including persons employed by a State agency under a delegation of authority pursuant to section 7(e), persons performing official inspection functions under contract with the Department of Agriculture, and persons employed by a State or local agency or other person conducting functions relating to weighing under section 7A shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided, however,* That such persons shall be considered in the performance of any official inspection functions or any functions relating to weighing as prescribed by this Act or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, United States Code, to such persons . . .

"(e) The Secretary of Agriculture may hire (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or weighing functions any individual who, on the date of enactment of this Act, was performing similar functions: *Provided,* That the Secretary of Agriculture determines that such individuals are of good moral character and are technically and professionally qualified for the duties to which they will be assigned."

MRS. [LINDY] BOGGS [of Louisiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Boggs: Page 19, line 11, insert the following immediately after the first period: "Any individual who is hired by the

12. 122 CONG. REC. 9240–42, 9253, 9254, 94th Cong. 2d Sess.

13. H.R. 12572, the Grain Standards Act of 1976.

> Secretary pursuant to this subsection shall, for purposes of the annuity computed under section 8339 of title 5, United States Code, be credited (subject to the provisions of sections 8334(c) and 8339(i) of such title) with any service performed by such individual before the date of enactment of this subsection in connection with this Act.". . .

THE CHAIRMAN:[14] Does the gentleman from Illinois (Mr. Michel) insist upon his point of order?

MR. [ROBERT H.] MICHEL [of Illinois]: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MICHEL: Mr. Chairman, I do so because, in my opinion, the amendment is not germane to this bill, which amends the U.S. Grain Standards Act, and says, on page 18:

> The Secretary of Agriculture may hire (without regard to the provisions of title V, United States Code, governing appointments in the competitive service) . . . any individual who is licensed to perform functions on the date of enactment.

Then it is provided further that the individuals be of good moral character and that they be professionally qualified, et cetera.

The amendment of the gentlewoman from Louisiana (Mrs. Boggs), however, seeks to amend title 5, section 8339, 8334(c), and 8339(i).

Mr. Chairman, an amendment to another statute does not make it germane to this bill, and I would cite as my authority on that, the Record of August 17, 1972, page 28913, as follows:

> Under rule 16, to a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price-control authority for all commodities under an Act reported from the Committee on Banking and Currency is not germane. July 19, 1973, etc.

If the amendment of the gentlewoman from Louisiana were in the form of a bill, it would undoubtedly be referred to the Committee on Post Office and Civil Service, because it has to do with the retirement benefits of employees that would be selected by the section. . . .

MRS. BOGGS: . . . The language of section 6(e), I feel, is sufficiently broad and certainly the committee report language is sufficiently broad to insist that the workers who are of good moral character, as the bill says, could be employed without regard to various Civil Service regulations in order to quickly be able to put into effect a service that will be highly necessary for the Government if we indeed are going to take over the work of the private agencies and the State agencies.

Mr. Chairman, the language is sufficiently broad where it goes on to suggest that positions of at least comparable responsibility and rank to those enjoyed in the private and State systems be given to them and that in setting their pay within the appropriate grade, to the extent possible, cognizance should be taken in order to take into consideration these rank and longevity benefits, so that the employees had, under the system where employed, the benefits that they had under longevity. The benefit system under which they were employed certainly included an annuity provision, and I think that this language that

14. Phil M. Landrum (Ga.).

this amendment extends to the bill simply points that out.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has read the language on the page of the committee report and section 6(e) of the bill already deals with the status of the Civil Service requirements with respect to appointments of Federal inspectors. The amendment does not directly amend title 5 U.S. Code, and it would further affect the status of those Federal employees under the Civil Service law by permitting them to credit the prior private service to their Civil Service retirement if they become Federal employees. The amendment imposes a further condition upon their hiring.

Therefore, the Chair rules that as far as germaneness is concerned, the amendment is germane to section 6(e) of the bill, and overrules the point of order.

Bill Relating to Administration of Food Stamp Program—Amendment Providing for Recovery of Benefits From Persons Having Specified Income

§ 4.78 To a title of a bill reported from the Committee on Agriculture providing for benefits under, and administration of, the food stamp program, an amendment which provided for recovery of benefits from persons whose income exceeded specified levels was held to be germane, even though it required the Secretary of the Treasury and, impliedly, the Internal Revenue Service to collect any liability imposed by the amendment's provisions.

On July 27, 1977,[15] during consideration of H.R. 7171 (the Agriculture Act of 1977), in ruling on a question of germaneness, the Chair confined his analysis to the text of the amendment and was not guided by conjecture as to other legislation or administrative actions which might have—but were not required to—result from the amendment.

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Foley: In title XII, page 28, insert after line 8 the following new section:

"RECOVERY OF BENEFITS WHERE INDIVIDUAL'S ADJUSTED GROSS INCOME FOR YEAR EXCEEDS TWICE POVERTY LEVEL

"Sec. 1210. (a)(1) If—

"(A) any individual receives food stamps during any calendar year, and

"(B) such individual's adjusted gross income for such calendar year exceeds the exempt amount,

then such individual shall be liable to pay the United States the amount

15. 123 CONG. REC. 25249, 25252, 95th Cong. 1st Sess.

determined under subsection (b) with respect to such individual for such calendar year. Such amount shall be due and payable on April 15 of the succeeding calendar year and shall be collected in accordance with the procedures prescribed pursuant to subsection (g). . . .

"(g) The Secretary of the Treasury shall collect any liability imposed by this section in accordance with regulations prescribed by him (after consultation with the Secretary).

"(h) Nothing in this section shall be construed to affect in any (manner) the application of any provision of the Internal Revenue Code of 1954.". . .

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I reserve a point of order. I would like to engage the author of the amendment in colloquy. . . .

Mr. Chairman, I would like to ask the distinguished gentleman from Vermont who or what branch of Government the gentleman feels would collect this money from the people?

MR. JEFFORDS: Under the amendment, the Department of the Treasury would be required to collect the money.

MR. STARK: It would be the Treasury Department and in no way did the gentleman intend that the Internal Revenue Service participate in any of the collection or in collecting the forms or collecting revenue?

MR. JEFFORDS: No, on the contrary, it is my understanding and belief that the Internal Revenue Service would be charged with and do the collecting. . . .

MR. STARK: Mr. Chairman, I make a point of order that the jurisdiction of the Internal Revenue Service lies wholly within the jurisdiction of the Committee on Ways and Means.

This amendment, as the gentleman has stated it, would be counting on the Internal Revenue Service to perform the functions as put down under this amendment. The amendment would not be in order and would not be within the jurisdiction of this committee. . . .

MR. JEFFORDS: . . . As I understand the rules here, I can ask for an amendment that can be proposed, as can anybody, to the collection. We could make the State Department or anyone else do the collection, but we cannot do what I have not done, and very specifically have not done in this amendment, which is to change any statute of the way it is done, which is under the jurisdiction of the Committee on Ways and Means. If I am wrong on this, there are so many places in this bill where the same thing is done that I do not know why a number of Members have not raised points of order.

We have asked the Postal Service to do something; we have asked the social security office to do things; we have mandated different agencies all over the place. We do not interfere with any statutes which are under committee jurisdiction of other committees. I have not done so here. The question is, do we change any statute which is under the jurisdiction of the Ways and Means Committee, and we do not. They are the guardian over those statutes, but they are not the guardian over any agency which happens to be involved with those statutes.

MR. STARK: Mr. Chairman, I think it is quite clear that the gentleman, in terms of both the committee report and in his response to questions here, in his statement on the floor that this amendment, although it really says

that the Secretary of the Treasury shall collect any liability, clearly the intention is that the Internal Revenue Service shall collect W–2 forms, match them against income figures which are now under the law not to be given even to the Secretary of Treasury, but are for collecting income tax and Internal Revenue matters.

Clearly, the intent of the amendment is to direct the Internal Revenue Service to participate in that. The jurisdiction of the Internal Revenue Service and all matters pertaining thereto is under the Committee on Ways and Means. I would ask that this amendment be ruled out of order on that basis.

THE CHAIRMAN:[16] The Chair is ready to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Vermont (Mr. Jeffords) is not germane to the food stamp title of the pending bill. The thrust of the gentleman's point of order is that the collection procedure for overpayments of food stamp benefits to persons above the poverty level involves responsibilities of the Treasury Department, and in effect mandates the establishment of regulations which would involve the disclosure of tax returns and tax information and utilization of the Internal Revenue Service—all matters within the jurisdiction of the Committee on Ways and Means.

The Chair notes that the amendment does contain the provision that "nothing in this section shall be construed to affect in any manner the application of any provision of the Internal Revenue Code of 1954," and it seems to the Chair to follow that, under the explicit provisions of the amendment. Secretary of the Treasury would therefore have to establish an independent collection procedure separate and apart from the mandated use of the Internal Revenue Service. The Chair does not have to judge the germaneness of the amendment by contemplating possible future legislative actions of the Congress not mandated by the amendment.

In the opinion of the Chair, the authority of the Secretary of the Treasury under the rules of the House as collector of overpayments of any sort is not subject explicitly and exclusively within the jurisdiction of the Committee on Ways and Means under rule X, and even if this were true, committee jurisdiction is not an exclusive test of germaneness where, as here, the basic thrust of the amendment is to modify the food stamp program-a matter now before the Committee of the Whole.

The Chair overrules the point of order.

Parliamentarian's Note: Had the amendment altered the Internal Revenue Code or otherwise required the use of the Internal Revenue Service, in conjunction with the collection of federal income taxes, in recovering the value of benefits, the amendment would not have been germane. The Chair was persuaded that the Department of the Treasury performs a variety of functions, including payments and collections,

16. Frank E. Evans (Colo.).

under laws and policies not within the jurisdiction of the Committee on Ways and Means. As indicated in the Chair's ruling, the amendment disavowed any intent to affect any provision of the Internal Revenue Code.

Bill Making Appropriations for Relief—Amendment Allotting Appropriations for Investigation of Effects of Relief

§ 4.79 To a bill making appropriations for relief and work relief, an amendment proposing that part of the appropriation be allotted to a nonpartisan commission to be appointed for the purpose of investigating certain effects of relief was held to be not germane.

In the 76th Congress, during consideration of a bill[17] comprising relief appropriations, the following amendment was offered:[18]

> Amendment offered by Mr. Edwin A. Hall [of New York]: On page 33, after line 7, insert a new section, as follows:
>
> Sec. 37. One million dollars of the sums herein provided shall be allotted to a nonpartisan commission. . . . The Commission shall be . . . charged with a laboratory investigation of relief with reference to its causes and its effects upon the economic and sociological structure of the United States and particularly with reference to its effects on the recipients of relief.

Mr. Clarence A. Cannon, of Missouri, raised the point of order that the amendment was not germane to the bill.[19] The Chairman,[20] in ruling on the point of order, stated:

> Inasmuch as the Committee on Appropriations does not have jurisdiction of the matter contained in the amendment offered by the gentleman from New York, the Chair sustains the point of order.

Bill Creating Consumer Protection Agency—Amendment Conferring on Congressional Committees Authority To Direct Agency To Intervene in Judicial or Administrative Proceedings

§ 4.80 To a bill creating an independent agency in the executive branch to protect consumer interests, an amendment in the form of a new section conferring upon Congressional committees with oversight responsibility for consumer interests the authority to direct that agen-

17. H.J. Res. 544 (Committee on Appropriations).

18. 86 CONG. REC. 6761, 76th Cong. 3d Sess., May 23, 1940.

19. *Id.* at p. 6762.

20. Fritz G. Lanham (Tex.).

cy to intervene in administrative or judicial proceedings was held not merely to reserve to Congress a disapproval authority over the agency but to confer new power on Congressional committees, and was ruled out as beyond the jurisdiction of the Committee on Government Operations and beyond the scope of the bill.

The proceedings of Nov. 6, 1975, relating to H.R. 7575, the Consumer Protection Act of 1975, are discussed in § 14.6, infra.

Bill To Facilitate Settlement of Strikes—Amendment Requiring Unions To Incorporate and To File Reports

§ 4.81 To a bill proposed to facilitate the settlement of labor disputes or strikes, an amendment to require labor unions to become corporate bodies and file certain reports, including financial statements, with the Recorder of Deeds was held germane.

In the 79th Congress, during consideration of a bill[1] relating to settlement of labor disputes, an amendment was offered:[2]

MR. [WALTER G.] ANDREWS of New York: Mr. Chairman, I offer an amendment to the Case bill.

The Clerk read as follows:

Amendment offered by Mr. Andrews of New York to the Case amendment: Page 12, after line 13, insert a new section to be known as 12(a) entitled "Incorporation of and Annual Financial Reports by Labor Organizations":

"Paragraph 1. Every labor organization in which the employees are employed by an employer engaged in interstate commerce within the meaning of the Wagner Act shall become a body corporate as provided in this act. The officers of each labor organization shall make, sign, and acknowledge, before any officer competent to take acknowledgment of deeds, and file in the office of the Recorder of Deeds of the District of Columbia, to be recorded by him, a certificate in writing, in which shall be stated—

"First. The name or title by which such labor organization is to be known.

"Second. The term for which it is organized, which may be perpetual.

"Third. The purposes and objects of the organization.

"Fourth. The names and addresses of its officers for the first year of its corporate existence.

"Par. 2. When the certificate provided for in paragraph 1 has been filed, the labor organization shall be a body corporate, and may, in its corporate name, sue and be sued, grant and receive property, real, personal, and mixed, and use such property, and the income thereof for the objects of the corporation. Members of the corporation shall not be personally liable for the acts, debts, or obligations of the corporation.

"Par. 3. A labor organization incorporated under this act shall have the power to make and establish such

1. H.R. 4908 (Committee on Labor).
2. 92 CONG. REC. 851, 79th Cong. 2d Sess., Feb. 4, 1946.

constitution, rules, and bylaws (including rules and bylaws defining the duties and powers of its officers and the time and manner of their election) as its members may deem proper for carrying out its lawful objects. . . .

A point of order was raised against the amendment, as follows:[3]

MR. [JENNINGS] RANDOLPH [of West Virginia]: I make a point of order that the amendment, which I understand is offered as a new section to the Case bill, is not in order. I believe the subject matter goes far afield from the matter under consideration here.

The Chairman,[4] in ruling on the point of order, stated:

When the committee bill was presented to the House, it was under a rule making the Case bill in order. It was previously stated during the debate on the rule, that the purpose was to open up the entire field with reference to labor legislation. The House voted affirmatively for the special rule bringing in the bill.

This is an amendment to the Case amendment. In the Case amendment there are provisions for financial and legal liability of labor unions and employers, and the amendment of the gentleman from New York, as offered, is merely a means of further bringing about the legal responsibility of the union.

The Chair therefore believes it is in order, and overrules the point of order.[5]

Bill To Facilitate Settlement of Strikes—Amendment Relating To Taxation and Disposition of Revenues

§ 4.82 To a bill having for its purpose the settlement of labor disputes, an amendment relating to taxation and the disposition of revenues was held to be not germane.

In the 79th Congress, a bill[6] was under consideration relating to settlement of labor disputes. The following amendment was offered to an amendment in the nature of a substitute for the bill:[7]

Amendment offered by Mr. [Cleveland M.] Bailey, of West Virginia, to the Case substitute for H.R. 4908: "On page 3, line 18, after the word 'arbitration', strike out the period, insert a comma, and insert 'And in this connection it is the declared intent of the Congress that all subsidies now being paid out of the United States Treasury in the form of tax refunds, tax rebates, and "carry back" payments to individuals, companies, or corporations, be

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3. *Id.* at p. 852.

4. Emmet O'Neal (Ky.).

5. *Parliamentarian's Note:* It is perhaps arguable whether a provision relating narrowly to incorporation, or the processes pertaining to incorporation, would lie within the jurisdiction of the Committee on the Judiciary. The Chair in his ruling took a more liberal view, emphasizing the purposes of the amendment as relating to those of the bill.

6. H.R. 4908 (Committee on Labor).

7. 92 CONG. REC. 854, 79th Cong. 2d Sess., Feb. 4, 1946.

suspended for the duration of any strike or strikes now existing or that may occur during the calendar year that lead to industrial unrest, delay reconversion, and otherwise impair our national economy.' "

The following proceedings then took place[8] with respect to a point of order raised against the amendment:

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, the amendment is clearly out of order. It is not germane to the bill. There is nothing in this bill that has anything to do with the carry-back. . . .

This is a matter for the Committee on Ways and Means, Mr. Chairman. . . .

MR. BAILEY: I am afraid of that. . . .

The Chairman [Emmet O'Neal, of Kentucky] held:

In the opinion of the Chair, the amendment offered by the gentleman from West Virginia [Mr. Bailey] deals with both taxation and the disposition of taxes, and is not germane to the pending amendment.

The point of order is sustained.

Bill Amending Fair Labor Standards Act To Mitigate Effects of Imports on Labor Market—Amendment Modifying Tariff Act With Respect to Imports From Communist Nations

§ 4.83 To a bill amending two sections of the Fair Labor Standards Act for purposes of mitigating certain effects of imports on the domestic labor market, an amendment modifying provisions of the Tariff Act of 1930 with respect to the importation of merchandise from communist nations was held to be not germane.

On Sept. 28, 1967, the Fair Labor Standards Foreign Trade Act of 1967[9] was under consideration, which stated in part:[10]

Sec. 2. (a) Subsection (a) of section 2 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. sec. 202), is amended to read as follows:

"(a) The Congress finds that the existence in industries engaged . . . in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers and the unregulated importation of goods produced by industries in foreign nations under such conditions (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States. . . ."

(b) Section 2 of such Act is further amended by adding the following new subsection:

"(c) It is further declared to be the policy of this Act . . . to provide for

8. *Id.* at pp. 854, 855.

9. H.R. 478 (Committee on Education and Labor).

10. See 113 CONG. REC. 27212, 90th Cong. 1st Sess.

the regulation of imports of goods in such manner as will . . . eliminate any serious . . . threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States and the economic welfare of the communities in which they are employed from conditions above referred to in the industries providing them employment in which increased imports are a substantially contributing factor. . . .”

The following amendment was offered to the bill:[11]

Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 4, immediately after line 18, insert the following:

Sec. 4. (a) Section 313(h) of the Tariff Act of 1930 (19 U.S.C. 1313(h)) is amended by inserting before the period at the end thereof the following: “, except that, if the imported merchandise is imported directly or indirectly from a country or area which is dominated or controlled by Communism, no drawback shall be allowed under subsection (a) or (b).”

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

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Chairman, the amendment is an amendment to the Tariff Act of 1930, as amended.

This legislation represents an amendment to the Fair Labor Standards Act. The amendment, in my opinion, is not germane, since the provisions of the Tariff Act come under the jurisdiction of the Committee on Ways and Means and not under the jurisdiction of the committee or subcommittee which it is my honor to chair.

The bill amending the Fair Labor Standards Act had been reported from the Committee on Education and Labor. As indicated by Mr. Dent, the amendment proposing to modify the Tariff Act of 1930 was a matter within the jurisdiction of the Committee on Ways and Means. The Chairman,[12] sustained the point of order.

Bill Providing for Payment of Wages on Highway Projects at Prevailing Rates as Determined by Secretary of Labor—Amendment Making Such Determination a Subject of Administrative Hearings

§ 4.84 To that section of a bill providing for payment of wages at prevailing rates, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, to employees on federal aid highway construction projects, an amendment making such determination a subject of administrative hearings and judicial review was held to be not germane.

11. *Id.* at p. 27214.

12. Jack B. Brooks (Tex.).

In the 84th Congress, during consideration of the Federal Highway and Highway Revenue Acts of 1956,[13] the following amendment was offered by Mr. Bruce R. Alger, of Texas:[14]

> On page 25, immediately after line 9, insert:
>
> (b) Judicial review under Davis-Bacon Act: Section 7 of the Davis-Bacon Act (40 U.S.C., sec. 276a–6)) is amended to read as follows:
>
> Sec. 7. (a) Notwithstanding any provision of section 4 of the Administrative Procedure Act, such act shall be applicable in the administration of section 2 and the first section of this act.
>
> (b) All wage determinations under the first section of this act shall be made on the record after opportunity for a hearing. . . .
>
> (c) Notwithstanding the inclusion of any stipulations required by any provision of this act, any interested person shall have the right of judicial review of any legal question which might otherwise be raised, including, but not limited to, wage determinations and the territorial applicability of determinations of the Secretary of Labor.

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

> MR. [THADDEUS M.] MACHROWICZ [of Michigan]: Mr. Chairman, as I read the amendment, it attempts to make new provisions in the Davis-Bacon Act, an act which is not germane to the bill which we are now considering.

It was further stated, by Mr. John A. Blatnik, of Minnesota, that ". . . this amendment is completely out of order. It is an attempt to amend basic labor legislation which originated in the Labor Committee."

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

> The effect of the amendment would be to amend two acts of the Congress, one reported by the Committee on Education and Labor, and the other the Administrative Procedure Act which, it so happens, I was responsible for. The Chair feels that the orderly, proper, and legal way to amend this act is by an amendment to the act itself and not indirectly by amending collaterally.
>
> The Chair sustains the point of order.

Another amendment was then offered by Mr. Bruce R. Alger, of Texas, as follows:

> Amendment offered by Mr. Alger: . . . On page 25, immediately after line 9, insert:
>
> (b) Procedure for wage determinations:
>
> (1) Applicability of Administrative Procedure Act: Notwithstanding any provision of section 4 of the Administrative Procedure Act, such Act shall be applicable to the wage determinations by the Secretary of Labor under subsection (a) of this section.

13. H.R. 10660 (Committee on Public Works).

14. 102 CONG. REC. 7206, 84th Cong. 2d Sess., Apr. 27, 1956.

15. Francis E. Walter (Pa.).

15. Francis E. Walter (Pa.).

(2) Hearings and judicial review: All wage determinations under subsection (a) of this section shall be made on the record after an opportunity for a hearing. . . .

(3) Questions reviewable: Notwithstanding the inclusion of any stipulations required by the Secretary of Commerce in any contract subject to this section, any interested person shall have the right of judicial review of any legal question which might otherwise be raised, including . . . wage determinations. . . .

Mr. Blatnik raised the following point of order:

The amendment is out of order on the ground that it applies to basic legislation which originated in another committee of the House, the House Committee on Education and Labor. . . .

In defending the amendment, the proponent, Mr. Alger, stated:

Mr. Chairman, this amendment is quite different from the preceding amendment in that the preceding amendment would have amended the entire Davis-Bacon Act. This amendment is directed solely at this bill and the wages paid on the Interstate System, which is all the Davis-Bacon provision is to apply to.

The Chairman ruled as follows:

The Chair is of the same opinion with reference to this proposed amendment as it was with respect to the last one, and therefore the point of order is sustained.

Proposal To Suspend Wage and Employment Laws During Emergency—Amendment Providing for Study of Effects of Laws on War Production

§ 4.85 To an amendment proposing the suspension of certain laws during the national emergency, an amendment offered as a substitute providing for an investigation by the Committee on the Judiciary of all laws now relating to wages and other conditions of employment to determine the effects of such laws on war production was held to be not germane.

In the 77th Congress, during consideration of the Second War Powers Bill,[16] an amendment was pending, as follows:

Amendment offered by Mr. [Howard W.] Smith of Virginia: On page 12, after line 11, insert a new title, as follows:

"TITLE IV–A

"That during the national emergency declared to exist by the President on May 27, 1941, the following provisions of law, as amended, are suspended, insofar as they—

"(a) Prescribe the maximum hours, days, or weeks of labor in any specified period of time;

16. S. 2208 (Committee on the Judiciary).

"(b) Require compensation at a rate higher than the usual rate at which an employee is employed (1) for labor in excess of a specified number of hours, days, or weeks in any specified period of time, or (2) for labor on Sundays, holidays, or during the night; or

"(c) Require stipulations in contracts which prescribe maximum hours of labor or require compensation at a rate higher than the usual rate at which an employee is employed for labor in excess of a specified number of hours, days, or weeks in any specified period of time, or for labor on Sundays, holidays, or during the night—

"(1) 'An act to expedite the strengthening of the national defense', approved July 2, 1940;

"(2) 'An act establishing overtime rates for compensation for employees of the field services of the War Department, and the field services of the Panama Canal, and for other purposes', approved October 21, 1940;

"(3) 'An act authorizing overtime rates of compensation for certain per annum employees of the field services of the War Department, the Panama Canal, the Navy Department, and the Coast Guard. . . .[17]

To such amendment, the following amendment was offered:[18]

Amendment offered by Mr. [John W.] Gwynne [of Iowa] as a substitute for the Smith amendment: Page 12, after line 11, insert a new title, as follows:

TITLE IV–A

The Judiciary Committee of the House is hereby directed to make an immediate study of all laws now . . . relating to the hours . . . compensation, and other conditions of employment . . . with a view to determining which of such laws actually impede . . . the production of . . . implements of war, and to make such recommendations as may appear advisable to expedite the production of . . . implements of war.

Mr. Charles F. McLaughlin, of Nebraska, made the point of order that the amendment was not germane.

The Chairman,[19] in ruling on the point of order, stated:

The amendment offered by the gentleman from Virginia [Mr. Smith] undertakes to enact certain substantive provisions of law. The amendment offered by the gentleman from Iowa provides for an investigation. Of course, the matter of ordering an investigation would be a proper subject matter to address to the House Committee on Rules. . . .

[T]he amendment offered by the gentleman from Iowa is not germane to the pending amendment offered by the gentleman from Virginia.

Organizational Bill Creating New Government Department—Amendment Changing Substantive Programs Transferred to Department

§ 4.86 To a bill reported from the Committee on Govern-

17. 88 CONG. REC. 1708, 1709, 77th Cong. 2d Sess., Feb. 26, 1942.

18. 88 CONG. REC. 1739, 77th Cong. 2d Sess., Feb. 27, 1942.

19. Jere Cooper (Tenn.).

ment Operations, establishing a new executive agency, transferring to such agency administration of federal funding programs within the jurisdiction of other committees, and containing an authorization of appropriations to carry out the Act and transferred functions, subject to existing laws limiting any appropriations for the transferred functions, an amendment prohibiting the use of funds authorized by that Act to carry out one of the funding programs being transferred to the new agency is not germane, where the bill is organizational only in nature and intended to transfer the administration of certain laws to that agency without modifying those laws, and where the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws.

Parliamentarian's Note: Although it is ordinarily germane by way of amendment to limit the uses to which an authorization of appropriations carried in a bill may be applied, that principle normally applies to annual authorization bills reported by the committees having legislative and oversight jurisdiction over the statutes for which the funds are authorized; but where the Committee on Government Operations has reported an organizational bill to create a new department in the executive branch, which transfers the administration of existing statutes and programs to that department without modifying such statutes and programs, and which contains a general authorization of appropriations for the department to carry out its functions under the Act, such a bill is not necessarily open to amendments which change the substantive laws to be administered.

On June 19, 1979, the Committee of the Whole had under consideration H.R. 2444, reported from the Committee on Government Operations, to establish a new Department of Education, and transferring to such Department the administration of federally funded programs within the jurisdiction of other committees. The bill contained an authorization of appropriations to carry out its provisions and to enable the Department to perform the functions transferred to it, subject to existing laws limiting appropriations applicable to any of those functions.[20] An amendment was

20. See 125 CONG. REC. 14717, 96th Cong. 1st Sess., June 13, 1979.

offered[1] to prohibit the use of any funds appropriated under such authorization to provide for transportation of students or teachers for purposes of establishing racial or ethnic quotas in schools. The amendment was held to be not germane, on the grounds that the bill was merely organizational in nature and only transferred the administration of educational laws to the Department without modifying those laws; and because the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

Amendment offered by Mr. Dornan: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

Sec. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . . [T]he language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the House.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill. . . .

MR. [ROBERT K.] DORNAN [of California]: . . . Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the

1. 125 CONG. REC. 15570, 96th Cong. 1st Sess., June 19, 1979.

parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse discrimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this, since they have already had a chance to take a look at it once.

I just simply state that it is germane in more than one section and not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981. . . .

THE CHAIRMAN:[2] The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them. . . .

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable to infer that the thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as au-

2. Lucien N. Nedzi (Mich.).

thorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in an organizational bill, be open to amendments which redirect the administration of educational programs in ways not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

Amendment To Create Employee Positions in Bureau of Public Roads in Lieu of Positions Allocated Under Classification Act

§ 4.87 To a pending amendment in the nature of a substitute for a bill to supplement the Federal Aid Road Act, an amendment authorizing the creation of high level positions in the Bureau of Public Roads in lieu of any positions allocated under the Classification Act, was held to be not germane.

In the 84th Congress, during consideration of a bill[3] to amend and supplement the Federal Aid Road Act, the following amendment was offered[4] to a pending amendment in the nature of a substitute:

> Amendment offered by Mr. [Gordon H.] Scherer [of Ohio] to the amendment offered by Mr. [George A.] Dondero [of Michigan]: On page 22, after line 20, insert a new section as follows:
>
> Sec. 209. (a) The Secretary of Commerce . . . is authorized to place 2 positions in the Bureau of Public Roads in grade 18 and a total of 20 positions in grades 16 and 17 of the General Schedule established by the Classification Act of 1949, as amended. . . .

A point of order was raised by Mr. Robert E. Jones, Jr., of Alabama, against the amendment. In support of the point of order, he stated:

> Mr. Chairman, I think I have stated the point of order that this is a matter coming within the jurisdiction of the Committee on Post Office and Civil Service. It is a reclassification section, and therefore it is not germane to the [amendment]. . . .

The Chairman,[5] in ruling on the point of order, said:

> It is the opinion of the Chair that the amendment offered by the gen-

3. H.R. 7474 (Committee on Public Works).
4. 101 Cong. Rec. 11689, 11690, 84th Cong. 1st Sess., July 27, 1955.
5. Eugene J. Keogh (N.Y.).

tleman from Ohio does, in fact, create additional positions within the general schedules established by the Classification Act of 1949, which is within the jurisdiction and authority of another standing committee of the House.

The Chair therefore is constrained to sustain the point of order.

Bill To Readjust Postal Rates—Amendment Directing Committee Chairmen To Investigate Operation of Post Office

§ 4.88 To a bill proposing to readjust postal rates, an amendment directing the Chairmen of the Committees on Post Office and Civil Service of the two Houses jointly to employ a staff of experts to investigate the operation of the Post Office Department was held to be not germane.

In the 82d Congress, during consideration of a bill[6] to readjust postal rates, an amendment was offered[7] as described above. Mr. Thomas J. Murray, of Tennessee, made the point of order that the amendment was not germane to the bill. The Chairman,[8] in ruling on the point of order, stated:[9]

> The committee has before it a bill to readjust postal rates. The gentleman from Pennsylvania [Mr. Corbett] has offered an amendment which would direct the chairman of the Committee of the House on the Post Office and Civil Service and of the Committee of the Senate on Post Office and Civil Service to employ not less than five individuals. The amendment goes further, and also fixes the salaries of persons so employed. . . . It is evident that the Committee on the Post Office and Civil Service would not have jurisdiction of a proposal to increase the employees of the committee or to create new positions in such committee. Therefore, the amendment goes far beyond the scope of the bill, and beyond the jurisdiction of the committee reporting the bill. Therefore, the Chair sustains the point of order.

Budget Resolution Addressing Congressional Action—Amendment Expressing Sense of Congress as to President's Authority Under Impoundment Control Act

§ 4.89 To a second concurrent resolution on the budget containing diverse provisions which addressed congressional actions on the budget, an amendment expressing the sense of Congress that

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6. H.R. 2982 (Committee on Post Office and Civil Service).

7 97 CONG. REC. 11677, 82d Cong. 1st Sess., Sept. 19, 1951.

8. Paul J. Kilday (Tex.).

9. 97 CONG. REC. 11677, 11678, 82d Cong. 1st Sess., Sept. 19, 1951.

language repealing the Impoundment Control Act should be included in any continuing appropriation bill, thereby addressing issues of Presidential authority was conceded to be not germane.

During consideration of House Concurrent Resolution 448 in the Committee of the Whole on Nov. 18, 1980,[10] a point of order was conceded and sustained against the following amendment:

Amendment offered by Mr. Latta: Insert after section 5 the following new section:

Sec. 6. It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate make in order as part of any continuing appropriation bill for fiscal year 1981 language providing for the repeal of provisions of title X of Public Law 93–344, the Congressional Budget and Impoundment Control Act, effective upon enactment of such continuing appropriation and to continue no later than September 30, 1981. . . .

MR. [JAMES M.] FROST [of Texas]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Ohio is not germane to House Concurrent Resolution 448, revising the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983.

This amendment would make it the sense of the Congress that any continuing appropriation bill for fiscal year 1981 contain language that would repeal for 1 year the impoundment provisions of the Congressional Budget and Impoundment Control Act of 1974.

The concurrent resolution implements certain directives of the Congressional Budget and Impoundment Control Act. The provisions establishing the concurrent budget resolution procedure are contained in the first nine titles of the act which are cited in Public Law 93–344 as the Congressional Budget Act of 1974. They have no relation to, nor are they derived from, title X, which is cited as the Impoundment Control Act of 1974.

It would seem clear, then, that the intent of the act was for concurrent resolutions on the budget to address the internal budget process of the Congress rather than addressing the impoundment process to be followed between the executive and the legislative branches as established by statute.

To include directives concerning impoundment in a concurrent budget resolution, then, would be outside the intent of the statute and beyond the scope of the resolution, thus rendering them nongermane.

While the specific language of the Latta amendment would not amend the Congressional Budget and Impoundment Control Act, the ultimate effect would be to do so. The Latta amendment would require, as a sense of the Congress, that a continuing appropriation bill contain language repealing for 1 year the impoundment provisions of title X of the Congressional Budget and Impoundment Act. In all likelihood, any amendment to such a continuing appropriation bill

10. 126 CONG. REC. 30026, 30027, 96th Cong. 2d Sess.

would be nongermane. Further, if a continuing appropriation bill were introduced with such language, it would be subject to referral to the Committee on Rules, which has jurisdiction over amendments to the Budget Act.

While jurisdiction over a legislative matter is not the sole test of germaneness, it is an important consideration. For example, Deschler's Procedure at chapter 28, section 4.26, states:

> To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

It may be argued that an amendment directing the offering of a nongermane amendment in and of itself could be considered nongermane. Argument has been proposed that section 4 of House Concurrent Resolution 448 provides a basis of germaneness for the Latta amendment. Section 4 contains sense of the Congress language stating that, "A full-scale review of the Budget Act and the congressional budget process should be undertaken without delay." This language does not require any specific action to be taken to change the budget process or to amend the Budget Act. The Latta amendment would extend the scope of the sense of the Congress language in section 4 to require that a specific amendment repealing the impoundment provisions of the Budget Act be adopted.

The precedents indicate such action would be nongermane. For example, Deschler's Procedure at chapter 28, section 33.23, states:

> An amendment requiring the availability of funds "under this or any other Act" for certain humanitarian assistance was held to go beyond the scope of the pending bill and was ruled out as not germane, affecting funds in other provisions of law.

I would contend, Mr. Chairman, that the Latta amendment is nongermane. . . .

MR. [DELBERT L.] LATTA [of Ohio]: . . . This resolution contains no reconciliation instruction which could force the committees of the Congress to come up with the spending cuts of $17 billion. Likewise, it gives the President no power whatsoever to accomplish these cuts by executive direction. This amendment would address this deficiency if it were allowed without the point of order. It provides that it is the sense of the Congress that when it takes up the continuing resolution for the 1981 appropriations, it will include language which suspends, for the remainder of fiscal year 1981 only, the anti-impoundment provisions of the Budget Act. What it would do, then, is give the President-elect the ability to keep Federal spending within the ceiling established in this budget resolution should the Congress be unable to do so. . . .

Mr. Chairman, I concede the point of order.

THE CHAIRMAN:[11] The point of order is conceded. The point of order is sustained.

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11. William H. Natcher (Ky.).

Bill To Increase Debt Ceiling—Amendment Affecting Budget and Appropriations Procedures

§ 4.90 To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year but not directly amending the Second Liberty Bond Act, an amendment proposing permanent changes in that Act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

On Nov. 7, 1973,[12] it was demonstrated that to a bill proposing a temporary change in law, an amendment making other permanent changes in that law is not germane:

The Clerk read as follows:

Sec. 2. Effective on the date of the enactment of this Act, section 101 of the Act of October 27, 1972, providing for a temporary increase in the public debt limit for the fiscal year ending June 30, 1973 (Public Law 92–599), as amended by the first section of Public Law 93–53, is hereby repealed.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gross: On page 2, line 3, after the period, insert the following: *Provided further*, that the expenditures of the Government during each fiscal year, including reduction of the public debt in accordance with the provisions of section 3, shall not exceed its revenues for such year except—

(1) in time of war declared by the Congress . . .

Sec. 3. Section 21 of the Second Liberty Bond Act, as amended (31 U.S.C. 757b), is amended by inserting "(a)" after "Sec. 21.", and by adding at the end thereof the following:

"(b) The public debt limit set forth in subsection (a) is hereby reduced as follows:

"(1) Effective on July 1, 1974, by an amount equal to 2 percent of the net revenue of the United States for the fiscal year ending June 30, 1973;

"(2) Effective on July 1, 1975, by an amount equal to 3 percent of the net revenue of the United States for the fiscal year ending June 30, 1974;

"(3) Effective on July 1, 1976, by an amount equal to 4 percent of the net revenue of the United States for the fiscal year ending June 30, 1975;

"(4) Effective on July 1, 1977, and July 1 of each year thereafter, by an amount equal to 5 percent of the net revenue of the United States for the fiscal year ending on June 30, of the preceding year."

Sec. 4. (a) The Budget submitted annually by the President pursuant to section 201 of the Budget and Accounting Act, 1921, as amended, shall be prepared, on the basis of the best estimates then available, in such a manner as to insure compliance with the first section of this Act.

(b) Notwithstanding any obligational authority granted or ap-

12. 119 CONG. REC. 36240, 36241, 93d Cong. 1st Sess. Under consideration was H.R. 11104, providing for a temporary increase in the public debt limit.

propriations made except such with respect to the legislative and judicial branches of the Government, the President shall from time to time during each fiscal year take such action as may be necessary (by placing funds in reserve, by apportionment of funds, or otherwise) to insure compliance with the first section of this Act.

Sec. 5. The Congress shall not pass appropriations measures which will result in expenditures by the Government during any fiscal year in excess of its estimated revenues for such year (as revenues have been estimated in the budget submitted by the President), except—

(1) to the extent of any additional revenues of the Government for such fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year; or

(2) in time of war declared by the Congress; or

(3) during a period of grave national emergency declared in accordance with the first section of this Act; but, subject to paragraph (1) of this section, appropriations measures which will so result in expenditures in excess of estimated revenues may be passed by the Congress only during such a period of grave national emergency.

Sec. 6. This Act shall apply only in respect of fiscal years beginning after June 30, 1974.

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, I make a point of order against the amendment.

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

MR. ULLMAN: Mr. Chairman, the bill before us provides for a temporary change in the debt ceiling in conformity with the Second Liberty Bond Act. The amendment offered by the gentleman from Iowa makes a permanent change in the Second Liberty Bond Act, and therefore is not germane to this bill. . . .

MR. GROSS: . . . Mr. Chairman, the entire thrust of the bill before us is the national debt and the ceiling of that debt. The main thrust of this amendment is to control the Federal debt and reduce the ceiling.

Mr. Chairman, I believe the amendment is in order.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The bill presently before the House provides for a temporary change in the debt limit for this fiscal year, and the amendment constitutes a permanent change in the law.

In addition, the amendment also goes to the preparation of the budget under the Budget and Accounting Act which is under the jurisdiction of another committee. Volume 8 of the precedents of the House provides under section 2914 the following:

> To a section proposing legislation for the current year, an amendment rendering such legislation permanent was held to be not germane.

The Chair sustains the point of order.

General Appropriation Bill—Amendment To Modify Rules of Congress for Consideration of Appropriations in Subsequent Years

§ 4.91 To a general appropriation bill providing funds for one fiscal year, an amendment changing existing law

13. William H. Natcher (Ky.).

by imposing restrictions on a permanent appropriation for compensation for Members of Congress, and furthermore amending the rules of the House and Senate to modify procedures for consideration of appropriation bills in subsequent years, was ruled out of order as legislation on an appropriation bill and as not germane, in that such amendment enlarged the scope of the bill and was partly within the jurisdiction of the Committee on Rules.

On June 29, 1987,[14] during consideration of the Legislative Branch Appropriations, fiscal 1988,[15] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [DANIEL E.] LUNGREN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: Page 31, after line 25, insert the following new sections:

Sec. 309. Subsection (c) of section 130 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes" (approved October 1, 1981; Public Law 97–51) is amended by striking out "Effective" and by inserting in lieu thereof "(1) Except to the extent provided by paragraph (2), effective" and by inserting at the end thereof the following new paragraph:

"(2) If all general appropriation bills for any fiscal year have not been presented to the President for signature under section 7 of Article I of the Constitution before the beginning of that fiscal year, then the appropriation contained in paragraph (1) shall not be effective with respect to such fiscal year.".

Sec. 2310. It shall not be in order in either the House of Representatives or the Senate to consider the general appropriation bill making appropriations for the legislative branch for any fiscal year unless and until all other general appropriation bills for such fiscal year have been presented to the President for signature under section 7 of Article I of the Constitution. . . .

MR. [VIC] FAZIO [of California]: Mr. Chairman, this amendment violates the Rules of the House in several instances, as follows:

First, it goes beyond the bill under consideration, amending the continuing resolution, and as such is not germane. This is a violation of rule XVI, clause 7.

Second, the amendment constitutes legislation on an appropriations bill and as such is in violation of clause 2 of rule XXI.

Third, in effect, this amendment amends the Rules of the House, a subject which is under the jurisdiction of the Committee on Rules. . . .

MR. LUNGREN: Mr. Chairman, I would have to concede that this is legislation on an appropriation bill. Unfortunately, this is the only manner in which this subject seems to be able to be raised. . . .

14. 133 CONG. REC. 18082, 18083, 100th Cong. 1st Sess.

15. H.R. 2714.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from California [Mr. Lungren] has conceded the point of order raised by the chairman of the subcommittee, the gentleman from California [Mr. Fazio], and the point of order is sustained.

Bill Authorizing Issuance of Bonds—Amendment Providing Bonds Be Tax Exempt

§ 4.92 To that section of a bill authorizing the issuance of bonds, an amendment providing that such bonds be exempt both as to principal and interest from any taxes was held to be germane.

The following exchange in the 74th Congress,[17] during consideration of a bill[18] to amend an act relating to flood control and industrial development in the Tennessee Valley, concerned a point of order raised against the amendment described above.

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order. . . .

Is that germane to the bill? It relates to the taxing authority of the Government, and that can only be considered when coming from the Ways and Means Committee.

THE CHAIRMAN: The Chair holds that the amendment is germane in that it simply provides an exemption with respect to the bonds to be issued by the Corporation.

MR. TABER: Will the Chair rule on the other part of the point of order, that a bill coming from this committee cannot be considered when it relates to the taxing power of the Government and that the amendment does relate to the taxing power of the Government, and therefore must come from the Ways and Means Committee?

THE CHAIRMAN: The Chair holds that the amendment strikes at that power in an incidental way, and therefore is not subject to the point of order.

The point of order is overruled.

Parliamentarian's Note: This precedent has been effectively overruled by § 4.45, infra.

Joint Resolution Directing Agencies To Make Information Available to Committees—Amendment To Create Joint Committee

§ 4.93 To a joint resolution directing agencies of the government to make certain information available to committees of Congress, an amendment proposing creation of a joint committee that would formulate "rules . . . with respect to the powers, duties, and procedures of all committees of either House under this joint reso-

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16. William J. Hughes (N.J.).

17. 79 CONG. REC. 10967, 74th Cong. 1st Sess., July 10, 1935. The Chairman was William J. Driver (Ark.).

18. H.R. 8632 (Committee on Military Affairs).

lution" was held to be not germane.

In the 80th Congress, during consideration of a bill[19] directing agencies of the government to make available to congressional committees certain information, an amendment was offered[20] as described above. In ruling on a point of order raised by Mr. Clare E. Hoffman, of Michigan, the Chairman, Leo E. Allen, of Illinois, stated:[1]

> [T]his amendment would create a joint standing committee. It would take away the authority of the Rules Committee which under the rules of the House has jurisdiction over this subject. The Chair therefore holds that the amendment is not germane and sustains the point of order.

Amendment Changing Method of Appointing Members of Civil Rights Commission

§ 4.94 To a bill reported from the Committee on the Judiciary, establishing a commission on civil rights with members to be appointed by the President, an amendment requiring that the commissioners be Members of Congress and that they be appointed by the Speaker and President of the Senate was held to be not germane.

In the 84th Congress, a bill[2] was under consideration which stated in part:[3]

> PART I—ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS
>
> Sec. 101. (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the "Commission").
>
> (b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. . . .

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. [Walter E.] Rogers of Texas: Amend H.R. 627 by striking out all of section 101 beginning on line 21, page 19, to and including all of line 14 on page 20, and all of line 15 on page 20 and inserting in lieu thereof the following:
>
> Sec. 101. . . .
>
> (b) The "Commission" shall be composed of six Members of the Congress of the United States of America, 3 of which shall be duly elected and qualified Members of the United States House of Representatives and 3 shall

19. H.J. Res. 342 (Committee on Expenditures in the Executive Departments).

20. 94 CONG. REC. 5811, 80th Cong. 2d Sess., May 13, 1948.

1. *Id.* at p. 5812.

2. H.R. 627 (Committee on the Judiciary).

3. 102 CONG. REC. 13542, 84th Cong. 2d Sess., July 19, 1956.

4. *Id.* at pp. 13548, 13549.

be duly elected and qualified Members of the United States Senate. The Members of the House of Representatives shall be appointed by the Speaker of the House of Representatives. . . . The Members representing the Senate shall be appointed by the President of the Senate. . . .

A point of order was raised against the amendment as follows:[5]

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make a point of order against the amendment that it is not germane. This amendment seeks to set up a joint congressional committee. As such, the jurisdiction over such procedure would come within the Rules Committee.

The Chairman,[6] in ruling on the point of order, stated:

[T]he amendment would provide for the appointment of what is tantamount to a joint committee composed of Members of the Senate and the House of Representatives, which is clearly a deviation from the original purpose of the legislation.

For that reason, the Chair sustains the point of order.

Resolution Providing for Special Committee To Investigate Campaign Expenditures—Amendment Directing Payment of Expenses From Contingent Fund

§ 4.95 To a resolution reported from the Committee on Rules providing for a special committee to investigate campaign expenditures, a committee amendment providing in part that expenses of such committee be paid from the contingent fund of the House was held to be not germane.

In the 78th Congress, during consideration of a resolution[7] providing for a special committee, a committee amendment was reported which provided that the special committee's expenses be paid from the contingent fund of the House.[8] A point of order was raised against the amendment, as follows:

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Speaker, I make a point of order against the amendment on the ground that the Rules Committee has exceeded its authority. . . .

The following exchange ensued:[9]

THE SPEAKER:[10] It is a question of germaneness, whether the amendment is germane to the resolution.

MR. [EARL C.] MICHENER [of Michigan]: The point of order made by the gentleman from Missouri would strike out the entire amendment because a part of it was not germane?

THE SPEAKER: The gentleman from Michigan . . . realizes that one part of an amendment being deficient, the whole amendment is vitiated.

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5. *Id.* at p. 13549.

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

7. H. Res. 551 (Committee on Rules).

8. 90 CONG. REC. 6393, 78th Cong. 2d Sess., June 21, 1944.

9. *Id.* at p. 6394.

10. Sam Rayburn (Tex.).

The Speaker then sustained the point of order. Citing precedents, the Speaker noted that the matter in question was within the jurisdiction of the Committee on Accounts.

Appropriations for Expense Allowances for Members—Amendment to Amend Internal Revenue Code

§ 4.96 To a provision, in a general appropriation bill, appropriating sums for expense allowances for Members, an amendment seeking to amend the Internal Revenue Code was held to be not germane.

On May 10, 1945, the Legislative Appropriations Bill of 1946 (11) was under consideration, stating in part: (12)

> There shall be paid to each Representative and Delegate, and to the Resident Commissioner from Puerto Rico, after January 2, 1945, an expense allowance of $2,500 per annum to assist in defraying expenses related to or resulting from the discharge of his official duties. . . .

The following amendment was offered:

> There shall be paid to each Representative and Delegate and to the Resident Commissioner from Puerto Rico after January 2, 1945, an additional annual salary of $1,500. . . .
>
> Section 23(a)(1)(A) of the Internal Revenue Code (relating to deductibility of trade and business expenses) is amended by inserting at the end thereof a new sentence as follows: For the purposes of this chapter, in the case of an individual holding an office as a Member of the Congress . . . his home shall be considered to be his place of residence within the State . . . from which he is such a member, but the deduction allowable for the taxable year by reason of this sentence shall in no event exceed $2,500. . . .

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

> MR. [EMMET] O'NEAL [of Kentucky]: Mr. Chairman, I make the point of order that the amendment goes far beyond the provisions of the bill. . . . Certainly the provision reading "his home shall be considered to be his place of residence within the State . . ." does not confine it to the purposes of taxation but would affect many, many laws on the statute books today not in any way related to taxation. . . .

The Chairman, John J. Delaney, of New York, in ruling on the point of order, stated: (13)

> One item in the bill is an expense allowance of $2,500 per annum, which in no sense of the word is a raise of salary. The gentleman from Mississippi includes in his amendment to that pro-

11. H.R. 3109 (Committee on Appropriations).

12. See 91 CONG. REC. 4451, 79th Cong. 1st Sess.

13. *Id.* at p. 4452.

vision matter that evidently is not germane to the bill. Therefore, the Chair sustains the point of order.

Subsequently, Mr. William M. Whittington, of Mississippi, offered an amendment containing language as above relating to the Internal Revenue Code. The Chairman, in again sustaining a point of order raised by Mr. O'Neal, stated:[14]

> The pending appropriation bill contains a provision that would allow Members of Congress a sum not exceeding $2,500 to pay expenses. The amendment offered by the gentleman from Mississippi would constitute legislation on an appropriation bill, legislation which comes within the province of the Committee on Ways and Means. The Chair is of the opinion that the amendment is not germane to the pending paragraph and, therefore, sustains the point of order.

Bill Containing Provisions Addressing Relationship Between Federal Laws and Certain Industry—Amendment Proposing Study of Impact of Possible Tax Law Changes

§ 4.97 Although a proposal for a change in the tax laws is not ordinarily germane to a bill which has not been reported by the Committee on Ways and Means, a proposal for a study of the impact of possible tax law changes on a certain industry may be germane to a bill with broad and diverse provisions on the subject of the relationship between federal law and the industry in question.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

Price Control Bill—Amendment Relating to Stamp Taxes and Repealing Silver Purchase Act

§ 4.98 To a price control bill, an amendment repealing the Silver Purchase Act of 1934 and containing provisions relating to stamp taxes, matters within the jurisdiction of another committee, was held to be not germane.

In the 77th Congress, during consideration of the Price Control Bill,[15] Mr. Everett M. Dirksen, of Illinois, offered an amendment[16] as described above. The Chairman, Jere Cooper, of Tennessee, in ruling on a point of order raised by Mr. Henry B. Steagall, of Alabama, stated:[17]

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14. *Id.* at p. 4453.

15. H.R. 5990 (Committee on Banking and Currency).

16. 87 CONG. REC. 9223, 77th Cong. 1st Sess., Nov. 28, 1941.

17. *Id.* at p. 9224.

The gentleman from Alabama makes a point of order against the amendment offered by the gentleman from Illinois on the ground that it covers a subject matter clearly coming within the jurisdiction of another standing committee of the House. The Chair is of the opinion that the amendment is subject to this point of order and therefore sustains the point of order.[18]

Public Works Construction Bill—Revenue-sharing Amendment

§ 4.99 While committee jurisdiction over the subject matter of an amendment is not the exclusive test of germaneness in cases in which the proposition being amended already contains comprehensive provisions that overlap jurisdictional delineations, it is a relevant test where the pending text is entirely within one committee's jurisdiction and where the amendment falls within another committee's purview.

H.R. 5247, a bill reported from the Committee on Public Works and Transportation, consisted of one title relating to grants to state and local governments for local public works construction projects. A new title added by the Senate and contained in a conference report provided grants to state and local governments to assist them in providing public services. On Jan. 29, 1976,[19] a point of order was made in the House against the title added by the Senate:

MR. [ROBERT E.] JONES, Jr., of Alabama: Mr. Speaker, I call up the conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I make a point of order that title II of the conference report to H.R. 5247 constitutes a nongermane Senate amendment to the House-passed bill and is in violation of clause 4 of rule XXVIII of the House rules. . . .

Mr. Speaker, when H.R. 5247 was before the House in May, it was for the sole purpose of authorizing appropriations for the construction of public works projects to help alleviate unemployment. Along with 312 other Members of the House, I supported that legislation.

However, when the bill was before the Senate, title II, an entirely dif-

18. Subsequently, an amendment seeking to repeal certain provisions of the Agricultural Adjustment Act, which was within the jurisdiction of another committee, was also held not germane to the Price Control Bill. *Id.* at p. 9225 (ruling of the Chairman with respect to another amendment offered by Mr. Dirksen).

19. 122 CONG. REC. 1582, 94th Cong. 2d Sess.

ferent and unrelated matter, was added. Title II is not a public works provision. Title II simply authorizes appropriations for the basic day-to-day support of the budgets of State and local governments. It is, in short, a revenue sharing provision.

Mr. Speaker, you, yourself, must have recognized this as revenue sharing legislation when you referred identical legislation introduced in the House exclusively to the Government Operations Committee. Title II clearly falls within the jurisdiction of the Government Operations Committee, not the Public Works Committee.

Even in the Senate, this provision came out of the Government Operations Committee, not the Public Works Committee. Perhaps if the Senate had a rule on germaneness as we do, we would not be facing this problem right now.

Had title II been offered in the House when this bill was before us on the floor, it would clearly have been subject to a point of order as nongermane under clause 7 of rule XVI. It, therefore, continues to be nongermane under clause 4 of House rule XXVIII dealing with conference reports.

Mr. Speaker, I recognize that committee jurisdiction is not the exclusive test of germaneness. I do not base my point of order on this issue alone. This provision simply has nothing to do with public works, the only matter which was before the House in H.R. 5247. To the contrary, the use of title II funds for construction purposes is specifically prohibited. Furthermore, there is not one word in title II to guarantee that the funds will be used to stimulate employment, the primary purpose of H.R. 5247.

Mr. Speaker, title II does not come within the jurisdiction of the Public Works Committee. It does not constitute public works or emergency employment legislation, and it could not have been incorporated into the bill when it was previously before the House. For these reasons, I respectfully request that my point of order be sustained. . . .

MS. [BELLA S.] ABZUG [of New York]: . . . There has been a certain confusion presented here, and that is in the meaning of the rule which this House passed and which my esteemed chairman, the gentleman from Texas (Mr. Brooks) referred to. Clause 4, rule XXVIII, was passed by this House in 1970 and 1972. This procedure which the House adopted in 1972 was intended to do away with the situation wherein the Senate . . . attached to a House-passed bill matter that was wholly unrelated to the subject on which the House had acted. . . .

The bill as reported from the conference does not contain provisions whose subject and substance is different. Title I of the conference report version is almost identical with the House-passed bill. Title II, upon which there is now brought a question of a separate vote, is the conference version and is also directed, as is title I, to the question of assistance in unemployment, and is so aimed at correcting it at the local level. . . . The allocation of funds is dependent on the extent to which unemployment in any area exceeds the national average, so that both the public works, title I, and title II, countercyclical assistance, have the same, identical goal. That is, to ease the current recession. . . .

MR. [JAMES C.] CLEVELAND [of New Hampshire]: . . . The fundamental

method used in the original bill to stimulate the economy is to provide for the construction of public works projects. The methods used in the amendment provide for the stabilization of budgets of general purpose governments, the maintenance of basic services ordinarily provided by the State and local governments, emergency support grants to State and local governments to coordinate budget-related actions with the Federal Government. Clearly, the methods provided for in the Senate amendment are on their face so different from those in the House bill as to preclude their being considered as the same or closely allied. For this reason, then, the amendment is in violation of clause 4, rule XVI.

THE SPEAKER:[20] The Chair is ready to rule.

The gentleman from Texas (Mr. Brooks) makes the point of order that title II of the conference report, which was contained in the Senate amendment to H.R. 5247, would not have been germane if offered as an amendment in the House and is thus subject to a point of order under rule XXVIII, clause 4.

The test of germaneness in this case is the relationship between title II of the conference report and the provisions of H.R. 5247 as it passed the House. The Chair believes that had title II been offered as an amendment in the House it would have been subject to a point of order on two grounds.

First, one of the requirements of germaneness is that an amendment must relate to the fundamental purpose of the matter under consideration and must seek to accomplish the result of the proposed legislation by a closely related means—Deschler's Procedure, chapter 28, sections 5 and 6. The fundamental purpose of the bill when considered by the House was to combat unemployment by stimulating activity in the construction industry through grants to States and local governments to be used for the construction of local public works projects.

While the fundamental purpose of title II of the conference report is related to the economic problems caused by the recession, specifically unemployment, the means proposed to alleviate that problem are not confined to public works construction. Title II authorizes grants to States and local governments to pay for governmental services such as police and fire protection, trash collection and public education. The managers, in their joint statement, specifically state that the grants under title II are for the "maintenance of basic services [ordinarily] provided by the State and local governments and that State and local governments shall not use funds received under the act for the acquisition of supplies or for construction unless essential to maintain basic services." An additional purpose of this title is to reduce the necessity of increases in State and local government taxes which would have a negative effect on the national economy and offset reductions in Federal taxes designed to stimulate the economy. The Chair therefore finds that the program proposed by title II of the report is not closely related to the method suggested in the House version of the bill.

Second, title II of the report proposes a revenue sharing approach to the problems faced by State and local gov-

20. Carl Albert (Okla.).

ernments during the present recession. General revenue sharing is a matter within the jurisdiction of the Committee on Government Operations under rule X, clause 1(h)(4), and a bill, H.R. 6416, in many respects identical to title II of the report, was introduced in the House on April 28, 1975, and referred to that committee. While committee jurisdiction is not the exclusive test of germaneness—Deschler's Procedure, chapter 28, section 4.16—it is a relevant test where, as here, the scope of the House bill is within one committee's jurisdiction. The precedents indicate that as a bill becomes more comprehensive in scope the relevance of the test is correspondingly reduced. The bill, as it passed the House, was not a comprehensive antirecession measure overlapping other committees' jurisdictions, but proposed a specific remedy, local public works construction assistance, to a complex problem. Given the limited scope of the bill as it passed the House, the Chair finds the jurisdiction test quite persuasive in this instance.

For the reasons just stated, the Chair sustains the point of order.

Provisions Making Support Fund Effective Upon Approval by Congressional Committees (as Provided by Public Buildings Act) of Construction of Eisenhower Civic Center—Amendment Changing Approval Procedures Under Law

§ 4.100 While as a general rule an amendment to a law which had been reported from one committee is not germane to a bill reported from another committee, where the pending bill incorporates by reference provisions of a law from another committee and conditions the bill's effectiveness upon actions taken pursuant to a section of that law, an amendment to alter that section of the law may be germane; thus, to a section in a District of Columbia Committee amendment in the nature of a substitute providing that a support fund for the Eisenhower Civic Center would become effective upon approval of construction of the Center by the House and Senate Committees on the District of Columbia and Appropriations as provided in section 18 of the Public Buildings Act (originally reported from the Committee on Public Works), an amendment changing the approval mechanism in that section of law (to eliminate the Committees on Appropriations) was held germane.

During consideration of H.R. 12473 in the Committee of the

Whole on Apr. 8, 1974,[1] the Chair overruled a point of order against the following amendment:

MR. [KENNETH J.] GRAY [OF ILLINOIS]: MR. CHAIRMAN, I OFFER AN AMENDMENT TO THE COMMITTEE AMENDMENT.

The Clerk read as follows:

Amendment offered by Mr. Gray to the committee amendment: Page 21, strike out lines 4 through 8, inclusive, and insert in lieu thereof the following:

Sec. 16. (a) Subsection (b) of section 4 of the Dwight D. Eisenhower Memorial Bicentennial Civic Center Act (P.L. 92–520) is hereby repealed.

(b) Paragraph (4) of subsection (d) of section 18 of the Public Buildings Act of 1959 is amended by striking out the following: ", and the Senate and House Committees on Appropriations,". . . .

MR. [THOMAS M.] REES [of California]: Mr. Chairman, I reserve a point of order on the amendment to the committee amendment. . . .

THE CHAIRMAN:[2] Does the gentleman from California desire to be heard on the point of order?

MR. REES: . . . The point of order is that the amendment offered by the gentleman from Illinois is not germane to the Eisenhower Memorial Civic Center Sinking and Support Funds Act of 1974, which is the bill now before us. What the gentleman's amendment does is amend the Public Buildings Act of 1959, as amended, to create the Eisenhower Civic Center. What his amendment would specifically do would be to delete two sections, one of them with the congressional approval, and the other, section 4(b), dealing with the authorization for $14 million.

It is my contention, Mr. Chairman, that his amendments would only be germane to specific legislation, which would be an amendment to the Public Buildings Act of 1959. . . .

MR. GRAY: Mr. Chairman, the parameters and the scope of my amendment concern financing only. It is true that the Public Buildings Amendments Act of 1959, as amended, was the authority for the establishment of the authorization for this center. My amendment only deals with the $14 million, which is part of the financing similar to the purposes of H.R. 12473, which is to establish and finance a sinking fund for the Dwight D. Eisenhower Memorial Bicentennial Civic Center. Very simply put in Illinois country language, one puts in; the other takes out. It is a very simple amendment. . . .

MR. [M. G.] SNYDER [of Kentucky]: . . . I support the points raised by the gentleman from California with regard to germaneness. I take issue with the gentleman from Illinois that all this amendment does is relate to financing. That is not accurate. This amendment also takes away an oversight of the District of Columbia and of both the House and the Senate. It attempts to amend the provisions of law of the Committee on Public Works, rather than the attempts of the District of Columbia relating to this legislation concerning financing. . . .

THE CHAIRMAN: The gentleman from California (Mr. Rees) makes the point of order that the amendment offered by the gentleman from Illinois (Mr.

1. 120 CONG. REC. 10108–10, 93d Cong. 2d Sess.
2. Melvin Price (Ill.).

Gray) is not germane to the committee amendment in the nature of a substitute for the bill H.R. 12473. The gentleman from Kentucky (Mr. Snyder) also supports the point of order. The Chair has listened to the arguments in support of and against the point of order.

The committee amendment establishes a support fund for the Civic Center, into which will be deposited funds from operating revenues, spinoff tax benefits, certain local income, real estate and sales taxes and funds appropriated pursuant to the authorization of $14 million contained in section 18 of the Public Buildings Act as the Federal share for the construction costs of the Eisenhower Civic Center.

The amendment of the gentleman from Illinois would repeal that portion of the Eisenhower Civic Center Act—section 18 of the Public Buildings Act which authorizes the $14 million share—and repeal that portion of the "approval" provision contained in section 18 which requires approval of the Senate and House Committees on Appropriation. The amendment has been drafted as a substitute for the language contained in section 16 of the committee amendment, which provides that the provisions of H.R. 12473 become effective either on date of enactment or upon approval by the House and Senate Committees on the District of Columbia and Appropriations as provided in section 18 of the Public Buildings Act, whichever is later.

While under ordinary circumstances an amendment to a law reported from committee B is not germane to a bill reported by committee A, in this instance the Gray amendment would appear to be germane to section 16 of the committee amendment to H.R. 12473.

The Chair would cite two reasons for reaching this conclusion: First, since section 16 of the committee amendment makes the act contingent upon approval of construction plans as provided in section 18 of the Public Buildings Act, an amendment to alter the approval mechanism contained in that act is germane; and second, since H.R. 12473 would transfer funds appropriated as the Federal share into the support fund being established in the bill, the concept of the extent of Federal participation in the project has been injected into the committee amendment. Therefore an amendment to eliminate the Federal share, thereby making the project one which will be financed entirely by local revenues, in the opinion of the Chair is germane.

For these reasons the Chair holds that the amendment is germane and overrules the point of order.

Bill Authorizing Appropriations for Expansion of Educational Programs—Amendment Providing Tax Deduction for Support of College Student

§ 4.101 To a bill authorizing appropriations to assist in the expansion and improvement of educational programs, an amendment, in the nature of a substitute, to provide for an income tax deduction for anyone furnishing support to a student in college was held to be not germane.

In the 85th Congress, during consideration of a bill[3] to assist in the expansion and improvement of education programs to meet critical national needs, the following amendment was offered:[4]

> Amendment offered by Mr. [John P.] Saylor (of Pennsylvania): Strike out all after the enacting clause and insert: "That any person who provides more than 50 percent of a student's support while attending a college or institution of higher learning shall be entitled to an additional exemption on his or her income tax for any year beginning with 1958 of $1,000."

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

> MR. [CARL A.] ELLIOTT [of Alabama]: Mr. Chairman, I make the point of order that the amendment is not germane. It involves a tax question which falls within the jurisdiction of another committee of the House, the House Committee on Ways and Means.

The Chairman, John E. Fogarty, of Rhode Island, in ruling on the point of order, stated:[5]

> This is not an appropriation bill that we are considering today. It is strictly an authorization bill. The Chair feels that it does invade the jurisdiction of another committee, the Committee on Ways and Means, and therefore sustains the point of order.

Provisions Prescribing Standards for Administration of Educational Programs—Amendment Providing Remedies for Denial of Equal Educational Opportunity

§ 4.102 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

The proceedings of Mar. 26, 1974, during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education

3. H.R. 13247 (Committee on Education and Labor).
4. 104 CONG. REC. 16734, 85th Cong. 2d Sess., Aug. 8, 1958.
5. *Id.* at p. 16735.

Act, are discussed in Sec. 3, supra.

Bill To Protect Civil Rights—Amendment to Provide Aid to Education on Basis of Progress in Desegregation

§ 4.103 To a bill to protect political rights, reported from the Committee on the Judiciary, an amendment to provide aid to education in communities proceeding with desegregation was held to be not germane, the subject of the amendment being a matter within the jurisdiction of the Committee on Education and Labor.

In the 86th Congress, a bill[6] was under consideration relating to enforcement of constitutional rights. The following amendment was offered to the bill:[7]

> Amendment offered by Mr. [Emanuel] Celler [of New York]: Insert a new title VII and renumber the remaining titles and sections accordingly:
>
> TITLE—
>
> GRANTS TO ASSIST STATE AND LOCAL EDUCATIONAL AGENCIES TO EFFECTUATE DESEGREGATION
>
> Authorization of Appropriations
>
> Sec.—. (a) For the purpose of assisting State and local educational agencies which, on May 17, 1954, maintained segregated public schools to effectuate desegregation in such schools in a manner consistent with pertinent Federal court decisions, there are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine. . . .

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

> MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Chairman, I make a point of order against the amendment. . . .
>
> As the Chair has just ruled, the basic purpose of the bill under consideration has to do with protection of voting rights. This amendment deals with a system of Federal aid to education. It sets forth new procedures that are wholly unrelated to the basic bill.

In defending the amendment, the proponent, Mr. Celler, stated:[8]

> . . . The amendment now before us concerns the right to education, the right of certain people in certain localities to have their children educated. This amendment merely adds another proposition whereby a remedy is pro-

6. H.R. 8601 (Committee on the Judiciary).

7. 106 CONG. REC. 5479, 86th Cong. 2d Sess., Mar. 14, 1960.

8. *Id.* at p. 5480.

vided to enforce a constitutional right and therefore it is germane. Here we are merely adding another proposition to a series of individual propositions dealing with one class, namely: the enforcement of constitutional rights.

The Chairman, Francis E. Walter, of Pennsylvania, in ruling on the point of order, stated:[9]

. . . [T]he Chair holds that the amendment offered by the gentleman from New York is not germane because it seeks to introduce a subject matter which would have been referred to a committee other than the one reporting the pending bill. The Chair is of the opinion that the matter contained in the amendment is a subject within the jurisdiction of the Committee on Education and Labor and not the Committee on the Judiciary. Therefore, the Chair rules that the amendment offered by the gentleman from New York is not germane.

Bill To Protect Mentally Ill—Amendment Prohibiting Use of Revenue-sharing Funds for Jurisdictions Permitting Operation of Homosexual Bathhouses

§ 4.104 To an individual proposition relating to mental health, an amendment addressing other public health hazards and funding programs unrelated to mental health is not germane; thus, to a bill reported from the Committee on Energy and Commerce relating to mentally ill individuals, an amendment prohibiting the use of general revenue-sharing funds (a matter within the jurisdiction of the Committee on Government Operations) to jurisdictions permitting the operation of homosexual male baths hazardous to the public health was held to be not germane, because it was within another committee's jurisdiction and not confined to the issue of mental health.

During consideration of H.R. 4055 (relating to protection and advocacy for mentally ill individuals) in the Committee of the Whole on Jan. 30, 1986,[10] the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 18, insert after line 7 the following:

TITLE III—MISCELLANEOUS

SEC. 301. PUBLIC BATHS.

That no city, town, or other political jurisdiction may receive Federal revenue sharing funds under chapter 67 of title 31, United States Code, if it permits the operation of any public bath which is owned or operated by an individual who knows or has rea-

9. *Id.* at p. 5481.

10. 132 CONG. REC. 1052, 1053, 99th Cong. 2d Sess.

son to know that the bath is hazardous to the public health or who knows or has reason to know is used for sexual relations between males. . . .

MR. [HENRY A.] WAXMAN [of California]: The amendment is a prohibition for the expenditures of revenues under the Revenue Sharing Act. It is not germane to the legislation before us. . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: . . . Mr. Chairman, since the bill before us now relates to a new program relating to the expenditure of funds to reduce the suffering and improve the care of the mentally ill, does it not seem logical that we would add an amendment that would reduce the incidence of a disease that is fatal?

THE CHAIRMAN:[11] The Chair is prepared to rule on the point of order.

General revenue sharing is a matter that is within the jurisdiction of the Committee on Government Operations. The bill in question deals with mental health, not all public health.

For the reasons advanced by the gentleman from California [Mr. Waxman], the point of order is well taken and is sustained.

Bill Authorizing Daylight-Saving Time in District of Columbia—Amendment Relating to Daylight-Saving Time in Other Jurisdictions

§ 4.105 To a bill authorizing the commissioners of the District of Columbia to establish daylight-saving time, an amendment relating to daylight-saving time as affecting "services in interstate commerce" was held to be not germane.

In the 80th Congress, during consideration of a bill[12] authorizing daylight-saving time in the District of Columbia, an amendment was offered providing that the establishment of such time for the District of Columbia should not be construed to require any change in time for services in interstate commerce.[13] A point of order was raised against the amendment, as follows:

MR. [EVERETT M.] DIRKSEN [of Illinois]: Mr. Chairman, I make a point of order against the amendment on the ground it is not germane and covers interstate commerce as distinguished from local jurisdiction.

The Chairman,[14] in ruling on the point of order, stated:

The amendment offered by the gentleman from South Dakota goes beyond the jurisdiction of the District of Columbia, and is not germane. The point of order is sustained.

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11. William J. Hughes (N.J.).

12. S. 736 (Committee on the District of Columbia).

13. 93 CONG. REC. 4164, 80th Cong. 1st Sess., Apr. 28, 1947.

14. Gordon Canfield (N.J.).

Bill Amending Small Business Act—Senate Amendment Providing for Legal Fees for Parties Prevailing Against United States

§ 4.106 To a House bill narrowly amending the Small Business Act reported from the Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in court litigation and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane (pending a motion to recede and concur in the Senate amendment with an amendment including such provisions, after the conference report on the bill had been ruled out of order).

The proceedings of Oct. 1, 1980, relating to H.R. 5612 (addressing small business assistance and reimbursement for certain fees), are discussed in § 26.26, infra.

House Bill Concerning Foreign Relations and Operation of State Department and Other Agencies—Senate Amendment To Provide Guidelines for Acceptance of Foreign Gifts

§ 4.107 To a House bill containing diverse amendments to existing laws within the jurisdiction of the Committee on International Relations, relating to foreign relations and the operation of the Department of State and related agencies, a portion of a Senate amendment thereto contained in a conference report, amending the Foreign Gifts and Decorations Act (within the jurisdiction of the same committee) to provide guidelines and procedures for the acceptance of foreign gifts by United States employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane when a point of order was raised against a portion of the conference report under Rule XXVIII clause 4.

During consideration of the conference report on H.R. 6689[15] in the House on Aug. 3, 1977,[16] the Speaker Pro Tempore overruled a point of order in the circumstances described above. The proceedings were as follows:

FOREIGN GIFTS AND DECORATIONS

Sec. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission . . .

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress . . .

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House . . .

"(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees . . .

"(b) An employee may not—. . .

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States. . . .

MR. [BRUCE F.] CAPUTO [of New York]: Mr. Speaker, a point of order.

I would like to make a point of order and I regret that it comes at so late an hour and after the previous discussion. I make the point of order that the matter contained in section 515 of the conference report would not be germane to H.R. 6689 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4 of rule XXVIII.

Let me state that the language in the conference report substantially changes the terms under which the Members of Congress can accept or authorize acceptance of things of value from foreign governments.

The Constitution clearly provides in article I that each House shall write its own rules. The House has a rule of its

15. The Foreign Relations Authorization Act for fiscal year 1978.

16. 123 CONG. REC. 26532, 26533, 95th Cong. 1st Sess.

own on this matter, rule 44, which we only recently modified, under which Members of Congress could receive things of value from foreign governments.

The conference report changes that rule because it is a subsequent act of this House and in direct conflict with that rule. In Jefferson's Manual, section 335 and Deschler's Procedures, chapter 5, that is clearly improper. We cannot change the rules of the House in that manner. Let me read from Jefferson's Manual, section 335 briefly. It says:

> But a committee may not report a recommendation which, if carried into effect, would change a rule of the House unless a measure proposing amendments to House rules has initially been referred to the Committee of the Whole by the House.

This has not been referred to the Committee of the Whole by the House as required by the precedents. Indeed, this is the first time the House has viewed this matter and it would have been impossible for us to have referred it to the Committee of the Whole. It was put in by the other body. We never considered it.

If the Chair does not sustain my point of order, he will be in effect sustaining the other body in writing the rules of this House. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, clause 4 of House rule 43 deals only with gifts to employees. It does not deal with gifts of foreign governments, which is the subject of this amendment.

Furthermore, Mr. Speaker, we have specifically provided that nothing in this section shall be construed in derogation of any regulations prescribed by any Member or agency, and in this instance it would be the Congress or the Ethics Committee, which provides for more stringent limitations on the receipt of gifts and declarations by employees.

We are dealing with this in this amendment, because it deals with the foreign gifts and declarations section which affects other members of the Government not having anything to do incidentally with Members of the House and in no way changes the rules of the House.

MR. CAPUTO: Mr. Speaker, on page 21 of the committee report, section 515 says such act is amended and then it says, "a Member of Congress." It clearly applies to Members of Congress.

Let me state what it does. It permits Members of Congress to accept gifts of more than minimum value.

Page 22, section (c)(1)(B) clearly changes rule 24.

THE SPEAKER PRO TEMPORE:[17] The Chair is ready to rule.

The gentleman from New York makes a point of order that the conference report contains, in section 515, matter contained in the Senate amendment which would not have been germane to the bill if offered in the House.

Section 515 amends the Foreign Gifts and Declarations Act to provide new guidelines and procedures relating to the acceptance by employees of the United States of gifts and awards from foreign governments. The section provides that the Committee on Standards of Official Conduct shall have the func-

17. Dan Rostenkowski (Ill.).

tions of regulating the minimum value of an acceptable gift for Members and employees of the House of Representatives, of consenting to the acceptance by Members and employees of gifts in certain circumstances, and of disposing of unacceptable gifts through the General Services Administration. H.R. 6689, the Foreign Relations Authorization Act, as passed by the House, contained a wide variety of amendments to existing laws within the jurisdiction of the Committee on International Relations relating generally to the foreign relations of the United States and the operations of the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. It thus appears to the Chair that an amendment to the Foreign Gifts and Declarations Act, a law within the jurisdiction of the committee and relative to our foreign relations, would have been germane to the bill if offered in the House, particularly since section 111 of the House bill dealt with foreign employment by officers of the United States notwithstanding article I, section 9 of the Constitution. The Foreign Gifts and Declarations Act arose from the identical constitutional provision. The fact that the Senate amendment placed new responsibilities on a standing committee of the House does not render the provision subject to a point of order, since no attempt is made to amend the rules of the House or to otherwise exceed the jurisdiction of the Committee on International Relations.

For the reasons stated, the Chair overrules the point of order.

Parliamentarian's Note: The point of order was based on the grounds that the provision had the effect of amending the Rules of the House, to allow the acceptance of gifts prohibited by House Rule 43, the Code of Official Conduct. The actual effect of the provision, however, was merely to assign the regulatory authority under the Act in relation to the House of Representatives, not to supersede a more restrictive standard imposed by the Rules or standards of the House of Representatives.

Increased Salaries for Members—Amendment Affecting Audits in House

§ 4.108 To a bill reported from the Committee on the Post Office and Civil Service providing in part for increased salaries for Members of Congress and legislative employees, an amendment proposing changes in the Accounting and Auditing Act and relating to procedures governing audits of financial transactions of the House of Representatives and the Architect of the Capitol was held to be not germane as within the jurisdiction of another House committee (Government Operations).

In the 88th Congress, during consideration of a bill[18] relating to salary increases for federal officers and employees, the following amendment was offered:[19]

> Amendment offered by Mr. Oliver P. Bolton on page 40, immediately following line 4, insert the following:
>
> Sec. 203. Section 117 of the Accounting and Auditing Act of 1950 (64 Stat. 837; 31 U.S.C. 67)) is amended by adding at the end thereof the following new subsection:
>
> "(c) Except as otherwise provided by law, the Comptroller General in auditing the financial transactions of the House of Representatives and of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the legislative agencies under audit. . . ."

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

> MR. [JAMES H.] MORRISON [of Louisiana]: Mr. Chairman, the amendment is not germane and has nothing to do with pay raises. It was not discussed in our committee. It covers a subject completely outside the provisions of the bill. It is not contemplated within the title of the bill.

In defense of the amendment, the proponent stated, as follows:[20]

> MR. OLIVER P. BOLTON [of Ohio]: . . . The bill deals with the salary of the Members of the House. My amendment would go toward the accounting for those expenditures of the House which if they were not expended by the House would well be considered salary.

The Chairman,[21] in ruling on the point of order, stated:

> The subject matter of the pending bill pertains to salaries of various governmental employees and not to accounting. The amendment that the gentleman from Ohio offers is, in effect, the same as a bill which he has introduced that was referred to the Committee on Government Operations. The subject matter of the bill and of the gentleman's amendment pertains to accounting, which comes under the jurisdiction of the Committee on Government Operations and not under the jurisdiction of the Committee on Post Office and Civil Service.

New Office Within Department of Justice—Amendment To Abolish Department of Justice

§ 4.109 To a bill reported by the Committee on the Judiciary, creating a new Office of Criminal Justice within the Department of Justice, an

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

19. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

21. Chet Holifield (Calif.).

21. Chet Holifield (Calif.).

22. H.R. 5037 (Committee on the Judici-

amendment abolishing the Department and transferring its functions to a new independent agency outside the Cabinet, a matter within the jurisdiction of the Committee on Government Operations, was ruled out as not germane.

In the 90th Congress, during consideration of the Law Enforcement and Criminal Justice Assistance Act of 1967,[22] the following amendment was offered:[23]

> Amendment offered by Mr. [William E.] Minshall: On Page 25, strike out lines 5 through 15, and insert the following:
>
> Sec. 401. (a) There is hereby established as an independent agency of Government an Office of Justice which shall be headed by an Attorney General who shall be appointed for a term of 15 years by the President by and with the advice and consent of the Senate. The Attorney General, in the performance of his duties, shall not be subject to the direction or supervision of the President, nor shall he be a member of his Cabinet.
>
> "(b) There are hereby transferred to the Attorney General of the Office of Justice all functions exercised by the Department of Justice on the date of enactment of this Act, including all functions provided for in this Act. Such personnel, property, and unexpended balances of appropriations as the Director of the Bureau of the Budget determines relate primarily to functions transferred by this Act shall be transferred to the Office of Justice.
>
> "(c) The Department of Justice, the office of Attorney General in such Department, and all other offices provided for by law in such Department are hereby abolished.
>
> "(d) Effective date of this section will be March 1, 1969."

In ruling on a point of order raised against the amendment, the Chairman[24] stated:

> The amendment offered by the gentleman from Ohio [Mr. Minshall] proposes the abolishment of the Department of Justice and the transfer of its functions to a newly created Office of Justice. . . .
>
> The gentleman from New York [Mr. Celler] has raised the point of order that the amendment is not germane to the bill under consideration.
>
> The bill now before the Committee of the Whole bestows certain new functions, authority, and responsibilities on the Attorney General. It creates, within the Department of Justice, a new Office of Law Enforcement and Criminal Justice. It does not reorganize the existing structure of the Department.
>
> The amendment offered by the gentleman from Ohio is, in effect, a plan for governmental reorganization, and as such would not be within the jurisdiction of the Committee on the Judiciary, which reported this bill. This is one argument against considering the amendment germane.

22. H.R. 5037 (Committee on the Judiciary).

23. 113 CONG. REC. 21845, 90th Cong. 1st Sess., Aug. 8, 1967.

24. Daniel D. Rostenkowski (Ill.).

The Chair feels that the situation presented by this amendment is analogous to that presented when a bill amendatory of existing law in one particular is sought to be amended by a repeal of the law. In those cases, decisions are uniform to the effect that the amendments are not considered germane—volume [Cannon's Precedents] VIII, sections 2948–2949.

The Chair does not feel that the amendment is within the scope of the bill before the Committee of the Whole. It relates to a subject not under consideration at this time. The Chair therefore sustains the point of order.

§ 5. Fundamental Purpose of Amendment as Test

In determining whether an amendment is germane, it is often useful—especially when the amendment is in the nature of a substitute for the pending text—to consider whether its fundamental purpose is related to the fundamental purpose of the bill to which offered.

The Speaker or Chairman considers the stated purposes of a bill and the amendment, although not the motive or intent of the proponent of the amendment which circumstances might suggest, in ruling on the germaneness of a proposed amendment.[25] If the purpose or objective of an amendment is different from that of the bill to which it is offered, the amendment may be held not to be germane. For example, it is generally held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.[26] An amendment offered to a revenue bill is not germane if it proposes a tax for any other purpose than that of raising revenue.[27] Moreover, to a bill relating to the minting and issuance of public currency, amendments providing for minting a coin for a private purpose[28] or for a commemorative or collector's coin[29] have been held to be not germane.

On the other hand, the fact that a provision in a bill and a proffered amendment to that provision have a common purpose or objective is not conclusive as to the amendment's germaneness, especially where the two approaches are dissimilar.[30]

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25. See § 3.45, supra, and § 5.5, infra. See also, generally, § 6, infra, which discusses amendments that contemplate methods different from those of the bill to be used in achieving the objectives of the bill.

26. See § 5.29, infra.

27. See § 5.11, infra.

28. See § 5.27, infra.

29. See § 5.28, infra.

30. See § 5.8, infra, and § 6, generally.

Amendment Elaborating on Methods of Accomplishing Results Contemplated by Bill, and Adding Incidental Conditions or Exceptions

§ 5.1 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute which was more detailed in its provisions but which sought to achieve the same result was held germane, where the additional provisions not contained in the original bill were construed to be merely incidental conditions or exceptions that were related to the fundamental purpose of the bill.

The proceedings of Aug. 2, 1973, which related to H.R. 9130 (the trans-Alaska pipeline authorization) are discussed in § 30.36, infra.

Bill Requiring Preservation of Election Returns—Amendment To Provide for Court Appointment of Voting Referees

§ 5.2 To a bill to enforce constitutional voting rights by requiring preservation of federal election returns, an amendment to provide for court appointment of voting referees to insure protection of voters' rights was held to be germane.[1]

Bill To Enforce Right to Vote—Amendment To Protect First Amendment Rights That Might Affect Voting Rights

§ 5.3 To a bill to enforce the right to vote as guaranteed by the 15th Amendment to the Constitution, an amendment to protect freedom of speech and other First Amendment rights whose abridgment might affect exercise of voting rights, was held germane.

In the 89th Congress, during consideration of the Voting Rights Act of 1965,[2] the following amendment was offered:[3]

> (b) Whenever any person acting under color of law has engaged . . . in any . . . practice that . . . threatens . . . the exercise by any other person, in connection with voting, of his right of freedom of speech or of the press, or his right peaceably to assemble . . . the Attorney General may institute . . . a civil action . . . for preventive relief. . . .

1. See § 45.11, infra.
2. H.R. 6400 (Committee on the Judiciary).
3. 111 CONG. REC. 16263, 89th Cong. 1st Sess., July 9, 1965.

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

> MR. [EMANUEL] CELLER [of New York]: . . . Mr. Speaker, the subject matter of H.R. 6400 deals exclusively with voting rights. The amendment proposed deals with rights under the first amendment to the Constitution. . . . It is very obvious that this violates the rule of germaneness. Although we are dealing with constitutional rights, specifically the right to vote under H.R. 6400, the rule is that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The Chairman,[4] in ruling on the point of order, stated:

> The Chair calls attention to language in the amendment offered by the gentleman from New York [Mr. Lindsay] under paragraph (b) where it is made quite clear by the phrase "in connection with voting" that the purpose of this amendment deals only with the voting aspect. In other words, with the 15th amendment.
>
> Therefore, the Chair overrules the point of order. . . .

Bill Establishing Commission To Study Voting Rights—Amendment Creating Human Resettlement Commission

§ 5.4 To a bill establishing a commission to study deprivation of voting rights and granting authority to the Attorney General to institute legal proceedings to protect such rights, an amendment creating a Commission on Human Resettlement, with authority to aid those who wish to emigrate from any state that practices segregation, was held to be not germane.

In the 85th Congress, during consideration of a bill[5] as described above, the following amendment was offered:[6]

> Amendment offered by Mr. [George W.] Andrews [of Alabama]: On page 1, strike out all after the enacting clause and insert the following:
>
> ESTABLISHMENT OF COMMISSION ON HUMAN RESETTLEMENT
>
> Sec. 8. (a) The Commission is authorized, upon application therefor, to grant a relocation loan in accordance with this Act to any Negro living in any State in which racial segregation is practiced, to enable such Negro to move to any State in which racial segregation is not practiced.

Mr. Emanuel Celler, of New York, made the point of order that the amendment was not germane.[7] The Chairman,[8] in ruling on the point of order, stated:

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4. Richard W. Bolling (Mo.).

5. H.R. 6127 (Committee on the Judiciary). See the proceedings at 103 CONG. REC. 8838 et seq., 85th Cong. 1st Sess., June 11, 1957.

6. *Id.* at pp. 8860, 8861.

7. *Id.* at p. 8861.

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

The Chair finds that the bill under consideration provides for the securing and protecting of the civil rights, whereas the amendment offered by the gentleman from Alabama provides for the creation of a Commission on Human Resettlement which deals more with economic benefits than with civil rights.

The Chair holds that the amendment is not germane and, therefore, sustains the point of order.

Bill Extending Civil Rights Commission—Amendment Authorizing Relocation Loans for Those Wishing To Emigrate From State Practicing Secregation

§ Sec. 5.5 To that title of a civil rights bill extending the life of the Civil Rights Commission and further delineating its duties with respect to the investigation of violations of constitutional rights, an amendment authorizing the Commission to make relocation loans to those who wish to emigrate from any state that practices segregation was held to be not germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[9] Mr. George W. Andrews, of Alabama, offered an amendment whose purpose he explained as follows:[10]

> The bill that I introduced which now is before us in the form of an amendment to the Civil Rights Commission would simply provide that if any Negro living in a State where local laws . . . and traditions made him unhappy, he would be entitled to receive, from a Human Resettlement Commission that my bill would have created, a . . . Government loan, in an amount sufficient to permit him and the members of his family to move to any State of his choice. And it would be the duty of that Commission—and under my amendment the duty of the Civil Rights Commission—to assist him. . . .

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order that the amendment . . . is not germane to the title under consideration. This title concerns the investigators, the factfinding body called the Civil Rights Commission.

The Chairman, Eugene J. Keogh, of New York, viewing the amendment as one "that would have for its purpose the setting up of what might be described generally as a Human Resettlement Commission," sustained the point of order.[11] He relied in part on a

9. H.R. 7152 (Committee on the Judiciary).

10. 110 CONG. REC. 2298, 88th Cong. 2d Sess., Feb. 6, 1964.

11. *Id.* at p. 2299.

prior similar ruling,[12] which he described as follows:

> It has been called to the Chair's attention that on June 11, 1957, the Chairman of the Committee of the Whole, Mr. Forand, of Rhode Island, in ruling on a similar amendment to a bill providing for establishing a Commission to study deprivation of voting rights and granting authority to the Attorney General to institute or intervene in legal proceedings to protect voting rights, an amendment providing for creating a Commission on Human Resettlement, similar to the pending amendment of the gentleman from Alabama, with authority to make loans to Negro citizens for emigration from any State practicing segregation, was held by that chairman not to be germane.

Bill Requiring Balanced Budgets To Be Submitted by President and Voted on by Congress—Amendment Requiring Joint Resolutions Rather Than Concurrent Resolutions in Other Phases of Budget Process

§ 5.6 To a bill requiring balanced budgets to be submitted by the President and voted upon by the Congress as alternatives to deficit budget concurrent resolutions, a motion to recommit converting the entire budget process from a concurrent resolution to a joint resolution, thereby changing the Congressional budget resolution to a law requiring the signature of the President for all purposes of enforcement of the Budget Act was held not germane as having a broader fundamental purpose, requiring Executive Branch approval of all budget resolutions and not merely those submitted in balance.

During consideration of the Balanced Budget Act of 1990[13] in the House on July 18, 1990,[14] it was held that to a proposition changing procedures relating to one aspect of the Congressional budget process to require consideration of balanced budgets, an amendment changing other procedures to require Presidential approval of any budget resolution, thereby involving the Executive Branch in enforcement of all Budget Act procedures and sanctions, went beyond the fundamental purpose of the proposition to which offered. The proceedings were as follows:

> MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, I call up the bill (H.R. 5258) to require that the President transmit to Congress, that

12. See § 5.4, supra.

13. H.R. 5258.

14. 136 CONG. REC. p.—, 101st Cong. 2d Sess.

the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5258 is as follows:

H.R. 5258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 101. SUBMISSION OF BALANCED BUDGET BY THE PRESIDENT.

Section 1105 of title 31, United States Code, is amended by inserting at the end the following new subsection:

"(g)(1) Except as provided by paragraph (2), any budget submitted to Congress pursuant to subsection (a) for the ensuing fiscal year shall not be in deficit.

"(2) For any fiscal year with respect to which the President determines that it is infeasible to submit a budget in compliance with paragraph (1), the President shall submit on the same day two budgets, one of which shall be in compliance with paragraph (1), together with written reasons in support of that determination.".

TITLE II—AMENDMENT TO CONGRESSIONAL BUDGET ACT OF 1974

SEC. 201. REPORTING OF BALANCED BUDGETS BY COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES AND SENATE.

Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end the following new subsection:

"(j) Reporting of Balanced Budgets.—

"(1) Except as provided by paragraph (2), the concurrent resolution on the budget for a fiscal year referred to in subsection (a) as reported by the Committee on the Budget of each House shall not be in deficit. . . .

SEC. 202. PROCEDURE IN THE HOUSE OF REPRESENTATIVES.

Section 305(a) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(8)(A) If the Committee on Rules of the House of Representatives reports any rule or order providing for the consideration of any concurrent resolution on the budget for a fiscal year, then it shall also, within the same rule or order, provide for—

"(i) the consideration of the text of any concurrent resolution on the budget for that fiscal year reported by the Committee on the Budget of the House of Representatives pursuant to section 301(j); and

"(ii) the consideration of the text of each concurrent resolution on the budget as introduced by the Majority Leader pursuant to subparagraph (B);

and such rule or order shall assure that a separate vote occurs on each such budget.

"(B) The Majority Leader of the House of Representatives shall introduce a concurrent resolution on the budget reflecting, without substantive revision, each budget submitted by the President pursuant to section 1105(g) of title 31, United States Code, as soon as practicable after its submission.".

SEC. 203. PROCEDURE IN THE SENATE.

Section 305(b) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(7) Notwithstanding any other rule, it shall always be in order in the Senate to consider an amendment to a concurrent resolution on the budget for a fiscal year comprising the text of any budget submitted by the President for that fiscal year as described in section 1105(g)(1) of title 31, United States Code, and, whenever applicable, an amendment comprising the text of any other budget submitted by the President for that fiscal year as described in section 1105(g)(2) of title 31, United States Code.". . . .

MR. [WILLIS D.] GRADISON [Jr., of Ohio]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER PRO TEMPORE:[15] The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Gradison moves to recommit the bill (H.R. 5258)) to the Committee on Rules and the Committee on Government Operations with instructions to report the same to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 101. AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "concurrent" in the items relating to sections 301, 303, and 304 and inserting "joint".

(b) Paragraph (4) of section 3 of such Act is amended to read as follows:

"(4) The term "joint resolution on the budget" means—

"(A) a joint resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

"(B) any other joint resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.".

(c) Sections 300, 301, 302, 304, 305, 308, 310, 311, and 401 of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolution" each place it appears and inserting "joint resolution". . . .

MR. DERRICK: Mr. Speaker, I have a point of order. . . .

Mr. Speaker, the motion of the gentleman from Ohio [Mr. Gradison] is out of order. It goes beyond the scope of the Budget Act. It is entirely out of the scope of what we are dealing with. It requires a complete revision of the Budget Act in that we ask the President to sign it. . . .

MR. GRADISON: . . . Mr. Speaker, the motion to recommit the bill, H.R. 5258 with instructions to amend the bill by striking out all after the enacting clause and inserting language changing the concurrent budget resolution to a joint resolution in the Budget Act, is a germane amendment to the underlying bill. For an amendment to be germane it must be akin to or relevant to the subject matter of the bill. An amendment must not be on a subject different from the bill under consideration.

Mr. Speaker, H.R. 5258 amends the 1974 Congressional Budget Act in several instances. The bill required reporting by the Committee on the Budget of balanced budgets unless a report is made stating why a balanced budget is not possible. The bill further changes

15. David E. Skaggs (Colo.).

the procedure by which budget resolutions are considered in the House, requiring the Committee on Rules to make in order the President's budget for a vote in the same rule providing for consideration of the budget resolution reported by the Committee on the Budget.

Mr. Speaker, amending the Budget Act to require that the concurrent budget resolution be made a joint resolution, as provided in this motion to recommit, is relevant to the Budget Act changes made by the underlying bill. The bill itself changes consideration of the budget resolution to include a vote on the President's budget. The amendment made in my motion to recommit with instructions would provide additional changes to the Budget Act to further bring the President into the existing procedures. . . .

MR. [JOHN] CONYERS [Jr., of Michigan]: Mr. Speaker, if I may be heard on my point of order, I believe that the motion of the gentleman from Ohio (Mr. Gradison) is not germane because it amends the table of contents to make it a joint resolution. This is the only way it can be done, and in effect it affects all budget resolutions, not just the Balanced Budget Act, H.R. 5258. . . .

MR. GRADISON: Mr. Speaker, I would like to pursue, with the Chair's indulgence, the point just made.

Mr. Speaker, my understanding is that the bill before us amends all budget resolutions and that it requires the Committee on Rules, in bringing any budget resolution to the floor, to include four choices which may be in addition to other budget resolutions which may be brought to the floor for consideration. So, I frankly am confused by the point raised by the gentleman from Michigan (Mr. Conyers) because it seems that the criticism which he is levying against my motion to recommit would apply equally to the measure before us.

THE SPEAKER PRO TEMPORE: The Chair will apply the fundamental purpose test of germaneness to this motion. The underlying legislation is described primarily in the second paragraph of page 2 of the Rules Committee report filed with the bill.

The intention of the motion to recommit and the instructions contained therein would, in the opinion of the Chair, change fundamentally the purpose of the bill before the House to include the President, as well as the Congress, in the entire congressional budget process, including all procedures and sanctions resulting therefrom.

For that reason it fails the test of germaneness, and the point of order is sustained.

Bill To Provide Temporary Increase in Statutory Debt Ceiling—Amendment Construed as Temporary Rather Than Permanent Change in Law

§ 5.7 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effects of its provisions, or amendments thereto, in determining issues of germaneness, the Chair has ruled that an amendment which in form

amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of prior legislative treatment of the subject in question (the statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.

The proceedings of May 13, 1987, relating to H.R. 2360, extension of the public debt limit, are discussed in § 46.7, infra.

Bill To Increase Debt Limit—Amendment Authorizing Issuance of Non-Interest-Bearing Obligations and Directing Purchase Thereof

§ 5.8 To that section of a bill repealing certain provisions of law and amending the Second Liberty Bond Act to increase the debt limit, an amendment authorizing the Secretary of the Treasury to issue non-interest-bearing obligations and directing the Board of Governors of the Federal Reserve banks to purchase such obligations at par value was held to be not germane.

On Feb. 10, 1941, the Public Debt Act of 1941[16] was under consideration. The bill stated in part:[17]

> Sec. 2. (a) Section 21 of the Second Liberty Bond Act, as amended, is further amended to read as follows:
>
> Sec. 21. The face amount of obligations issued under the authority of this act shall not exceed in the aggregate $65,000,000,000 outstanding at any one time.
>
> (b) The authority granted in the following provisions of law to issue obligations is terminated:
>
> (1) Section 32 of the act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, as amended (U.S.C., 1934 ed., title 31, sec. 756). . . .
>
> (c) Section 301 of title III of the Revenue Act of 1940 (54 Stat. 526) creating a special fund for the retirement of defense obligations) is repealed.

An amendment was offered[18] as described above. The proponent then stated as follows:

> MR. [WRIGHT] PATMAN [of Texas]: . . . This amendment is prepared in a way that will allow the Secretary of the Treasury to issue non-interest-bearing obligations and turn them over to the Federal Reserve Banking System and receive in return therefor credit which is used today in the same

16. H.R. 2959 (Committee on Ways and Means).
17. See 87 CONG. REC. 875, 77th Cong. 1st Sess.
18. *Id.* at p. 877.

way and manner as the interest-bearing bonds are issued.

A point of order was raised against the amendment, as follows:[19]

> MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment . . . on the ground it is not germane. . . . I concede the first part of the amendment . . . would be in order, but [the principle is well established] that if any part of the amendment is subject to a point of order . . . the entire amendment is subject to a point of order.
>
> . . . [The latter part of the amendment] clearly places upon the Federal Reserve bank a mandatory duty and responsibility which is not embraced within the provisions of the bill. . . . Indeed, such a provision as that should properly, and would have to, come from the Banking and Currency Committee. It would not be within the jurisdiction of the Committee on Ways and Means.

The Chairman,[20] in ruling on the point of order, stated:

> The fact that an amendment and the provision in the bill to which the amendment is offered have a common purpose and are directed toward the same objective is not conclusive.
>
> The amendment proposed by the gentleman deals with a subject to which there is no reference in the text to which offered, and is, therefore, not germane to the bill.

19. *Id.* at p. 878.

20. Clarence A. Cannon (Mo.).

Provision Extending for One Year Authorization for Revenue-Sharing—Amendment Extending Revenue-Sharing Program for Three Years

§ 5.9 To a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year) an amendment to extend the appropriation or authorization to another year is not germane; thus, to an amendment in the nature of a substitute extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for three years was held broader in scope and not germane.

During consideration of the State and Local Fiscal Assistance Act Amendments of 1980[1] in the Committee of the Whole on Nov. 13, 1980,[2] it was demonstrated that the test of germaneness of a perfecting amendment to an

1. H.R. 7112.

2. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill. The proceedings were as follows:

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .

An amendment was offered:

The Clerk read as follows:

Amendment offered by Mr. Wydler to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out section 2 and insert in lieu thereof the following:

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time.

The rule is quite clear on this matter. To admit such an amendment would cause great confusion in the legislative process of the House. It should be ruled out of order, Mr. Chairman. . . .

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is con-

tained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

THE CHAIRMAN:[3] The Chair is prepared to rule.

In the opinion of the Chair, the fundamental purpose of the amendment offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their fundamental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Formula for Allotment of Funds to States for School Construction—Amendment Proposing Different Formula

§ 5.10 To a bill authorizing appropriations for allotment to the states, under a specific formula, for school construction, an amendment proposing a different formula was held to be germane.

In the 84th Congress, during consideration of a bill[4] to authorize federal assistance to states and local communities in financing school construction, the following amendment was offered:[5]

> Amendment offered by Mr. [Ralph W.] Gwinn [of New York]: Beginning on page 3, line 1, strike out everything through line 6 on page 10 and insert in lieu thereof the following:
>
> AUTHORIZATION OF APPROPRIATIONS
>
> Sec. 101. There is hereby authorized to be appropriated for the fiscal year beginning July 1, 1956, and for each of the three succeeding fiscal years, an amount equal to 1 percent of the total of all income taxes collected . . . which shall be paid by the Secretary of the Treasury . . . to the respective States . . . in amounts equal to 1 percent of the amount of such revenue collected in each such State or Territory, to be used for public schoolroom construction as prescribed by the law of each State. . . .

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

> MR. [AUGUSTINE B.] KELLEY [of Pennsylvania]: Mr. Chairman, I make

3. Gerry E. Studds (Mass.).

4. H.R. 7535 (Committee on Education and Labor).

5. 102 CONG. REC. 11859, 84th Cong. 2d Sess., July 5, 1956.

the point of order that the amendment is not germane; that it involves a taxation problem, and is not germane to this legislation.

The Chairman,[6] noting that the amendment merely provided another formula for apportionment of funds for schools, overruled the point of order.[7]

Revenue Bill—Amendment To Permit States To Tax Federal Incomes

§ 5.11 To a bill to raise revenue for the federal treasury, an amendment permitting states to tax federal incomes was held to be not germane.

On Mar. 8, 1938, during consideration of the Revenue Bill of 1938,[8] an amendment was offered[9] as described above. Mr. Jere Cooper, of Tennessee, made the point of order that the amendment was not germane to the bill. The Chairman, Clifton A. Woodrum, of Virginia, in ruling on the point of order, stated:[10]

> The purpose of the pending bill is to raise revenue for the Federal Treasury. Section (b) of the amendment . . . has for its purpose conferring upon States the right to tax Federal incomes for the purpose of raising revenue for the State.

Citing the principle that, "an amendment offered to a revenue bill proposing a tax for any other purpose than that of raising revenue is not germane," the Chairman sustained the point of order.

Omnibus Surface Transportation Authorization Bill—Amendment Authorizing Funds for Highway Project With Ancillary Purpose of Facilitating Completion of Flood-Control Project

§ 5.12 In determining the fundamental purpose of a bill and of an amendment offered thereto, the Chair may examine the broad scope of the bill and the stated purpose of the amendment and need not be bound by ancillary purposes suggested by the amendment; thus, to an omnibus surface transportation authorization bill, including highway-related projects as well as roadways, an amend-

6. Jere Cooper (Tenn.).
7. For a similar ruling with respect to another amendment to the same bill, see 102 CONG. REC. 11756, 84th Cong. 2d Sess., July 3, 1956 (ruling of Chairman Francis E. Walter [Pa.] on the germaneness of an amendment offered by Mr. Antonio N. Sadlak [Conn.]).
8. H.R. 9682 (Committee on Ways and Means).
9. 83 CONG. REC. 3048, 75th Cong. 3d Sess.
10. *Id.* at p. 3049.

ment authorizing funds for construction of those portions of highway projects in a certain area necessary to permit completion of a related flood-control project was held germane since by its terms it was limited to roadway authorization and not separately extended to flood control projects.

During consideration of H.R. 11733 in the Committee of the Whole on Sept. 27, 1978,[11] the Chair overruled a point of order against the following amendment:

MR. [ALLEN E.] ERTEL [of Pennsylvania]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 119, after line 23, insert the following:

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially-zoned area containing not less than 70 commercial and industrial establishments which is authorized under Section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. . . .

MR. [WILLIAM H.] HARSHA [of Ohio]: Madam Chairman, the amendment the gentleman offers is in violation of House rule XVI, clause 7, which prohibits nongermane amendments.

The amendment seeks to provide moneys for the completion of a flood control project by way of amending the bill providing for an increase in the Federal share for highway construction projects under the Appalachian Regional Development Act.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The obvious fundamental purpose of the gentleman's amendment is to permit completion of a flood control project for a certain city in Pennsylvania.

The fundamental purpose of the bill is to make authorizations for highway construction, highway safety, and mass transportation. Flood control projects are in no way within the ambit of this legislation.

Clearly, the amendment does not relate to the subject matter under consideration. I would direct the Chair's attention to a precedent contained in the Congressional Record July 3, 1968, on pages H11926 through H11927. The bill being read in that case was the Federal-Aid Highway Act to which a Member offered an amendment allowing any Governor of a State to permit the diversion of funds apportioned to a State from highway construction to urban mass transit.

The Chair in that case held such an amendment was not germane.

11. 124 CONG. REC. 32050, 32051, 95th Cong. 2d Sess.

A basic rule of germaneness is that an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill.

Even assuming that the basic purpose of the gentleman's amendment is to actually complete the highway, this test is not met, because an ancillary purpose is to complete this flood control project. This is not closely allied to the method encompassed in the bill, which is simply highway construction, unrelated to any flood walls or levees.

A further reason this amendment does not meet the test of germaneness is that it creates a new class by providing relief for a different group of people. Those aided by this bill are motorists in need of good highways, while the gentleman's amendment instead is aimed at providing flood control relief to the citizens of a particular borough in Pennsylvania. Clearly, it violates the rule. These beneficiaries are clearly not in the same class and would rarely if ever be the same people.

The gentleman's amendment broadens the scope of the original bill by providing a general purpose which is not germane to the specific subjects of the original bill. This legislation builds bridges, highways, and mass transit systems; the gentleman's amendment builds flood control levees. . . .

MR. ERTEL: Madam Chairman, this is an amendment to complete the Appalachian Development Highway on the Federal-aid primary system, and it is clearly germane to the bill.

It is true that this is to complete final sections of that highway, and that is the purpose: To build the base for the highway.

That is the purpose of this amendment, and any flood control project or any flood control benefit which might result has already been appropriated and is incidental. The primary purpose of this is to complete the Appalachian highway regional system in order to connect regional highways together. . . .

MR. [ROBERT A.] ROE [of New Jersey]: . . . I wish to speak against this point of order.

For the benefit of the Members of the House . . . let me say that I inspected this area myself on behalf of the committee, and I want to report that the Appalachian development highway program and the regional program are part of this program, and this particular link that is to be connected in Pennsylvania is an integral part of the highway program. It had to be approved by the Environmental Protection Agency, and it is part of the comprehensive planning of the Appalachian program.

Now, the question is whether or not the roadbed per se is a matter of flood control versus a highway.

You could not complete this program without putting this highway on about a 52-foot fill. It happens to be because the elevation and the terrain is in that direction. Therefore, Madam Chairman, it is obvious that, whether it serves as an ancillary purpose and does benefit the flood situation in the area, you could not complete this highway without building it on the 52-foot fill. Therefore, I would respectfully suggest to the Chairman that this is not, in my judgment, nongermane and the point of order should be defeated.

THE CHAIRMAN:[12] The Chair is ready to rule.

The gentleman from Pennsylvania (Mr. Ertel) has offered an amendment to section 125 of the bill, the section entitled "Appalachian Development Highways."

The gentleman from Ohio (Mr. Harsha) argues that the amendment offered by the gentleman from Pennsylvania (Mr. Ertel) is not germane because it is violative of the fundamental purpose of the bill, which is to build highways and not to engage in flood control.

The fundamental purpose of the bill is not only to build roadways. This is a surface transportation bill. There are a number of ancillary highway-related activities and projects which are authorized under the terms of the bill.

The gentleman from New Jersey (Mr. Roe), in arguing in opposition to the point of order, has contended that it would be impossible to complete a certain highway without the construction contemplated in this amendment. That the roadbed will be part of a flood control project is ancillary to the main thrust of the amendment. The completion of a highway is apparently its fundamental purpose, since the highway could not be completed without going into a flood control area and completing the highway with the authorization provided in the amendment.

Consequently, the Chair overrules the point of order raised by the gentleman from Ohio (Mr. Harsha).

12. Barbara Jordan (Tex.).

Bill Authorizing Federal Energy Research and Development Administration To Conduct Environmental Research—Amendment Authorizing Council on Environmental Quality to Evaluate Environmental Effects of Energy Technology

§ 5.13 To a proposition to accomplish a result by one method (regulation by a governmental agency), an amendment to achieve the same fundamental purpose by another closely related method (use of another governmental agency) is germane; thus, to a bill authorizing the Federal Energy Research and Development Administration to conduct a broad range of programs involving energy sources, including environmental research related to the development of energy sources, an amendment authorizing the Council on Environmental Quality to evaluate environmental effects of energy technology was held germane.

During consideration of the Energy Reorganization Act of 1973[13] in the Committee of the

13. H.R. 11510.

Whole on Dec. 19, 1973,[14] the Chair, overruling a point of order, held the following amendment to be germane:

MR. [JOHN R.] DELLENBACK [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dellenback: Page 55, line 8, insert a new section 308 to read as follows:

"Sec. 308. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

"(1) the adequacy of attention to the probable environmental effects of the application of energy technology, and

"(2) the adequacy of attention to environmental protection in connection with energy processes.

"(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

"(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

"(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology."

Renumber the subsequent sections. . . .

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it goes beyond the authority of this committee and goes to the authority of other committees.

It seeks to authorize money, and it goes beyond the committee's authority.

I do not have the amendment in front of me, but I was listening to it as the gentleman was reading it. There are a number of things in it relative to the duties of the Council on Environmental Quality, pending the authorization for the funding of the Council on Environmental Quality, the hiring of consultants by the Council on Environmental Quality, as well as others.

It ranges all over the jurisdiction of almost every Member's committee in this Congress besides the one that is handling the bill here, and, therefore, the amendment should be stricken down as nongermane. . . .

MR. DELLENBACK: . . . As the Chairman is aware, the bill which is before us deals expressly with the question of the responsibilities of the Administrator engaging in and supporting environmental and other research related to the development of energy sources and utilization technologies.

I submit to the Chairman that this particular amendment, while it does, of

14. 119 CONG. REC. 42618, 42619, 93d Cong. 1st Sess.

course, on its face deal with the responsibilities of the Council on Environmental Quality, is dealing with this critically important field of environmental research, and it is within the scope of the bill. . . .

If we are going to open up the field of environmental research, as this bill does open it up, we should be able to deal with it in this way and insure that that which is done is analyzed, researched, and reported back to the Congress.

THE CHAIRMAN:[15] The Chair is prepared to rule.

The Chair feels that the language on page 33 of the bill beginning at line 16, covers this point. It reads:

> (4) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

The bill thus authorizes the Administrator of ERDA to engage in precisely the type of environmental research which the amendment would confer upon the Council.

The Chair would like to cite from the House Manual, page 445:

> To a proposition to accomplish a certain purpose by one method, an amendment to achieve the same fundamental purpose by another closely related method may be germane. Thus, to a bill proposing to regulate certain activities through the use of a governmental agency, an amendment proposing to regulate such activities by another governmental agency is germane (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905).

The Chair overrules the point of order.

15 Dan Rostenkowski (Ill.).

Bill Granting Powers to Government Agency Relating to Use and Conservation of Electrical Power—Amendment Creating Government Corporation To Perform Similar Functions

§ 5.14 The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill; thus, for a bill proposing to accomplish a result by methods comprehensive in scope, an amendment in the nature of a substitute seeking to achieve the same result is germane where the methods contemplated are closely related, and where additional provisions not contained in the original bill are merely incidental conditions or exceptions related to the fundamental purposes of the bill.

During consideration of the Pacific Northwest Electric Power Planning and Conservation Act[16] in the Committee of the Whole on

16. S. 885.

Sept. 29, 1980,[17] it was held that to a proposition to accomplish a result by one method (regulation by a government agency), an amendment to achieve the same fundamental purpose by another closely related method (another type of government entity) is germane. The proceedings were as follows:

The bill reads as follows:

H.R. 8157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act.". . .

Sec. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and . . .

RATES

Sec. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. . . .

Amendment in the nature of a substitute offered by Mr. (James) Weaver

17. 126 CONG. REC. 27832–52, 96th Cong. 2d Sess.

(of Oregon): Page 1, strike all after the enacting clause and insert in lieu thereof:

Section 1. This Act, together with the following table of contents, may be cited as the "Columbia Basin Energy Corporation Act of 1980". . . .

There is created a body corporate by the name of the "Columbia Basin Energy Corporation". The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from date of the first meeting of the Board. . . .

FUND

Sec. 22. (a) There is hereby established in the Treasury of the United States a Columbia Basin Energy Corporation Administration Fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Corporation in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Board, (3) any appropriations made by the Congress for the fund, and (4) the following which are hereby transferred to the Corporation: (A) all moneys in the Bonneville Power Administration Fund established by the Federal Columbia River Transmission System Act of October 18, 1974, (B) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Corporation, acting by and through the Board, as authorized in this Act and other Acts relating to the Columbia Basin Energy Corporation system, subject to such limitations as may be prescribed by any applicable appropriation Act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Corporation. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the bill before us is one which arranges to deal with the Pacific Northwest power problems through giving certain power to the administrator of BPA, by arranging for the backing of the funding of construction by use of the rate of all the facilities in the area. It sets up a council relating to the planning for energy and for commercial fisheries and it deals with the use of conservation as a mechanism for substituting for the production of new power.

The gentleman's amendment, on the other hand, is violative of the rule of germaneness because it sets up a mechanism which goes beyond and is not related to the fundamental purpose of the legislation and which, in going toward the fundamental purpose of the legislation, uses mechanisms not authorized and not contemplated and not of the same character as the functions of the basic legislation.

The amendment offered by the gentleman is different in a number of noteworthy sections. For one thing, it sets up a corporation which would be appointed with the board of directors, two to be appointed by the President and a number of others to be appointed by the several States. Apart from the constitutional questions that this raises, the proposal would have a board which would essentially be a corporate body, there being no corporation in the legislation which is before the Committee at this time but, rather, only an advisory council. This board would have sweeping powers roughly equivalent to those of the Tennessee

Valley Authority and which are, therefore, much more sweeping in character. The board would be able to function without regard to the civil service laws at page 10 section 5.

Furthermore, the legislation confers upon the Secretary of Labor the power to determine wage rates and so forth, and compensation, something which is not included in the legislation before us, Mr. Chairman.

Furthermore, it provides for removal of board members by a prescribed mechanism and requires that the activities of the board be nonpolitical in character. It provides for the acquisition of generating facilities, retail distribution systems, and affords to the board the right of eminent domain, something which is not included in the legislation before us. . . .

Mr. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, another point, let me also say the amendment is not germane to the bill in that it sets up a Government corporation, a Government corporation, and none is provided for in the basic legislation. Therefore, it is not germane to the main legislation. . . .

MR. WEAVER: . . . The bill before us sets up a council in which one provision is appointed by the Secretary of Energy, that is the so-called fallback provision, but, nevertheless, it is in the bill that the council, which, by the way, is not an advisory council, it has vast powers, vast powers, to approve the plan and projects, is nominated by the Secretary of Energy, and mine is nominated by the President. So the rule says that the fundamental purpose of the amendment must be the same. I maintain the fundamental purpose of the amendment is the same because both the bill and the substitute are trying to solve the energy problems by creating a mechanism, energy problems in the Northwest, by creating a mechanism.

Mine sets up the Columbia Basin Authority which is quite similar to the TVA. I think my substitute is very bad, you understand. It is just that the bill is much worse. It sets up a halfway TVA.

I support very strongly something else. But if you are going to have a TVA, I offer my substitute, Mr. Chairman, as a complete TVA.

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

The Chair would cite section 798(b) of the House Rules and Manual relating to the fundamental purpose as a test of germaneness which says in part:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that the methods contemplated were closely related and that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill.

The Chair would further cite chapter 28, section 2.22 of Deschler's Procedure, and I quote:

> The test of germaneness of an amendment in the nature of a sub-

18. Matthew F. McHugh (N.Y.).

stitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered.

Finally the Chair would note on page 209 in Cannon's Procedure in the 75th Congress, that to a proposal to create a bureau to administer a program a substitute was held germane which established a board rather than a bureau to administer the program.

The bill under consideration utilizes the Bonneville Power Administration and a planning council, while the amendment creates a corporation.

Therefore, on the basis of the precedents cited, the Chair would overrule the point of order.

Bill Addressing Formulation by Agencies of Policies of Energy Conservation—Amendment Prohibiting Use of Fuel for School Busing and Imposing Criminal Penalties

§ 5.15 To a title of a bill designed to enable agencies of the government to formulate policies of energy conservation, an amendment prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title.

On Sept. 17, 1975,[19] it was demonstrated that the test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[20] in the Committee of the Whole were as follows:

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: Page 273, insert after line 4 the following new section:

ENERGY CONSERVATION THROUGH PROHIBITION OF UNNECESSARY TRANSPORTATION

Sec. 450. (a)(1) No person may use gasoline or diesel fuel for the transportation of any public school student to a school farther than the public school which is closest to his home offering educational courses for the grade level and course of study of the student and which is within the boundaries of the school attendance district wherein the student resides.

(2) Any person who violates subsection (1) of this section shall be fined not more than $5,000 or imprisoned not more than one year, or both, for each violation of such subsection. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his is clearly beyond the scope of the matters that are dealt with in this

19. 121 CONG. REC. 28925–27, 94th Cong. 1st Sess.

20. H.R. 7014.

title of the bill. It would very substantially introduce administrative duties that are not provided for in any way in the bill, and it is clearly beyond the jurisdiction of this committee. . . .

MR. [JAMES M.] COLLINS of Texas: Mr. Chairman, we have had a similar amendment in conservation bills before which have passed the House before, and in this particular bill. It comes in conjunction with sections on energy conservation through van pooling arrangements, through the use of car pools. It is an identical type of conservation measure as the limitation of limousines we discussed earlier, and the conservation of gasoline.

This is very much consistent because what we are talking about here in conservation, the unnecessary and unneeded uses of transportation. Also, we have the jurisdiction over the FEA, and it seems to me that we would be concerned with this. . . .

THE CHAIRMAN:[1] The gentleman from New York makes a point of order against the amendment offered by the gentleman from Texas (Mr. Collins) on grounds that it is not germane to title IV. The gentleman from Texas, in responding to the point of order, has cited certain amendments that have been adopted to the bill during debate, and the Chair is not clear as to whether he is talking only about this bill or about earlier bills.

MR. COLLINS of Texas: Mr. Chairman, I understand that specifically this bill itself, in this particular bill itself on page 270, we have a section of this bill which says, "Energy Conservation Through Van Pooling Arrangements."

On page 271, we have a section called "Use of Carpools." We just adopted the Santini amendment, which is related to it. We talked about limousines. We have been talking about transportation and vehicles. Here we are talking about conservation, and we could conserve a great deal of gasoline and diesel fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . I would point out that the bill before us relates to allocation of gasoline. It relates to the conservation of energy. But this amendment adds a criteria category and purpose to the bill which is above, apart and different from anything else found anywhere else in the bill, and that is a specific prohibition of the use of fuels for a particular purpose, which carries us beyond the purposes of the bill.

Again, Mr. Chairman, I would cite to the Chair that the nature of the amendment must be such as to notify the House that it might reasonably anticipate it and might be related for the purposes of which the bill is drawn.

Mr. Chairman, I might add further that the amendment adds criminal sections, imposing, for example, penalties on bus drivers of school buses, and goes well beyond the allocation powers or the conservation powers which are vested in the Federal Government, adding, essentially, a new criminal section of the bill which was not previously before us and which is not in the bill. . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I would like to call the attention of the Chair to title VI of the bill, particularly section 605, where we have a section that prohibits the use of natural gas as boiler fuel for the generation of electricity.

1. Richard Bolling (Mo.).

It would seem to me that here we have a similar type of fuel—gasoline—and the gentleman from Texas (Mr. Collins) by his amendment would prohibit the use of that fuel in transporting school children. . . .

MR. COLLINS of Texas: Mr. Chairman, there is one further thing I wish to say. We have talked about whether there were penalties or not provided in this bill.

In the bill itself, in previous sections, violations were set out and there were penalties of $5,000. There are several sections in the FEA sections that provide for penalties. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to state at the outset that the point of order made by the gentleman from New York (Mr. Ottinger) against the amendment offered by the gentleman from Texas (Mr. Collins) is on the ground that the amendment is not germane to title IV, and we are in effect limited in our consideration to the matters contained in title IV.

As will be clear in the statement which the Chair will make, the ruling that the present occupant of the Chair made under seemingly similar circumstances on an earlier bill is different.

The amendment would prohibit the use by any person—and that is the key to the ruling of the Chair—of gasoline or diesel fuel for certain transportation of public school students, and would establish a criminal penalty for violation of the amendment's provisions. The Chair has noted the Chair's ruling, cited in Deschler's Procedures, chapter 28, section 26.9, that an amendment restricting the regulatory authority of the President, who was authorized by the bill to establish priorities among users of petroleum products, was germane where the amendment required the product so allocated be used only for certain transportation of public school students.

It appears to the Chair that the ruling on that occasion was specifically directed to the fact that the bill conferred certain regulatory authority upon the President, and that the amendment placed a specific limitation and direction on the power so delegated. The amendment now in question does not address itself to the authority of an agency of Government, except in its last subsection relating to certain determinations by the Administrator of the Federal Energy Administration. But the direct thrust of the amendment is to prohibit certain uses of fuel by any person.

It is true that the title to which the amendment is offered deals with the subject of the conservation of energy, but the provisions of title IV address the goal of conservation through actions and encouragement by an agency of Government, not through prohibitions on the use of fuel by any person.

The Chair is unable to discover in title IV or in the basic act being amended criminal prohibitions applicable to any person using the fuel in a certain way.

The Chair, therefore, finds that the amendment is not germane to the fundamental purposes of the title to which offered and sustains the point of order.

Provisions To Deregulate Primarily Interstate Sales of Natural Gas—Substitute Addressing More Aspects of Regulation of Intrastate Sales and Differentiating Among Large and Small Producers

§ 5.16 While the methods to accomplish a general purpose in a bill and amendment thereto must be closely related for the amendment to be germane, where the bill contains a comprehensive and diverse methodology, a substitute changing the emphasis to be placed upon various suggested regulatory methods may be germane; thus, for an amendment comprehensively amending the Natural Gas Act to deregulate interstate sales of new natural gas and to regulate certain aspects of intrastate natural gas use, a substitute providing regulatory authority for both interstate and intrastate natural gas sales of large producers was held germane.

On Feb. 4, 1976,[2] during consideration of H.R. 9464 (the Natural Gas Emergency Act of 1974) in the Committee of the Whole, Chairman Richard Bolling, of Missouri, overruled a point of order and held the following amendment to be germane:

> MR. [NEAL] SMITH of Iowa: Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Smith of Iowa as a substitute for the amendment in the nature of a substitute offered by Mr. Krueger: . . .
>
> In lieu of the matter proposed to be inserted by the amendment offered by Mr. Krueger, insert the following: That, this Act may be cited as the "Natural Gas Act Amendments of 1976". . . .
>
> Sec. 4. (a) Section 2 of the Natural Gas Act is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs. . . .
>
> "(13) 'Independent producer' means a natural gas producer whose aggregate marketed production of natural gas in the preceding calendar year, together with the marketed production during that year of any affiliate of such producer, does not exceed 100,000,000 Mcf., but such term does not include any natural gas producer whose annual gross revenue, together with the annual gross revenue of any affiliate of such person, from the operation of a pipeline for the transportation or sale for resale of natural gas in interstate commerce or the distribution of natural gas does not exceed 10 percent of the total annual gross revenues of the person or of the affiliate of such person.
>
> "(14) 'Exempt independent producer sale' means a sale of new natural gas that is produced by an independent producer and a sale in

2. 122 CONG. REC. 2387–91, 94th Cong. 2d Sess.

which (A) no natural gas producer (other than an independent producer) has any interest in the proceeds or profits other than a royalty interest and (B) the aggregate of royalty interests of natural gas producers (other than independent producers) does not exceed 20 percent of such proceeds or such profits. The term 'exempt independent producer sale' does not include a sale of new natural gas that is produced from acreage in which the independent producer acquired an interest after January 1, 1976; if, prior to the acquisition by the independent producer, a discovery well had been drilled into the reservoir from which the natural gas is produced at a distance from the well from which the natural gas is produced of two statute miles for areas on the outer continental shelf and one statute mile for other areas of the United States. . . .

"Sec. 24. (a)(1) Not later than the first day of the third full calendar month following the effective date of this section, the Commission shall, by rule, promulgated in accordance with section 553 of title 5, United States Code, establish a national ceiling price applicable to any sale of new natural gas in interstate and intrastate commerce by a producer who is not an independent producer. For the purposes of this section, a sale of new natural gas in intrastate commerce means any sale of natural gas pursuant to a contract entered into on or after the effective date of the rule required to be promulgated pursuant to this subsection.

"(2) In establishing such national ceiling price, the Commission shall take into account the following:

"(A) the recovery of costs, including prospective costs; and

"(B) a reasonable rate of return which will provide incentive adequate to attract capital investment and to provide incentive for further exploration for, development of, and production of, new natural gas.

"(3) The Commission may, by rule, establish a higher ceiling price in excess of the national ceiling price established under paragraph (1) if the Commission finds that such higher ceiling is necessary to provide special relief to meet extraordinary expenses for deep vertical drilling or other high-cost or high-risk production of natural gas and limits such higher ceiling price to only those persons incurring such additional costs or risks.

"(b) The Commission shall amend rules required to be promulgated under subsection (a) from time to time as may be necessary to take into account inflation or any change in circumstances related to the factors specified in subsection (a) to be given consideration in establishing such rate. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, my point of order lodges against the amendment offered by the gentleman from Iowa (Mr. Smith) on the basis that it is not germane to the basic legislation and it is not germane to the amendment offered by the gentleman from Texas (Mr. Krueger) in that while it may seek to accomplish the same end as the Krueger amendment here, even the same end as the basic piece of legislation, it does not contemplate a method of achieving that end that is closely allied to the method encompassed in the bill and in the Krueger amendment.

I cite Deschler's Procedure in the House of Representatives, page 374, paragraph 6, "Amendment Accomplishing Result of Bill by Different Method," paragraph 6.1 and then again in paragraph 6.17:

To a proposition seeking to accomplish a result by one general method,

> an amendment which might indirectly achieve that result but by an unrelated method not contemplated in the original proposition is not germane.

In both of these instances the germaneness issue goes to the method by which deregulation is to be undertaken. In the Krueger amendment there is no regulation currently of intrastate natural gas, but there is in the amendment offered by the gentleman from Iowa (Mr. Smith). In section 24 of that amendment, in the seventh line, there is specific reference to the regulation of intrastate natural gas, and there is a difference in procedure of the method by which deregulation is accomplished in that the amendment offered by the gentleman from Texas (Mr. Krueger) achieves deregulation by the source and the type of the gas, whereas the amendment offered by the gentleman from Iowa (Mr. Smith) attempts to achieve deregulation based on the size of the producer of the gas and, therefore, undertakes an entirely different method.

Mr. Chairman, on the basis of the two citations I gave, paragraph 6.1, of which says:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended.

I do not think that the method undertaken by the gentleman from Iowa (Mr. Smith) is either a method achieving that end closely allied to the method encompassed in the bill or in the amendment offered by the gentleman from Texas (Mr. Krueger). . . .

Mr. Chairman, in the fear that I did not make myself clear about what is in the amendment of the gentleman from Iowa (Mr. Smith), as I had a chance to read it, the Smith amendment deals with intrastate gas, regulating intrastate gas with regard to the large producers, which neither the Krueger amendment nor the basic legislation do.

Second, the Smith amendment seeks to deregulate on the basis of the size of the producer, as opposed to the definition of the source and the type of item to be deregulated. Therefore, it is not closely allied and attempts to address the issue, but in ways and by methods that are entirely different than exists either in the basic legislation or in the Krueger amendment.

That, Mr. Chairman, is my point. . . .

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: . . . I insist that the point of order is valid, specifically because the Smith substitute amendment provides for new natural gas regulation in the instance of intrastate gas.

The title of section 24 states, "New natural gas sales of regulated producers."

Section 24(a)(1): Not later than the first day of the third full calendar month following the effective date of this section, the Commission shall, by rule, promulgated in accordance with section 553 of title 5, United States Code, establish a national ceiling price applicable to any sale of new natural gas in interstate and intrastate commerce by a producer who is not an independent producer.

That goes well beyond the scope, speaks to a question that the Krueger

substitute is silent on, and the point of order should prevail. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, very simply, both the Krueger amendment and the Smith substitute amendment define the scope of FPC price regulatory authority through amendment to section C of the Natural Gas Act. Both deal with deregulated gas and with regulated gas. The section of the Krueger amendment that deals with OCS gas creates regulation in that area.

Both purport to achieve a method by which encouragement of production would come by deregulation, and at the same time purport to keep certain restraints on price by maintaining some gas, some quantity of gas, under regulation, under restriction.

The two bills in fact come out with almost the same results, in that OCS gas is generally under regulation, under the Krueger amendment, and since it is largely produced by majors, it is also under regulation under the Smith amendment.

Mr. Chairman, the whole thrust of both bills is an attempt to alter and to define the scope of the FPC, both with respect to certain gas which is presently interstate and certain gas which is intrastate.

The agricultural priority provisions of section 25, oil and gas provisions under section 26 of the Krueger amendment, deal with both interstate and intrastate gas and indeed the original bill deals with both. But the important thing is that, since the Krueger amendment is made in order to a bill, an amendment to the Krueger amendment which is germane to the Krueger amendment is also germane at this time.

THE CHAIRMAN: The Chair is ready to rule. The Chair has had some opportunity prior to the offering of this substitute to examine into the problem raised by the substitute and by the point of order made by the gentleman from Ohio (Mr. Brown).

Essentially, in line with the line of reasoning stated by the gentleman from Michigan and Texas, the Chair has a statement which he would like to read.

The gentleman from Ohio makes the point of order that the substitute offered by the gentleman from Iowa (Mr. Smith) is not germane to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Krueger). The Krueger amendment is comprehensive in scope. Title I of the amendment authorizes the Federal Power Commission to permit a temporary emergency purchase by interstate pipelines of natural gas to meet the needs of their high priority customers, free from the restrictions of the Natural Gas Act.

Title I also mandates, in its perfected form, short-term allocation and price control of propane whether in interstate or in intrastate commerce. Title II of the Krueger amendment comprehensively amends the Natural Gas Act to deregulate interstate sales of new natural gas, to establish a statutory priority for essential agricultural and industrial uses in interstate commerce, to ban the use of new gas affecting commerce generally for boiler fuel use, to permit intrastate transportation of new natural gas through interstate facilities under certain conditions, and to provide for a study of the entire natural gas industry, both interstate and intrastate, by the Federal Power Commission.

The Smith substitute distinguishes in its regulatory approach between new and old types of gas and also regulates intrastate gas sales of large producers after a price ceiling has been established pursuant to the provisions of section 8 of the substitute.

The substitute also contains provisions relating to conservation of natural gas for boiler fuel use, priorities for agricultural and other public service purposes, and emergency allocations which are similar to those contained in the Krueger amendment.

Volume 8, Cannon's Precedents, section 2964 and volume 5, Hinds' Precedents, section 5841, appear to indicate that to a bill relating to interstate commerce an amendment relating to intrastate commerce is not germane. Those precedents deal however with a situation where a narrow bill or section of a bill directed towards interstate commerce is attempted to be amended by an equally narrow provision broadening that section to address intrastate commerce as well.

The decisions of the Chair on those instances were founded on the principle that an amendment relating to one designated class is not in order to a bill dealing with another designated and clearly defined class, and have little applicability to the situation now pending, where a comprehensive substitute is offered to a broad measure amending existing law.

The Chair has already noted that the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Krueger) does not only address itself to interstate commerce. The amendment affects natural gas in intrastate commerce in substantial ways both through free-standing provisions of law and through amendments to the existing Natural Gas Act. Furthermore section 203 of the Krueger amendment would amend section 717 of the Natural Gas Act, which section defines the coverage of the Natural Gas Act in relation to natural gas in intrastate commerce.

It is well established in the precedents that to a measure amending in many respects an existing law, an amendment is germane to further modify the law in another respect germane to the law. For example, to an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of energy shortages, an amendment to another section of that act suspending the authority of the Environmental Protection Agency to control automobile emissions was held germane. Chapter 28, Deschler's Precedents, section 28.44.

It is the opinion of the Chair that the Krueger amendment substantially changes the powers of the Federal Power Commission under the Natural Gas Act, incorporates within the act various authorities dealing with natural gas in intrastate commerce, and so vitally affects the scope of the act as to allow a substitute to be offered which proposes alternative revisions of the policy directives and specific regulatory powers of the Federal Power Commission under the Natural Gas Act, in order to achieve adequate supplies of natural gas.

For the reasons stated, the Chair overrules the point of order.

Bill Authorizing Establishment of Petroleum Reserves and Exploration at Certain Sites for Oil and Gas—Amendment To Require Study of Uses of Public Lands in Reserve for Recreational, Scenic and Subsistence Purposes

§ 5.17 For a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on naval petroleum reserve number 4 with annual reports to Congress, an amendment in the nature of a substitute containing similar provisions and also requiring a task force study of the values and best uses for subsistence, scenic, historical, and recreational purposes, and for fish and wildlife, of the public lands in that naval petroleum reserve was held germane despite the inclusion of that incidental portion which, if considered separately, might not have been germane.

On July 8, 1975,[3] during consideration of H.R. 49 in the Committee of the Whole, Chairman Neal Smith, of Iowa, held that the test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which if offered separately, might not be germane to the portion of the bill to which offered. The proceedings were as follows:

> MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:
> >
> > That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States (except lands in the National Park System, the National Wildlife Refuge System, the Wild and Scenic Rivers System, the National Wilderness Preservation System, areas now under review for inclusion in the Wilderness System in accordance with provisions of the Wilderness Act of 1964, and lands in

3. 121 CONG. REC. 21631–34, 94th Cong. 1st Sess.

Alaska other than those in Naval Petroleum Reserve Numbered 4). . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided* That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve: *Provided* further, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish & Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years, submit to Congress his recommendations for such designation of areas of those lands as may be appropriate and, *Provided further*, That oil and gas exploration within the Utukok River and Teheshepuk Lake areas and others containing significant subsistence, recreational, fish and wildlife, historical or scenic values, shall be conducted in a manner so as to preserve such surface values.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I have a point of order. . . .

The bill, H.R. 49, authorizes as follows:

To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes."

Mr. Chairman, if we refer to the bill in toto, nowhere will we find in that bill language relating to subsection (f) of the amendment submitted to us. I regret that I cannot give the Chair the precise citation.

I will state that the point of order goes to the section relating to the words,

Provided further, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish and Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years submit to Congress his recommendations for such designation of areas of those lands as may be appropriated . . . .

Mr. Chairman, a fundamental rule of the House of Representatives is that the burden of establishing the germaneness of an amendment falls upon the offeror and does not fall upon the Member challenging the germaneness. I would point out that nowhere else in the bill is there a proviso for a provision for a study involving groups, and nowhere in the title of the legislation is there anything that would justify or

authorize a study of the kind that is set forth here in the amendment.

As a matter of fact, nowhere in the amendment that was reported by the Committee on Interior and Insular Affairs to the House of Representatives is there anything which would relate to a study. A study of the kind that is before us is totally different and alien.

The purpose of the legislation is to establish a program of national strategic reserves and for the development of the petroleum reserves and not for the establishment of a study. It is not for the establishment of a study relating to fish and wildlife values, historical values, and matters of that sort.

So since the burden falls upon the offeror of the amendment, the gentleman from Montana (Mr. Melcher), I would point out that he has assumed for himself a burden which is impossibly heavy, and that is to provide a study of such sweeping import relating to totally different matters than those which are contained in the bill.

For that reason, Mr. Chairman, the point of order should be sustained.

MR. MELCHER: Mr. Chairman, I rise in opposition to the point of order.

Mr. Chairman, I think the point is covered in rule XVI at section 798c where it says as follows:

> . . . the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

Mr. Chairman, I think that about settles the point.

THE CHAIRMAN: The Chair is prepared to rule.

The proviso cited by the gentleman from Michigan (Mr. Dingell) is on page 8 of the mimeographed form of the Melcher amendment.

Had this proviso been presented separately, the germaneness would have been measured against the portion of the Interior Committee amendment to which offered. However, having been presented as a part of an overall substitute, the Chair would rule that the provision objected to is merely incidental to the fundamental purpose of the amendment, and that under the precedent cited by the gentleman from Montana (Mr. Melcher), in section 798(b) of the Manual the amendment is germane to the text when viewed as a whole.

The Chair therefore overrules the point of order.

Bill To Promote Energy Conservation, Including Energy Efficiency Labeling of Consumer Products—Amendment Relating to Energy Use in Production of Beverage Containers

§ 5.18 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new

title dealing with energy use in the production of certain non-energy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate energy production requirements of such products.

On Sept. 18, 1975,[4] during consideration of the Energy Conservation and Oil Policy Act of 1975[5]) in the Committee of the Whole, the Chair overruled a point of order against an amendment in the form of a new title to the bill. The proceedings were as follows:

TITLE V—IMPROVING ENERGY EFFICIENCY OF CONSUMER PRODUCTS

PART A—AUTOMOBILE FUEL MILEAGE

Sec. 501. Definitions.

502. Average fuel economy standards applicable to each manufacturer. . . .

PART B—ENERGY LABELING AND EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 551. Definitions and coverage.

Sec. 552. Test procedures.

Sec. 553. Labeling.

Sec. 554. Energy efficiency standards. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 331, after line 10, add the following:

TITLE VI—ENERGY LABELING AND EFFICIENCY STANDARDS FOR BEVERAGE CONTAINERS

DEFINITIONS AND COVERAGE

Sec. 601.—For purposes of this part—

(1) The term "beverage container" means a bottle, jar, can, or carton of glass, plastic, or metal, or any combination thereof, used for packaging or marketing beer or any other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form which is intended for human consumption. . . .

(4) The term "energy efficiency" means the ratio (determined on a national basis) of: The capacity of the beverage container times the number of times it is likely to be filled, to the units of energy resources consumed in producing such container (including such container's raw materials) and in delivering such container and its contents to the consumer.

The Commissioner, in determining the energy efficiency shall adjust any such determination to take into account the extent to which such containers are produced from recycled materials. . . .

LABELING

Sec. 603. The provisions of section 553, except paragraph (B) of subsection (a)(1), shall be applicable to beverage containers as defined in section 601. In addition, if the Commissioner determines that a beverage container achieves the energy efficiency target described in section

4. 121 CONG. REC. 29322–25, 94th Cong. 1st Sess.

5. H.R. 7014.

604, then no labeling requirement under this section may be promulgated or remain in effect with respect to such type. . . .

REQUIREMENTS OF MANUFACTURERS AND PRIVATE LABELERS

Sec. 605. The provisions of section 555 of this act with respect to consumer products to which a rule under section 553 applies shall be applicable to beverage containers as defined in section 601. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the point of order (is) on the ground that the amendment is not germane to the bill before us. The amendment seeks to impose efficiency standards on the manufacture of beverage containers. There is nothing in the bill relating to beverage containers. The amendment seeks to change efficiency standards imposed upon beverage containers themselves. There is nothing in this bill relating to beverage containers.

Furthermore, Mr. Chairman, not only is the amendment not germane to the bill but it also fails because it is not germane to the bill as amended because as the Chairman recalls all references to the efficiency standards have been removed from the bill with respect to industrial processes. If the amendment were to be offered relating to efficiency in manufacturing processes, it more appropriately should have been offered in sections relating to efficiency in manufacturing.

Those have now been deleted, of course. The amendment is not germane because it comes too late in the bill, for that matter, after it has been considered and acted upon in the House.

The amendment is very, very complex, setting up standards for efficiency in a whole series of devices. With regard to the mechanism we are under, this efficiency is judged and it goes into a lengthy complex set of judgments that must be exercised by the administrators with regard to this efficiency; but dealing solely with the question of bottles and containers. As I pointed out, there is no reference in the bill to bottles and containers. For that reason, the amendment is not germane. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . In Cannon's Procedures of the House of Representatives, the rule of germaneness occurs at section 794. It says that while the committee may report a bill embracing different subjects, it is not in order during the consideration of a bill to introduce a new subject. . . .

Mr. Chairman, the nature of the new subject in this legislation, it seems to me, is embraced in section 604 of the amendment as submitted by the gentleman from Vermont (Mr. Jeffords), in which we are not dealing with the set of standards of the operation of appliances as we were in the appliance section, or automobiles, as we were in the automobile standards section; but rather in the design of a nonenergy consuming product which the author of the amendment seeks to prohibit with reference to its possibilities of reuse. It gives the authority to the Secretary to prohibit a product on the basis of its design. So we are, in effect, impacting on the product with reference to the manufacture of the product in some mechanical or energy-consuming way. That, it seems to me, is a new direction or a new subject under the rule of germaneness, as opposed to the other approaches which the bill as reported

out of the committee has taken. It is an area which I rather doubt comes under the purview of our committee, in that the purview of the committee relates to the consumption of energy as such and the licensing of that energy and the pricing of it and so forth. . . .

MR. [PHILLIP H.] HAYES of Indiana: Mr. Chairman, I simply wanted to add in regard to the standard . . . of looking to the fundamental purpose of an amendment in qualifying its germaneness, that this particular amendment would seek to add for the first time in the bill a class of product which does not in and of itself consume an average annual per household energy factor, nor does it consume in and of itself energy at all. . . .

MR. JEFFORDS: Mr. Chairman, never have I had an opportunity to tell so many distinguished gentlemen that they are wrong at the same time. First, let us go back to the basics here. What are we concerned with when we talk about the germaneness? Let us look at the legislative manual.

The fundamental purpose of an amendment is that it must be germane to the fundamental purpose of the bill. What is the fundamental purpose?

Let us take a look at the title, "Energy Conservation and Oil Policy Act of 1975." Look what we are trying to do. We are trying to conserve energy. Let us take a look at title III, with its broad powers over the whole area of development of petroleum. There are tremendous powers over the whole industry in allocation, production, as to where the industry goes. . . .

Let us get to the argument made by many, and that is it is different because we are talking about energy consumed in the production of the consumer product rather than the consumer himself.

The FEA is not going to go around this country chasing after people with electric toothbrushes to see whether they brush properly or to see whether they are plugged in properly. They are going to go to the manufacturer and say, "You have a toothbrush here that has to have a certain energy efficiency improvement." So we are saying when the product is sold that particular beverage container must consume less than a certain amount of energy. It is identical in purpose. The bill does not try to go out and nail the consumer. It gets to him by labeling. It says, "Here is a consumer product that uses less energy." My amendment will say, "Here is something that uses less energy." I see no difference whatsoever. Its basic purpose and fundamental purpose is the same as the bill, to conserve energy and conserve oil. How anybody can argue that this is not germane is impossible for me to see.

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

The gentleman from Indiana, the gentleman from Michigan, the gentleman from Ohio, and the gentleman from Texas have made points of order against the amendment offered by the gentleman from Vermont (Mr. Jeffords) on the ground that it is not germane to the bill.

The Chair would like to state that if the amendment had been offered to title V, the arguments of many of the gentlemen would have more significance.

The amendment offered would add a new title to the bill relating to energy

6. Richard Bolling (Mo.).

conservation in the production of beverage containers.

The test of germaneness in such a situation is the relationship between the new title to be added by the amendment and the entire bill.

The Chair would state, initially, that he has reexamined the precedents contained in section 6.13 and section 6.19 of chapter 28 of Deschler's Procedure, wherein an amendment prohibiting the production of nonreturnable beverage containers was held not germane to the Energy Emergency Act, and finds that the situations are distinguishable.

As noted, the germaneness is dependent upon the relationship between the amendment in the form of a new title and the entire bill to which offered.

The 1973 bill was designed to regulate and promote the production, allocation, and conservation of energy resources and contained no reference to the production of consumer goods. In that context, the nonreturnable container amendment was not germane.

However, the bill now under consideration contains several diverse titles, all relating to use, consumption, availability, and conservation of energy.

The Chair notes specifically the provisions of title V relating to end use and energy consumption of certain consumer products.

The Chair, therefore, believes that the bill is sufficiently broad in scope to admit as germane an amendment in the form of a new title which is drafted in the form presented by incorporating by reference certain standards in the bill, and which relates to the conservation of energy by an industry engaged in the production of a consumer product, specifically, beverage containers.

The Chair, therefore, overrules the point of order.

Bill To Authorize National Drinking Water Standards—Amendment Requiring Enforcement of Agreements on International Drinking Water Standards

§ 5.19 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was held to be not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee.

The proceedings of Nov. 19, 1974, relating to H.R. 13002, the Safe Drinking Water Act, are discussed in § 6.25, infra.

Bill Amending Reclamation Law Primarily With Respect To Eligibility for Irrigation Water—Amendment To Require Review of Audit Reports on Water Resource Projects Including Specified Projects To Provide Hydro-electric Power

§ 5.20 While ordinarily a bill having a specific fundamental purpose may not be amended by a proposal broader in scope, an amendment in the form of a new title may be germane to a bill as a whole where that bill contains additional provisions not necessarily confined to the primary purpose and where the amendment is within the overall parameters of the bill; thus, to a bill amending several provisions of reclamation law relating primarily to the question of eligibility of water users for increased irrigation water supply, but also containing miscellaneous provisions relating to the status of persons and entities affected by reclamation laws generally, an amendment adding a new title to require the Inspector General of the Department of the Interior to review audit reports pertaining to Bureau of Reclamation water resource projects, including specified multi-purpose projects to provide hydro-electric power as well as water for irrigation, was held germane, based upon the inclusion of diverse provisions in the bill not exclusively related to irrigation eligibility.

During consideration of the Federal Reclamation Law amendments [7] in the Committee of the Whole on May 6, 1982,[8] the Chair overruled a point of order against the following amendment:

> MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Erlenborn: Page 26, after line 5, insert the following new title:
>
> "TITLE III
>
> "AUDIT COMPLIANCE
>
> "Sec. 301. (a)(1) The Inspector General of the Department of the Interior shall undertake a review of all audit reports prepared by the Department of the Interior since January, 1977, pertaining to Bureau of Reclamation water resource projects, including, but not limited to,
>
> "(A) 'Review of the Central Valley Project—Bureau of Reclamation", January 1978;

7. H.R. 5539.

8. 128 CONG. REC. 8933, 8934, 97th Cong. 2d Sess.

"(B) 'Review of Repayment Status of Pick-Sloan Missouri Basin Program and Individually Authorized Projects", July 1978;

"(C) 'Review of Municipal and Industrial Water Activities, Central Valley Project", September 1979; . . .

"(2) No later than 90 days after the date of enactment of this Act, the Inspector General shall prepare, and transmit to the Secretary of the Interior, and to the Congress, a list of recommendations based upon the review of audit reports which he has conducted pursuant to paragraph (1) of this subsection.

"(b) No later than 270 days after the date of enactment of this Act, the Secretary of the Interior shall implement all recommendations which have been made by the Inspector General pursuant to paragraph (a)(2) of this section, unless he earlier informs the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, of his detailed reasons for not implementing such recommendations.". . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . I make a point of order that the amendment now pending, offered by the gentleman from Illinois, is not germane to the bill.

This bill deals with irrigation policy. It is not so broad as to encompass all aspects of the reclamation program. We are not writing a comprehensive law to govern all features of reclamation projects.

The amendment is clearly not pertinent to irrigation. It places a new duty on the Inspector General that is not now a part of the Reclamation Act of 1902, or any act amending or supplementing any part of that 1902 legislation. . . .

MR. ERLENBORN: Briefly, Mr. Chairman, I would say that, in my opinion, the amendment is germane. The bill before us does address reclamation policy. Part of that is involved in the resolution of these audits that also have to do with reclamation policy and, more importantly, the implementation of that policy.

The Inspector General has already the general duties, as outlined in this amendment. The Inspector General, as a matter of fact, has made audits in the seven cases that are specifically mentioned in the amendment, and that is (A) through (G), the seven particular projects. Some or all of those have been subject to audit, and recommendations have been made.

The duty of the Inspector General is not a new duty. The Inspector General is supposed to make audits and make recommendations. This is no new duty whatsoever. And certainly the duty imposed on the Secretary of the Interior is not new, though the implementation and carrying out of that duty might appear to be new. That is the purpose of the amendment—to see that the duty of the Department of the Interior to respond to audit recommendations by the Inspector General is done in a prompt manner. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: If the Chair would allow me, within the duties of the Department of Reclamation also come water resources, power, and several other elements of energy and not only irrigation; water for municipal and industrial uses, water for recreation, flood control, and many other purposes, many other duties that the Department has besides irrigation.

THE CHAIRMAN PRO TEMPORE:[9] The Chair is concerned about the amend-

9. J. J. Pickle (Tex.).

ment, in that it is not clear what type of recommendations may be implemented as a result of this amendment. If it is a question between auditing power rates as opposed to irrigation rates, that would be a serious question.

But just on the question of germaneness . . . there are provisions in sections 205, 206, 210, and 213 of the bill that might go beyond irrigation policy continued in the reclamation laws. To the extent that this amendment is limited to irrigation recommendations, and since there are diverse provisions in the bill with respect to reclamation policy involving water uses for other than irrigation purposes, the Chair then will rule that the amendment is germane, as a new title, to the committee reported bill as a whole. The Chair overrules the point of order.

War Powers Bill—Amendment To Modify Civil Service Retirement Act

§ 5.21 To a bill conferring on the executive certain war powers for purposes of expediting prosecution of the war, an amendment proposing modification of the Civil Service Retirement Act with respect to provisions affecting retirement of employees was held to be not germane.

In the 77th Congress, during consideration of the Second War Powers Bill of 1942,[10] an amendment was offered[11] by Mr. Frederick C. Smith, of Ohio, who stated:[12]

> Perhaps the most germane part of this whole bill to its objective is title IV. This is specifically designed to preserve the credit of the Government. . . .
>
> Now, my amendment is also specifically designed to safeguard the credit of the Government. It seeks to save to the taxpayers, and therefore to the Treasury, $44,000,000 annually by repealing the provision in the Ramspeck Act which sets up pensions for 250,000 political job holders. . . .

A point of order having been raised by Mr. Charles F. McLaughlin, of Nebraska, the amendment was held not to be germane. The Chairman[13] stated:

> The amendment . . . has to do with the Civil Service Retirement Act of May 23, 1930, as amended, and would affect the domestic employees of the Government. Certainly there is nothing in the pending amendment to indicate to the Chair that it is related to the subject matter covered by the pending bill.

Citing a previous statement of the Chair that "the only proper and reasonable test that can be applied in a situation of this kind is the subject matter and the pur-

10. S. 2208 (Committee on the Judiciary).

11. 88 CONG. REC. 1758, 1759, 77th Cong. 2d Sess., Feb. 27, 1942.

12. *Id.* at p. 1759.

13. Jere Cooper (Tenn.).

pose covered by the pending bill and the pending amendment," the Chairman sustained the point of order.

Bill To Increase Strength of Armed Forces—Amendment To Allow Aliens To Enlist

§ 5.22 To a bill increasing the strength of the armed forces, an amendment permitting the armed forces to accept original enlistments from among qualified aliens and repealing existing law to the contrary, was held to be germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[14] the following amendment was offered:[15]

> Amendment offered by Mr. [Leon H.] Gavin [of Pennsylvania]: On page 21 . . . insert the following new sections . . . .
>
> Sec. 6. (a) Under policies established by the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force are authorized to accept original enlistments . . . from among qualified aliens not less than 18 years of age for enlistment periods of not less than 3 years: Provided, That the total number of aliens who may be enlisted pursuant to this section shall not exceed 100,000 at any one time. . . .

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

> MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill. . . .
>
> The bill is the Selective Service Act of 1948, and does not contain any provisions similar to those contained in the amendment offered by the gentleman from Pennsylvania.

The Chairman,[16] in ruling on the point of order, stated:

> The Chair calls attention to the fact that the bill is entitled "A bill to provide for the common defense by increasing the strength of the armed forces of the United States, and for other purposes." The bill carries sections relating to enlistments and other means of increasing the strength of the armed forces of the United States.
>
> The Chair has examined the amendment and believes that the amendment is clearly within the scope of the bill.
>
> The Chair therefore overrules the point of order.

Bill Authorizing Humanitarian and Evacuation Assistance—Amendment Authorizing Military Aid To Further Purposes of Bill

§ 5.23 To a bill reported from the Committee on Inter-

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

15. 94 CONG. REC. 8673, 80th Cong. 2d Sess., June 17, 1948.

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

national Relations authorizing funds to provide humanitarian and evacuation assistance and authorizing the use of United States troops to provide that assistance, an amendment authorizing funds for military aid to a foreign country (generally a subject within the jurisdiction of the Committee on Armed Services) to be used by that country to further the fundamental purpose of the bill was held germane and a point of order against the amendment was overruled.

On Apr. 23, 1975,[17] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[18] in the Committee of the Whole, the Chair overruled a point of order against an amendment as indicated below:

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Stratton to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar:

Page 1, line 6; strike out "$150,000,000" and insert "$300,000,000".

Page 2, line 2; delete the period at the end of the line, insert a semicolon and add the following: "*Provided* that $150,000,000 of such sum shall be available to the President solely for military aid to South Vietnam to provide such protection as he may deem necessary to insure the delivery of the humanitarian assistance and evacuation programs authorized in this section."

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, I make a point of order. . . .

Mr. Chairman, military aid to Vietnam is not included in the jurisdiction of the Committee on Foreign Affairs. It is under the jurisdiction of the Committee on Armed Services. It is under the MACV account and DAV account, and the attempt has been made in the past to vest this jurisdiction in the Committee on Foreign Affairs. The committee does not have jurisdiction over this subject matter and cannot give military aid. As a result, the amendment is not germane, and I make that point of order. . . .

MR. STRATTON: . . . This amendment is perfectly in order. This would provide additional funds to the President to use, in his discretion, to provide protection for the humanitarian assistance and evacuation provided in the bill.

I would invite the Chair's attention to the fact that section 3 of the amendment refers in considerable detail to the military appropriations and to military actions, and that section 2 of the substitute provides funds to the

17. 121 CONG. REC. 11509, 94th Cong. 1st Sess.

18. H.R. 6096.

President to be used notwithstanding any other provision of law on such terms and conditions as the President may deem appropriate.

The basic legislation and the Eckhardt substitute both refer to legislation that deals with military assistance to Vietnam, and therefore, this amendment is in order.

THE CHAIRMAN:[19] The Chair is prepared to rule.

There is within the bill the provision for humanitarian assistance and evacuation assistance. The amendment proposed by the gentleman from New York (Mr. Stratton) goes to aid, to provide for the delivery of military aid, to be sure, but it is to insure the delivery of humanitarian assistance and the evacuation programs, and in that form the amendment is germane to the substitute, and the point of order is overruled.

Bill Authorizing Operations of Coast Guard—Amendment To Require That Commercial Cargo Under Coast Guard Protection Be Transported on United States Vessels

§ 5.24 To a bill authorizing operations of the Coast Guard, an amendment directing the President to ensure that, where Coast Guard protection of commercial cargo is required, such cargo be transported on vessels of the United States which were never registered under the laws of a foreign country was held to be not germane, such matters relating to the subject of commercial shipping, which was within the jurisdiction of the Maritime Administration.

During consideration of the Coast Guard authorization for fiscal 1988[20] in the Committee of the Whole on July 8, 1987,[1] the Chair sustained a point of order against the following amendment:

MR. [JACK] DAVIS of Illinois: Mr. Chairman, I offer an amendment.

MR. [EARL] HUTTO [of Florida]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN:[2] The gentleman from Florida [MR. HUTTO] reserves a point of order against the amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Davis of Illinois: Page 22, after line 11, add the following new section:

Sec. 26. In any case where the President of the United States, after consultation with the Secretary of the Department in which the Coast Guard is operating, determines that neutral shipping requires the protection of the Coast Guard or other U.S. Armed Forces the President shall, if practicable cause the commercial cargo requiring Coast Guard or other Armed Forces protection, to be trans-

19. Otis G. Pike (N.Y.).

20. H.R. 2342.

1. 133 CONG. REC. 19013–16, 100th Cong. 1st Sess.

2. Robert W. Kastenmeier (Wis.).

ported in vessels of the United States which were never registered under the laws of a foreign country.

Mr. Hutto made the point of order:

MR. HUTTO: . . . As I mentioned, it is a good amendment. Certainly we can associate ourselves with the remarks of the gentleman from Illinois but unfortunately it does not belong in this bill. It is not germane and is not made in order by the rule. . . .

MR. DAVIS OF ILLINOIS: . . . Mr. Chairman, this amendment is germane. This amendment has been drafted to include the Coast Guard and the Secretary which controls the Coast Guard and the President of the United States.

Let me just read this one sentence that I think makes it germane—in fact, the whole paragraph does. 'In any case, where the President of the United States, after consultation with the Secretary of the department in which the Coast Guard is operating, determines that neutral shipping requires the protection of the Coast Guard or other United States armed services' - now if that is not an appropriation item, I do not know what is. The U.S. Coast Guard, if called upon - and it does not just protect the continental United States - if called upon to use its vessels to protect reflagged or even chartered vessel bottoms of the United States, chartered to another country, that is going to require an expenditure of Coast Guard funds. I could have identified that line item, but I did not. . . .

MR. [HERBERT H.] BATEMAN [of Virginia]: . . . It seems to me there is a great distinction between the amendment now being offered by the gentleman from Illinois and the previous amendment which was ruled out of order on the point of order. The difference being that the previous amendment addressed in a specific context whether or not and under what circumstances Kuwaiti vessels proposed to be reflagged would be permitted to be reflagged.

The gentleman from Illinois' amendment does not relate to and in fact has nothing to do with that reflagging issue which the Rules Committee said would be determined on the basis only of the pending Bennett amendment and the pending Lowry amendment and a possible substitute amendment and that is what I understand the rule to be.

If I may have just 30 more seconds, this amendment deals prospectively and deals with reflagging generically in the future, not this reflagging which it does not reach but future reflagging. As such, why should we hold back from considering something which is of benefit and is a legitimate matter to be taken into consideration as this country, through the Department of Transportation, makes future reflagging decisions in general.

MR. HUTTO: Mr. Chairman, I would grant that it does not deal directly with the Kuwaiti reflagging issue. However, cargo is not determined by the Coast Guard.

In my view, it is not germane and would not pertain to the Coast Guard authorization bill.

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

The gentleman from Florida [Mr. Hutto] makes a point of order that the

amendment offered by the gentleman from Illinois [Mr. Davis] is not germane.

The primary purpose of the bill before the Committee, as amended, is to authorize funds for the Coast Guard for fiscal year 1988, as well as to address other provisions including the Biaggi amendment within the purview of the Coast Guard and its operations. The operative part of the pending amendment, in the opinion of the Chair, would suggest that the President cause commercial cargo requiring protection to be transported in vessels documented under the laws of the United States rather than in vessels previously registered in another country. This in effect would create a new form of "cargo preference" for U.S. vessels to be determined only by the President, an area of law currently administered by the Maritime Administration rather than the Coast Guard.

In the opinion of the Chair, the amendment goes beyond the fundamental purpose of the bill to address matters other than the Coast Guard and its operations. Therefore, the Chair sustains the point of order.

Bill To Stabilize Prices of Housing—Amendment Providing Aid to Veterans in Buying Houses

§ 5.25 To a bill to prevent speculation in housing and to insure availability of real estate for housing purposes at reasonable prices, an amendment providing that all discharged veterans of World War II desiring to build or buy a house be issued a certificate for $200 to be applied to the purchase price was held to be germane.

In the 79th Congress, a bill[3] was under consideration relating to housing stabilization. An amendment which contained provisions described above was offered by Mr. Emory H. Price, of Florida, and a point of order was raised against such amendment:[4]

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make a point of order against the amendment that it is not germane. It does not carry out the intended purposes of the proposed bill. It provides for the giving of bonuses to veterans to buy homes, at least to those who are fortunate enough to get homes. It provides for a bonus of $200. . . .
>
> Mr. Chairman, I do not believe that the proposal embodied in the gentleman's amendment would even be referred to the Committee on Banking and Currency.

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

> MR. PRICE [of Florida]: Mr. Chairman, I thought the purpose of this bill was to provide homes for veterans. I think this is in line with other amend-

3. H.R. 4761 (Committee on Banking and Currency).
4. 92 CONG. REC. 1983, 79th Cong. 2d Sess., Mar. 6, 1946.

ments which have been offered and is in keeping with the purposes set out in the bill.

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:

. . . While a rather close question is involved, the amendment does seem to relate to housing for veterans, which is the subject matter of the pending bill in that it provides for a certificate for a certain amount of money to be applied on the purchase price of a new home or the purchase of materials to be used in building a home.

Although it is a close question, the Chair is inclined to rule that it comes within the scope of the bill and overrules the point of order.

The following exchange then occurred:[5]

MR. PATMAN: The amendment itself shows that it discriminates against a large group of veterans; that the one who is fortunate enough to get a home gets a bonus of $200, but the fellow who cannot purchase a home does not get the $200.

THE CHAIRMAN: Of course, that question could not be considered in passing upon the point of order, that being a proper argument for the gentleman to make on the merits of the amendment.

—*Amendment Authorizing Establishment of Maximum Prices for Construction Materials*

§ 5.26 To a bill to insure availability of real estate for housing purposes at reasonable prices, and containing provisions authorizing priorities and allocations of materials for construction of homes, an amendment relating to the establishment of maximum prices of construction materials was held to be germane.

In the 79th Congress, during consideration of a bill[6] relating to housing stabilizations, the following amendment was offered:[7]

Amendment offered by Mr. [Howard H.] Buffett [of Nebraska]: Page 12, after line 2, insert the following new section:

In order to achieve maximum production of materials suitable for use in the construction of housing accommodations the Expediter is authorized and directed to issue a directive on policy to the Price Administrator requiring the Price Administrator to establish within 60 days after the date on which this title becomes effective a maximum price with respect to each such material. . . .

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

MR. [A. S. Mike] MONRONEY [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment

5. *Id.* at p. 1984.

6. H.R. 4761 (Committee on Banking and Currency).

7. 92 CONG. REC. 1984, 79th Cong. 2d Sess., Mar. 6, 1946.

offered by the gentleman from Nebraska. The amendment he has offered is not germane to the pending bill. It is an amendment to the Price Control Act, which is not before the committee at the present time.

The Chairman,[8] in ruling on the point of order, stated:

. . . The Chair invites attention to the fact that the pending bill contains provisions authorizing priorities and allocations of materials for the construction of homes. The pending amendment provides for directives for the production of materials suitable for use in the construction of housing accommodations, and so forth.

The Chair is of the opinion that the amendment is within the scope of the pending bill and, therefore, overrules the point of order.

Bill Providing for Minting of Public Coinage—Amendment Providing for Minting of Commemorative Coin

§ 5.27 To a bill relating to the minting of new coins for public circulation as currency, an amendment providing for the minting of commemorative coins bearing the likeness of the late Speaker Rayburn for sale to the Rayburn Library was held to be not germane.

In the 91st Congress, during consideration of certain Coinage Act amendments,[9] an amendment was offered by Mr. Ray Roberts, of Texas, as described above.[10] A point of order was raised against the amendment, as follows:

MR. [WILLIAM A.] BARRETT [of Pennsylvania]: . . . The gentleman is talking about minting a coin and making a profit from it. The bill calls for making coins, putting them into circulation, and making no profit.

The Chairman,[11] in ruling on the point of order, stated:

The amendment . . . provides for the issuance of 500,000 half-dollar coins bearing the likeness of the late Speaker of the House, Sam Rayburn.

The amendment specifies that these coins are not to be put into general circulation but are to be sold to the Sam Rayburn Library for its use. These coins would be commemorative coins intended for sale by the library at a price above their face value, with the proceeds to be derived therefrom accruing to the library's benefit. The purpose of the bill before the committee relates to the issuance and minting of public currency and the disposal of certain previously minted coins withdrawn from circulation and now held by the Secretary of the Treasury.

The Chair does not think the issuance of coins which, although they might eventually find their way into public circulation, are designed and minted primarily for a private purpose is a subject that is germane to that under consideration. . . .

8. Jere Cooper (Tenn.).

9. H.R. 14127 (Committee on Banking and Currency).

10. 115 CONG. REC. 30101, 91st Cong. 1st Sess., Oct. 15, 1969.

11. Spark M. Matsunaga (Hawaii).

—*Amendment Requiring Excess Silver To Be Retained for Later Use in Commemorative Coin*

§ 5.28 To a bill providing for the minting of public coinage, an amendment requiring excess silver to be retained in the Treasury for use in a commemorative coin to be issued for the American bicentennial celebration was held to be not germane.

In the 91st Congress, during consideration of certain Coinage Act amendments,[12] the following amendment was offered:[13]

> Amendment offered by Mr. [James A.] McClure [of Idaho]: Page 5, immediately after line 9, add the following:
>
> Sec. 7. Any silver held by the Treasury in excess of that needed to complete the minting and issuing of any coin under this act shall be retained for use in a commemorative coin to be issued in conjunction with the bicentennial celebration of the United States in 1976.

Responding to a point of order made by Mr. William A. Barrett, of Pennsylvania, Mr. McClure stated:

> Mr. Chairman, there is a distinction between this amendment and the one that was just offered by the gentleman from Texas [Mr. Roberts] in that his called for the minting of a specific commemorative.[14] This amendment is designed to prevent the disposition of the silver by the Treasury Department. . . . This is not to authorize the minting of the coin but to direct the Treasury with respect to the disposition of this silver at the present time.

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

> [The amendment] is not in keeping with the purpose of the bill before the committee and therefore the Chair sustains the point of order.

Bill Providing for Fair Labor Standards for Wages and Hours—Amendment To Establish Committee To Investigate Social and Other Factors Relevant To Labor Standards

§ 5.29 To a bill providing for the establishment of fair labor standards in industry by providing for minimum wages and maximum hours, an amendment in the nature of a substitute proposing that a joint executive and congressional committee be established to examine possible legislative remedies and to investigate social, economic and legal factors rel-

12. H.R. 14127 (Committee on Banking and Currency).
13. 115 Cong. Rec. 30101, 91st Cong. 1st Sess., Oct. 15, 1969.
14. See the discussion of the Roberts amendment at § 5.27, supra.
15. Spark M. Matsunaga (Hawaii).

evant to establishment of labor standards was held to be not germane.

In the 75th Congress, during consideration of the Wages and Hours Bill,[16] an amendment in the nature of a substitute was offered which stated in part:[17]

> *Resolved,* etc., That a commission . . . is hereby . . . directed to be established, and it shall be the duty of the said commission to explore and examine all the fundamental aspects and the potential field of legislative regulation or remedy that may be available or attainable looking to the objective of abolishing or ameliorating excessive and oppressive hours of labor, [low] wages (and the like). . . .
>
> *Resolved,* That the said commission, in submitting its findings, shall include as exhaustive report as possible on the social, economic, and legal factors involved in the problem. . . .

Mr. Sam Rayburn, of Texas, raised the point of order that the amendment was not germane.[18] In defending the amendment, the proponent, Mr. Robert L. Bacon, of New York, stated:

> Mr. Chairman, the substitute which I have offered has the same objective as the pending bill. . . .

Mr. John J. O'Connor, of New York, stated, in response to Mr. Bacon:

> Of course, there is quite a lot of difference between the objective of a bill where you undertake legislation and the objective of an investigation which is preliminary to any legislation, if ever.

The Chairman,[19] in sustaining the point of order, cited the principle that "to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane."

Parliamentarian's Note: Two rulings during consideration of the same bill took a liberal view of the requirement of the germaneness rule with respect to amendments which use different approaches to the achievement of the objectives of the bill. On Dec. 15, 1937, it was held that, where a bill concerned the determination of minimum wages and maximum hours in industry by an independent board exercising broad discretionary powers, an amendment in the nature of a substitute which provided that such determination be made by a division newly established in the Department of Labor was germane; and a further substitute amendment proposing to fix minimum wages and maximum hours in specific terms without resort to the exercise of discretion by any agency

16. S. 2475 (Committee on Labor).

17. 82 CONG. REC. 1679, 1680, 75th Cong. 2d Sess., Dec. 16, 1937.

18. *Id.* at p. 1680.

19. John W. McCormack (Mass.).

was held to be germane to the amendment in the nature of a substitute. See the proceedings of Dec. 15, 1937, with respect to S. 2475, discussed in § 6.23, infra.

Provisions Requiring Registration and Disclosure by Lobbyists—Amendment Requiring Identification Tags

§ 5.30 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists but not the regulation of their activities, an amendment requiring lobbyists within a certain distance of the House and Senate Chambers to wear tags displaying their names and affiliations was construed as a further information disclosure requirement and was held germane.

On Sept. 28, 1976,[20] during consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole, the following amendment to the pending amendment in the nature of a substitute was held germane:

> MR. [GARRY] BROWN of Michigan: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Brown of Michigan to the amendment in the nature of a substitute offered by Mr. Bennett: On page 5 line 20 strike the period and insert a colon. On page 5 following line 20, insert the following: *Provided however*, That any officer, agent or employee of an organization regulated as a lobbyist by this Act who influences, or attempts to influence, any Member of Congress with respect to any legislative matter, shall prominently display on his or her person an identification name tag, stating in clearly discernible print, his or her full name and the organization he or she represents; said name tag shall be printed in not less than 24 point type; *Provided further however*, This requirement shall only be applicable to those persons who influence, or attempt to influence, Members within 50 feet of any entrance to either Chamber of the Congress while such is in session. . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I make a point of order against the amendment because I do not think it has any relevancy to the bill.

The distance of how far away one is or whether he or she is wearing a badge of 24-point type has nothing to do with the bill. There are a lot of things it is pertinent to, but not that. . . .

MR. BROWN of Michigan: . . . I respectfully disagree with the gentleman from Florida (Mr. Bennett).

This is a disclosure bill. We require people to register and to identify themselves. It seems to me that if we are going to have a piece of disclosure legislation that is effective, we ought to be able to associate names and faces; and that is all that this amendment does.

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20. 122 CONG. REC. 33082, 94th Cong. 2d Sess.

It just implements the disclosure requirements of this legislation. . . .

THE CHAIRMAN:[21] The Chair is ready to rule.

The Chair has examined this amendment, and it is not the same as the one on which the Chair ruled before.

The Chair would have to say that this amendment would seem to have as its purpose the disclosure of information by lobbyists and to come within the fundamental purposes of the amendment to which it has been offered.

Therefore, the Chair overrules the point of order.

—Amendment Placing Ceiling on Contributions to Federal Officials

§ 5.31 To an amendment requiring registration and public disclosure by lobbyists but not regulating or prohibiting their activities, an amendment placing a ceiling on their monetary contributions to federal officials is not germane.

On Sept. 28, 1976,[22] during consideration of the Public Disclosure of Lobbying Act of 1976[23] in the Committee of the Whole, it was demonstrated that the fundamental purpose of an amendment must relate to the fundamental purpose of the proposition to which it is offered when a point of order against the following amendment was sustained:

MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 20, immediately after line 13, insert the following new subsection:

"(e)(1)) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided* That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further*, That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order against the amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), lies, I think, because the gentleman's amendment violates the central purpose of the proposed

21. Richard Bolling (Mo.).

22. 122 CONG. REC. 33085, 94th Cong. 2d Sess.

23. H.R. 15.

24. Richard Bolling (Mo.).

legislation and that is to provide a method of lobbying disclosure and not in any wise, Mr. Chairman, regulating amounts or providing any ceiling or floor or anything else but disclosure.

The amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), clearly violates the intent of the statute in that it imposes duties upon the Comptroller General that would not otherwise be imposed by this statute, or duties of a different kind.

It imposes a different penalty that would be imposed than otherwise in this statute. It is not clear whether it is a civil or a criminal penalty.

For all of these reasons, Mr. Chairman, I make a point of order against the amendment. . . .

MR. MIKVA: Mr. Chairman, I am not sure what my distinguished colleague on the Committee on the Judiciary is referring to, but there is nothing in this amendment that talks about the Comptroller General. He may be a little precipitous about something else. What this says, very simply, is that there ought to be a $100 limitation on the amount lobbyists can give as gifts. It excludes honoraria; it excludes political contributions; it excludes all of the nonreportable items. The rules now existing in this House of Representatives—already the Rules of this House—make it clear that no gifts of any substantial value shall be given by a lobbyist to a Member. What this does is define that substantial interest in terms of $100. It is put in the sanctions section, and it deals with the other sanctions that are already in the bill. . . .

MR. FLOWERS: Mr. Chairman, might I be heard one moment further here on the point of order?

Mr. Chairman, the gentleman extends the bill much further than it is already intended, in that he says:

That, for the purposes of this limitation—

> And again a limitation which is not a part of the purpose of the bill—
>
> —all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization.

This is a concept not within the proposed legislation, and we think, Mr. Chairman, clearly that this does extend the purpose of the legislation far beyond that of the substitute or H.R. 15, as amended. We feel that the point of order ought to be sustained.

THE CHAIRMAN:[24] The Chair is ready to rule.

For the reason first stated by the gentleman from Alabama and by the Chair in an earlier ruling on the Ashbrook amendment, the point of order is sustained.

—Amendment Prohibiting Lobbying Within Certain Distances of Congressional Chambers

§ 5.32 To an amendment in the nature of a substitute whose fundamental purpose is to require registration and public disclosure by persons who lobby before Congress and the executive branch, but not seeking to regulate or prohibit their activities, an

24. Richard Bolling (Mo.).

amendment prohibiting lobbying within a certain distance of the Chambers of the House and Senate is not germane.

During consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole on Sept. 28, 1976,[25] a point of order against the following amendment was sustained:

> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Ashbrook to the amendment in the nature of a substitute offered by Mr. Bennett: On page 5, line 20 strike the period and insert a colon. On page 5, following line 20 insert the following new language: "*Provided however,* That no officer, agent, or employee of an organization defined as a lobbyist by this Act may lobby on any legislative matter within one hundred feet of either Chamber of the Congress when either body of said Congress is in session;". . .
>
> MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, I raise the point of order that the gentleman's amendment is not germane to the main purpose of the bill, which is public disclosure of public activities and not a prohibition of lobbying activities. I would also suggest to the Chair in raising my point of order to the gentleman's amendment that additional duties hereunder would be imposed on the Comptroller General than otherwise would be imposed upon him. For that purpose it ought to be also considered nongermane, and the point of order ought to be sustained. . . .
>
> MR. ASHBROOK: . . . I fail to see how the amendment would add additional duties to the Comptroller General. The amendment is simply a statement of exception to the various provisions we have. I do not see it as broadening the coverage of the act. . . .
>
> THE CHAIRMAN:[1] The Chair is ready to rule.
>
> The Chairman would like to read from the report of the committee on the bill which the Chair believes properly characterizes the Bennett amendment as well. On page 8, in the middle of the page, under the title "Purpose," as the gentleman from Alabama (Mr. Flowers) indicated:
>
> > The purpose of H.R. 15, as amended—
>
> And here the Chair would add the words "and of the Bennett amendment"—
>
> > is to replace the present lobbying disclosure law with a comprehensive new statute that specifies which organization must register as lobbyists and what information they must publicly disclose. It does not in any manner seek to regulate or prohibit lobbying itself.
>
> The Chair agrees with the statement of purpose made in the report and in the statement of the gentleman from Alabama.
>
> Therefore, the Chair thinks that the amendment offered by the gentleman

25. 122 CONG. REC. 33070, 33071, 94th Cong. 2d Sess.

1. Richard Bolling (Mo.).

from Ohio (Mr. Ashbrook) goes well beyond the fundamental purpose of the basic amendment in the nature of a substitute offered by the gentleman from Florida, and attempts to directly regulate lobbying activities. And the Chair sustains the point of order.

Bill To Prohibit Off-shore Gambling—Amendment To Prohibit Transportation of Gambling Devices in Interstate Commerce

§ 5.33 To a bill to prohibit off-shore gambling establishments, a matter of admiralty and maritime jurisdiction, an amendment relating to transportation of gambling devices in interstate commerce was held to be not germane.

In the 76th Congress, during consideration of a bill[2] as described above, the following amendment was offered:[3]

Amendment offered by Mr. [Lee E.] Geyer of California: . . .

Page 2, after line 15, insert:

Sec. 287B. Whoever shall knowingly transport . . . in interstate . . . commerce any . . . mechanical device designed . . . for the playing of any game of chance . . . shall be guilty of a felony. . . .

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

MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I make a point of order against the amendment on the ground that it is not germane. The bill under consideration concerns the admiralty and maritime jurisdiction of the United States, whereas the amendment deals with matters of interstate commerce, the transportation or carriage of so-called roulette wheels, marked dice, and other paraphernalia used in games of chance across State borders. For this reason it is not germane to the bill.

The Speaker,[4] adopting the reasoning of Mr. Celler, sustained the point of order.

Provision Authorizing Funds for Research on Nuclear Winter—Amendment To Designate by Specified Senators' Names Any Science Scholarships Established Under Bill

§ 5.34 To an amendment to the Department of Defense authorization bill, authorizing funds for the Departments of Defense and Energy to conduct research on "nuclear winter" and to contract therefor with the National Academy of Sciences, an amendment designating by the names of specified Senators any science and mathematic scholarships or fellowship programs established during the 99th Con-

2. H.R. 7235 (Committee on the Judiciary).

3. 84 CONG. REC. 11073, 76th Cong. 1st Sess., Aug. 4, 1939.

4. William B. Bankhead (Ala.).

gress under the bill was held not germane, as unrelated to the narrow scope of the primary amendment.

On Aug. 15, 1986,[5] during consideration of H.R. 4428 in the Committee of the Whole, the Chair sustained a point of order against an amendment, thus demonstrating that an individual proposition may not be amended by an unrelated individual proposition. The proceedings were as follows:

Modification to the amendment offered by Mr. Wirth: Modify the amendment to read as follows: At the end of division C (page 353, after line 10), add the following new title: . . .

SEC. 3302. NUCLEAR WINTER STUDY AND REPORT.

(a) Study.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) Report.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.

The Clerk read as follows:

Amendment offered by Mr. Foley to the amendment offered by Mr. Wirth, as modified, as amended:1

SEC. 4005. NAME OF NEW SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM.

Any program established by this Act during the 99th Congress to establish a foundation in the executive branch of the Government to award scholarships and fellowships for study in the fields of science and mathematics in order to further scholarship and excellence in education shall be named for Barry Goldwater, Senator from the State of Arizona, and Henry M. "Scoop" Jackson, late a Senator from the State of Washington. Any such foundation, and any board of trustees, fund, or other entity established in connection with such foundation, shall include in its name the names of Barry Goldwater and Henry M. "Scoop" Jackson. . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: Mr. Chairman, I would insist on my point of order on the grounds stated, that it is beyond the scope and nongermane. I state my reluctance in insisting on this point of order, but I think it is proper. . . .

THE CHAIRMAN PRO TEMPORE:[6] The Chair is constrained to observe that the pending amendment deals with nuclear winter research, and that the subject matter of the amendment offered by the gentleman from Washington has little relevancy to the pending amendment.

For that reason, the Chair sustains the point of order of the gentleman from Alabama [Mr. Dickinson].

5. 132 CONG. REC. 22076, 99th Cong. 2d Sess.

6. Thomas J. Downey (N.Y.).

§ 6. Amendment Accomplishing Result of Bill by Different Method

Formerly, on at least one occasion, it was held that, in determining a question of the germaneness of an amendment to a proposition, the Chair looks solely to the result sought to be achieved by each, and not to the method of accomplishing that result.[7] More recent decisions, however, have tended toward the construction that, to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended.[8]

The applicable principle at present, therefore, is that, to a proposition to accomplish a certain purpose by one method, an amendment seeking to achieve the same purpose by another closely related method is germane. Thus, to a bill proposing to regulate certain activities through the use of a governmental agency, an amendment proposing to regulate such activities through the use of a different governmental agency may be germane.[9] Conversely, one method of attaining an object is not germane to another method of attaining such object unless the two are closely related.[10] Where, for example, a bill proposes regulation of certain activities through the use of a governmental agency, an amendment substituting a different agency is not germane if, in addition, it authorizes such agency to use new and unrelated methods in achieving the purposes of the bill.[11]

The germaneness of an amendment which takes a different ap-

7. The ruling in this case was that, to a Senate amendment providing for the issuance of national bank notes to increase the circulating medium, an amendment proposing to restore and maintain the purchasing power of the dollar by the purchase and sale of bonds by the Federal Reserve banks was germane. See 75 CONG. REC. 15469–73, 72d Cong. 1st Sess., July 15, 1932 (Speaker John N. Garner [Tex.]).

8. See § 6.35, infra.

9. See § 7, infra.

10. 81 CONG. REC. 9287, 9288, 75th Cong. 1st Sess., Aug. 18, 1937. The Chair (Jere Cooper [Tenn.]) on this occasion held that, to a bill providing financial assistance to states and political subdivisions thereof for the elimination of unsafe and unsanitary housing conditions, an amendment proposing to amend the National Housing Act in order to authorize the insuring of loans on multi-family dwellings was not germane.

11. See § 7, infra.

proach from that taken by the bill in achieving the bill's objectives, may depend partly on how broadly those objectives are conceived. For example, a bill with the broad purpose of combating unemployment may admit a number of quite dissimilar approaches. A ruling that is significant for the liberal approach that may be taken in this regard was to the effect that where a bill provided for the establishment of minimum wages and maximum hours in industry by the exercise of broad discretionary powers granted to an independent board in the furtherance of that objective, an amendment proposing to fix minimum wages and maximum hours in specific terms without resort to such board was germane.[12]

Rulings have indicated that, to a proposition to accomplish a certain purpose by one method, a proposition to achieve the same purpose by another closely related but more restricted method is germane.[13] Conversely, to a provision in a bill designed to accomplish a purpose by one method, an amendment to accomplish that purpose by a method broader in scope is not germane.

In summary, the fact that a bill and amendment have a similar purpose and goal is not conclusive in judging the germaneness of the amendment. Generally, to a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane; and it is probably not too strict to say that, where the amendment deals with a subject to which there is no reference in the bill,[14] or which is within the jurisdiction of another committee than the scheme proposed by the bill or pending text,[15] a point of order based on clause 7, Rule XVI may be sustained.

Antirecession Measures: Bill Providing Grants for Public Works Construction—Amendments Containing Revenue-Sharing Provisions To Assist Local Governments in Maintaining Public Services

§ 6.1 To be germane, an amendment must not only seek to accomplish the same result as the matter proposed to be amended but must contemplate a method of achieving that end which is closely related to the method contained in the bill.

12. See § 6.23, infra.

13. See §§ 6.4, 6.46, infra.

14. See §§ 6.6, 6.35, infra.

15. See § 6.1, infra.

On June 23, 1976,[16] in proceedings relating to the conference report on S. 3201, to amend the Public Works and Economic Development Act, a House amendment was under consideration which had been reported from the Committee on Public Works and Transportation and which consisted of one title relating to grants to state and local governments for local public works construction projects. A new title contained in the Senate bill and in the conference report providing grants to state and local governments to assist them in providing public services was held not germane to the House amendment, as proposing a revenue-sharing program within the jurisdiction of the Committee on Government Operations, and not closely related to the public works construction provisions contained in the House version.

The precedent for the above ruling had been set on Jan. 29, 1976.[17] On that date, H.R. 5247, a bill reported from the Committee on Public Works and Transportation, was under consideration which similarly consisted of one title relating to grants to state and local governments for local public works construction projects. A new title added by the Senate and contained in a conference report provided grants to state and local governments to assist them in providing public services. The proceedings relating to the point of order made in the House against the title added by the Senate were as follows:

> MR. [ROBERT E.] JONES, JR. of Alabama: Mr. Speaker, I call up the conference report on the bill (H.R. 5247)) to authorize a local public works capital development and investment program, and ask unanimous consent that the statement of the managers be read in lieu of the report.
>
> The Clerk read the title of the bill. . . .
>
> MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I make a point of order that title II of the conference report to H.R. 5247 constitutes a nongermane Senate amendment to the House-passed bill and is in violation of clause 4 of rule XXVIII of the House rules. . . .
>
> Mr. Speaker, when H.R. 5247 was before the House in May, it was for the sole purpose of authorizing appropriations for the construction of public works projects to help alleviate unemployment. Along with 312 other Members of the House, I supported that legislation.
>
> However, when the bill was before the Senate, title II, an entirely different and unrelated matter, was added. Title II is not a public works

16. See Sec. 26.23, infra, for discussion of the proceedings of June 23, 1976.

17. 122 CONG. REC. 1582, 94th Cong. 2d Sess.

18. Carl Albert (Okla.).

provision. Title II simply authorizes appropriations for the basic day-to-day support of the budgets of State and local governments. It is, in short, a revenue sharing provision.

Mr. Speaker, you, yourself, must have recognized this as revenue sharing legislation when you referred identical legislation introduced in the House exclusively to the Government Operations Committee. Title II clearly falls within the jurisdiction of the Government Operations Committee, not the Public Works Committee.

Even in the Senate, this provision came out of the Government Operations Committee, not the Public Works Committee. Perhaps if the Senate had a rule on germaneness as we do, we would not be facing this problem right now.

Had title II been offered in the House when this bill was before us on the floor, it would clearly have been subject to a point of order as nongermane under clause 7 of rule XVI. It, therefore, continues to be nongermane under clause 4 of House rule XXVIII dealing with conference reports.

Mr. Speaker, I recognize that committee jurisdiction is not the exclusive test of germaneness. I do not base my point of order on this issue alone. This provision simply has nothing to do with public works, the only matter which was before the House in H.R. 5247. To the contrary, the use of title II funds for construction purposes is specifically prohibited. Furthermore, there is not one word in title II to guarantee that the funds will be used to stimulate employment, the primary purpose of H.R. 5247.

Mr. Speaker, title II does not come within the jurisdiction of the Public Works Committee. It does not constitute public works or emergency employment legislation, and it could not have been incorporated into the bill when it was previously before the House. For these reasons, I respectfully request that my point of order be sustained. . . .

MS. [BELLA S.] ABZUG [of New York]: . . . There has been a certain confusion presented here, and that is in the meaning of the rule which this House passed and which my esteemed chairman, the gentleman from Texas (Mr. Brooks) referred to. Clause 4, rule XXVIII, was passed by this House in 1970 and 1972. This procedure which the House adopted in 1972 was intended to do away with the situation wherein the Senate . . . attached to a House-passed bill matter that was wholly unrelated to the subject on which the House had acted. . . .

The bill as reported from the conference does not contain provisions whose subject and substance is different. Title I of the conference report version is almost identical with the House-passed bill. Title II, upon which there is now brought a question of a separate vote, is the conference version and is also directed, as is title I, to the question of assistance in unemployment, and is so aimed at correcting it at the local level. . . . The allocation of funds is dependent on the extent to which unemployment in any area exceeds the national average, so that both the public works, title I, and title II, countercyclical assistance, have the same, identical goal. That is, to ease the current recession. . . .

MR. [JAMES C.] CLEVELAND [of New Hampshire]: . . . The fundamental method used in the original bill to

stimulate the economy is to provide for the construction of public works projects. The methods used in the amendment provide for the stabilization of budgets of general purpose governments, the maintenance of basic services ordinarily provided by the State and local governments, emergency support grants to State and local governments to coordinate budget-related actions with the Federal Government. Clearly, the methods provided for in the Senate amendment are on their face so different from those in the House bill as to preclude their being considered as the same or closely allied. For this reason, then, the amendment is in violation of clause 4, rule XVI.

THE SPEAKER:[18] The Chair is ready to rule.

The gentleman from Texas (Mr. Brooks) makes the point of order that title II of the conference report, which was contained in the Senate amendment to H.R. 5247, would not have been germane if offered as an amendment in the House and is thus subject to a point of order under rule XXVIII, clause 4.

The test of germaneness in this case is the relationship between title II of the conference report and the provisions of H.R. 5247 as it passed the House. The Chair believes that had title II been offered as an amendment in the House it would have been subject to a point of order on two grounds.

First, one of the requirements of germaneness is that an amendment must relate to the fundamental purpose of the matter under consideration and must seek to accomplish the result of the proposed legislation by a closely related means—Deschler's Procedure, chapter 28, sections 5 and 6. The fundamental purpose of the bill when considered by the House was to combat unemployment by stimulating activity in the construction industry through grants to States and local governments to be used for the construction of local public works projects.

While the fundamental purpose of title II of the conference report is related to the economic problems caused by the recession, specifically unemployment, the means proposed to alleviate that problem are not confined to public works construction. Title II authorizes grants to States and local governments to pay for governmental services such as police and fire protection, trash collection and public education. The managers, in their joint statement, specifically state that the grants under title II are for the "maintenance of basic services ordinarily provided by the State and local governments and that State and local governments shall not use funds received under the act for the acquisition of supplies or for construction unless essential to maintain basic services." An additional purpose of this title is to reduce the necessity of increases in State and local government taxes which would have a negative effect on the national economy and offset reductions in Federal taxes designed to stimulate the economy. The Chair therefore finds that the program proposed by title II of the report is not closely related to the method suggested in the House version of the bill.

Second, title II of the report proposes a revenue sharing approach to the problems faced by State and local governments during the present recession.

18. Carl Albert (Okla.).

General revenue sharing is a matter within the jurisdiction of the Committee on Government Operations under rule X, clause 1(h)(4), and a bill, H.R. 6416, in many respects identical to title II of the report, was introduced in the House on April 28, 1975, and referred to that committee. While committee jurisdiction is not the exclusive test of germaneness—Deschler's Procedure, chapter 28, section 4.16—it is a relevant test where, as here, the scope of the House bill is within one committee's jurisdiction. The precedents indicate that as a bill becomes more comprehensive in scope the relevance of the test is correspondingly reduced. The bill, as it passed the House, was not a comprehensive antirecession measure overlapping other committees' jurisdictions, but proposed a specific remedy, local public works construction assistance, to a complex problem. Given the limited scope of the bill as it passed the House, the Chair finds the jurisdiction test quite persuasive in this instance.

For the reasons just stated, the Chair sustains the point of order.

Antirecession Assistance to States: Different Distribution Formula

§ 6.2 To a portion of a committee amendment in the nature of a substitute amending a section of existing law to authorize antirecession assistance to state governments based on state unemployment rates, an amendment amending the same section of existing law to provide a different distribution of such grants based on state and local tax efforts, but retaining unemployment rates as the criteria for such grants, was held germane.

During consideration of the Intergovernmental Antirecession Assistance Act of 1977[19] in the Committee of the Whole, it was demonstrated that to a proposition to accomplish a result by one method, an amendment to achieve the same fundamental purpose by another closely related method is germane when the Chair overruled a point of order against the amendment described above. The proceedings of May 13, 1977,[1] were as follows:

THE CHAIRMAN PRO TEMPORE:[2] Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows: . . .

Sec. 2. (a) Subsection (b) of section 202 of the Public Works Employment Act of 1976 (42 U.S.C. 6722(b)) is amended to read as follows:

"(b) Authorization of Appropriations.—Subject to the provisions of

19. H.R. 6810.

1. 123 CONG. REC. 14506, 14603, 14604, 95th Cong. 1st Sess.

2. Elizabeth Holtzman (N.Y.).

subsections (c) and (d) of this section, there are authorized to be appropriated for each of the five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977) for the purpose of payments under this title—

"(1) $125,000,000, plus

"(2) $30,000,000 multiplied by the number of whole one-tenth percentage points by which the rate of seasonally adjusted national unemployment for the most recent calendar quarter which ended three months before the beginning of such quarter exceeded 6 per centum.". . .

Sec. 3. (a) Paragraph (2) of section 203(b) of the Public Works Employment Act of 1976 (42 U.S.C. 6723(b)(2)) is amended to read as follows:

"(2) Applicable state percentage.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the division of—

"(A) the product of—

"(i) the State excess unemployment percentage, multiplied by

"(ii) the State revenue sharing amount

"(B) by the sum of such products for all the States,

except that, for purposes of subparagraph (A), the product for a State as defined in paragraph (3)(A)(ii) shall be deemed to be equal to the product of the population of that State multiplied by lowest per capita factor of any State (as defined in paragraph (3)(A)(i)) determined in accordance with paragraph (3)(E).". . . .

MR. [LES] ASPIN [of Wisconsin]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Aspin: Page 26, strike out line 1, and everything that follows through page 28, line 10, and insert in lieu thereof the following:

Sec. 3. (a) Section 203 of the Public Works Employment Act of 1976 is amended to read as follows:

"ALLOCATION

"Sec. 203. (a) In General.—There shall be allocated for each State for each calendar quarter out of amounts appropriated out of section 202(b) for that quarter, an amount which bears the same ratio to the amount appropriated under that section for that period as the amount allocable to the State under subsection (b) bears to the sum allocable to all States under such subsection.

"(b) Determination of Allocable Amount.—

"(1) In general.—For the purposes of subsection (a) the amount allocable to a State under this subsection for any calendar quarter is the amount which bears the same ratio to the amount appropriated as—

"(A) the aggregate taxes of that State, multiplied by the relative tax effort factor of that State, bears to—

"(B) the sum of the products determined under subparagraph (A) for all States,

except that—

"(i) the product determined under subparagraph (A) for the State described in subsection (e)(1)(B) shall be deemed to be equal to two-thirds of the product of the aggregate taxes of that State, multiplied by the relative tax effort factor of that State; and

"(ii) the product determined under subparagraph (A) for each State described in subsection (e)(1)(C) shall be deemed to be equal to the population of such State multiplied by the lowest per capita product (as determined under paragraph (6)) of any of the States described in subsection (e)(1)(A).

MR. [BENJAMIN S.] ROSENTHAL [of New York]: Madam Chairman, I make

a point of order against the amendment. . . .

Madam Chairman, the amendment changes the formula in a bill that is described as establishing a new title to the State and Local Fiscal Assistance Act of 1972.

In the present law, which is commonly known as the countercyclical bill, the Congress enunciated as among its purposes to deal with recession phenomena, and the act is cited as the Intergovernmental Antirecession Assistance Act of 1977. . . .

The formula for State percentages and allocations under the existing bill is based on unemployment in given areas of the country. The bill is founded on a response to unemployment in communities around the country and, thus, the applicable State percentages are based on unemployment.

The amendment offered by the gentleman from Wisconsin (Mr. Aspin) changes the very foundation of that formula and takes it away from the unemployment underpinning and changes it to something else. The gentleman wants to change this bill that is for the local fiscal assistance based on the Public Works Employment Act of 1976 and put in a new basis for allocation of the formula.

I am not sure I know what his basis is, whether it is the size of the community, the size of the people in the community, or the dress of the people in the community, but it has nothing to do with unemployment upon which this bill is founded.

The gentleman also has other irrelevant bases for changing the formula.

Thus I would urge, Madam Chairman, that a point of order lies against the amendment offered by the gentleman from Wisconsin (Mr. Aspin). . . .

MR. ASPIN: I believe that the points raised by the gentleman from New York (Mr. Rosenthal) clearly do not constitute a point of order.

The purpose of this bill is to provide countercyclical funds. The trigger in the bill is still unemployment. The amounts of money in this bill are determined by the unemployment rate. Beginning October 1, 1977, the amount of money available for distribution to States and localities will be determined upon the unemployment rate. How many percentages or how many tenths of a percent it is above 6 percent; so the unemployment principle is still in the bill.

Once the percent has been determined this formula does indeed change the distribution formula and changes it in a way in which I believe it is much better—as I will explain when I have a chance to talk about my amendment—because the unemployment rate is already below the national average and is almost useless. . . .

MR. ROSENTHAL: . . . Very briefly, Madam Chairman, the amendment offered by the gentleman from Wisconsin (Mr. Aspin) is founded on the tax effort of communities. It is to that response that I feel and believe a point of order would lie because it does not deal with the basic fundamentals of the existing law which is based on the percentage of unemployment in various communities. . . .

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The Chair finds, first, that the amendment offered by the gentleman

from Wisconsin (Mr. Aspin) amends the same section of the law as the committee amendment; and, second, finds that the amendment is germane under the precedents since it accomplishes the same result by a different but related method. The use of a different method to accomplish the same result does not in any way offend the germaneness doctrine. The amendment does not remove the unemployment factor which triggers the authorization in the committee bill. For that reason the point of order is overruled.

Aid to States for Public Works: Grants Proposed Instead of Loans

§ 6.3 To a section of a bill authorizing "loans or advances" to states for certain public works, an amendment proposing that such authorization should be for "grants" instead of loans or advances was held to be not germane.

On Aug. 31, 1944,[3] the following proposition was being considered:

> In order to encourage States and other non-Federal public agencies to make advance provision for the construction of public works . . . the Federal Works Administrator is hereby authorized to make . . . loans or advances to the States and their agencies and political subdivisions . . . to aid in financing (certain costs) preliminary to the construction of such public works. . . .

An amendment was offered as follows:[4]

> On page 40, line 15, change the period to a colon and add the following: "Provided further, That no grant shall be in excess of 50 percentum of the estimated planning cost for any individual project"; and, on the same page strike out the words "loan or advances" appearing in lines 6, 7, 13, 16, and 25, and insert the word "grants" in lieu thereof.

In response to a point of order, the proponent of the amendment stated:

> Mr. Chairman, the title of this section is "Public Works," and it is stated: "In order to encourage States and other non-Federal public agencies to make advance provision for the construction of public works" in which case certain loans or advances might be given.
>
> It seems to me it is thoroughly germane to encourage the States and other non-Federal agencies public in nature and that grants be given in aid of these public works.

The Chairman[5] ruled as follows on the point of order:[6]

> In the opinion of the Chair there is a very great difference between loans

3. 90 Cong. Rec. 7471, 78th Cong. 2d Sess. Under consideration was S. 2051 (Committee on Ways and Means).

4. 90 Cong. Rec. 7472, 78th Cong. 2d Sess., Aug. 31, 1944.

5. Fritz G. Lanham (Tex.).

6. 90 Cong. Rec. 7472, 7473, 78th Cong. 2d Sess., Aug. 31, 1944.

and advances and grants. The pending committee amendment refers only to loans and advances. In the opinion of the Chair, the provision for grants would not be germane to the committee amendment, and for that reason the Chair sustains the point of order.

Loan Guarantees to States and Cities—Direct Loan to One Municipality

§ 6.4 A bill designed to accomplish a given result by one method may be amended by a substitute designed to accomplish the same result by a different but closely related method; thus, to a bill providing loan guarantee programs for all states and subdivisions, an amendment in the nature of a substitute providing direct loans (limited to New York) was held germane.

During consideration of the Intergovernmental Emergency Assistance Act[7] in the Committee of the Whole on Dec. 2, 1975,[8] the Chair overruled a point of order against the amendment described above, demonstrating that a general proposition may be amended by a proposition more limited in nature, if it is within the same class. The proceedings were as follows:

MR. J. WILLIAM STANTON [of Ohio]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. J. William Stanton: Strike all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the New York City Seasonal Financing Act of 1975".

Sec. 2. The Congress makes the following findings and declarations:

(1) It is necessary for the city of New York to obtain seasonal financing from time to time because the city's revenues and expenditures, even when in balance on an annual basis, are not received and disbursed at equivalent rates throughout the year. . . .

Sec. 4. (a) Upon written request of the city or a financing agent, the Secretary may make loans to the city . . . subject to the provisions of this Act. . . .

Sec. 6. (a) A loan may be made under this Act only if the Secretary determines that there is a reasonable prospect of repayment of the loan in accordance with its terms and conditions. In making the loan, the Secretary may require such terms and conditions as he may deem appropriate to insure repayment. The Secretary is authorized to agree to any modification, amendment, or waiver of any such term or condition as he deems desirable to protect the interests of the United States.

(b) At no time shall the amount of loans outstanding under this Act exceed in the aggregate $2,300,000,000. . . .

7. H.R. 10481.

8. 121 CONG. REC. 38179, 38180, 38181, 94th Cong. 1st Sess.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order against the present consideration of the substitute for the bill on the grounds that it is not germane as an amendment to this particular legislation. For authority I cite chapter 28, section 6.1 of Deschler's Procedure, which says:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended. (116 CONG. REC. 28165, 91st Cong. 2d Sess., Aug. 11, 1970.)

Also I cite chapter 28, section 6.2 of Deschler's Procedure, which says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method not contemplated by the bill, is not germane. (113 Cong. Rec. 21849, 90th Cong. 1st Sess., Aug. 8, 196.7.

Mr. Chairman, I have examined the two bills, although I am under the disability of having had the substitute amendment in my possession only for 2 hours, but title I of H.R. 10481 states first of all in its scope that the bill applies to all States and subdivisions of the United States. Until the recent unanimous-consent request by the gentleman from Washington, the bill also amended the IRS code and in one of its titles it sought to amend the U.S. Bankruptcy Act. The substitute proposes only to apply to New York City.

Title I of the bill sought to be amended creates an Intergovernmental Emergency Assistance Board to administer the legislation. There is no such creation of a Board in the substitute, but the Secretary of the Treasury is given authority to administer the legislation.

The entire thrust of the bill sought to be amended, H.R. 10481, is a guarantee of State obligations which the State issues. The entire thrust of the bill now offered by the gentleman from Ohio will direct Federal loans to two given entities, New York and New York City.

As provided in the bill which originally came before the House under the rule there was a method for avoiding default and there were eligibility requirements by which various States and subdivisions must be met and it also allowed State loans to municipalities. There are no such provisions in the substitute. It speaks only of fiscal problems of New York and New York City.

The bill before us limits guarantees to $5 billion over a 13-year period and $3 billion over a 23-year period. The substitute speaks only of $2.3 billion and creates a revolving guarantee fund over 3 years duration which is terminated in 1978, unlike the bill which is sought to be amended.

Section 111 of H.R. 10481 creates an emergency municipal debt fund. There is no such fund in the substitute. It is completely silent on that.

Section 113 of the original bill speaks of the recovery of sums loaned by the Federal Government and gets specific on remedies. The only remedy section in the substitute is the general provision speaking not at all about any specific recovery means.

Finally the original bill provides for a future audit of New York City or any

local or State government applying for these guarantees. There is absolutely no audit provision in the substitute. There is rather only the right to inspect records.

I submit under rulings of the Chair, even though the ends sought are similar, the methods are totally dissimilar and therefore the amendment is not germane. . . .

MR. J. WILLIAM STANTON: . . . The substitute under consideration deals entirely and wholly with the subject matter that has been under discussion here previously and before our committee and these had to do with New York City.

Second, Mr. Chairman, we do not in our substitute in any way expand the authority for this particular aid and in fact, Mr. Chairman, in many ways we in the substitute limit the amount of authority and amount of money that has been given under this particular substitute and in the particular section of the bill.

I think what we have in the substitute is subject matter which is germane and more limited rather than expanding the original bill. . . .

Mr. Chairman, the substitute before us consists of nothing more than a specific amendment to a general proposition. The Chairman stated that as a specific point. I do not believe that this point of order is valid.

MR. [THOMAS M.] REES [of California]: Mr. Chairman, I would like to add on this point of order as to germaneness. There are two propositions we have before us in the bill as it came out of the committee and the substitute on the floor. The substitute on the floor deals with a loan and the bill coming out of the committee is a loan guarantee; but in essence they are basically the same thing in that the only time the Federal Government would be under a liability would be if there was a default of the loan or the paper that is guaranteed by the loan guarantee. So they are essentially the same; the loan and the loan guarantee provide the exact same liability to the taxpayers and to the Federal Treasury. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule.

The gentleman from Maryland has made a point of order that the amendment in the nature of a substitute offered by the gentleman from Ohio is not germane to the bill.

Now, several points have been raised in connection with this point of order. First, the point has been made that the bill by its terms extends loan guarantees to all States and municipalities, whereas the amendment in the nature of a substitute directs itself only to the problems of the city and the State of New York. With respect to that particular point, the Chair would like to call the attention of the gentleman from California and the gentleman from Maryland to volume 8 of Cannon's Precedents, section 3004, which stands for the principle that:

> To a proposition general in its nature an amendment specific in character is germane if within the same class.

This was pointed out by the gentleman from Ohio (Mr. J. William Stanton). It goes on to state:

> To a section of the river and harbor bill making a lump-sum appro-

9. James G. O'Hara (Mich.).

priation for the maintenance of river and harbor projects an amendment designating specifically the projects on which the sum should be expended was held to be germane.

The further point is made that a different agency is involved in the carrying out of the particular program. The Chair would call the attention of the gentleman from Maryland to section 6.21, chapter 28 of Deschler's Procedure in the House of Representatives, that to a proposition to accomplish a result by regulation by a particular Government agency, an amendment to achieve the same fundamental purpose by another governmental agency was held to be in order.

Finally, with respect to the difference between the methods sought to accomplish the common result—loan guarantees in the bill and loans in the amendment, there is no quarrel, the Chair does not believe, over the applicable principles. As was pointed out by the gentleman from Maryland (Mr. Bauman) in order to be germane an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method in the bill sought to be amended. To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by another method not contemplated by the bill is not germane.

The question, therefore, is whether or not the amendment in the nature of a substitute proposes to accomplish a similar purpose by a method that is closely allied to the method encompassed in the bill. That question is a factual one of whether or not the loan mechanism in the amendment in the nature of a substitute is a closely allied manner of seeking the same end as the provisions of the bill containing the loan guarantee approach.

The Chair, after listening to the discussion of the point of order, would have to agree that the method proposed by the amendment in the nature of a substitute is closely allied to the method proposed by the bill since the concept of repayment or recoupment of Federal outlays is contained in both approaches.

The Chair therefore overrules the point of order.

Bill To Provide Assistance to States for Public Housing—Amendment Proposing Loans to Individuals for Purpose of Providing Better Privately Owned Housing

§ 6.5 To a bill providing for national assistance to states and political subdivisions thereof for the purpose of securing better public housing facilities, an amendment proposing that money should be loaned directly to individuals for the purpose of providing better privately owned housing facilities was held to be not germane.

In the 75th Congress, during consideration of a public housing bill, an amendment was offered providing that "The United States Housing Authority shall make loans to construct individual de-

tached dwellings. . . ." The following exchange centered on the question of the germaneness of the amendment to the bill:[10]

MR. [CLYDE] WILLIAMS [of Missouri]: Mr. Chairman, I make a point of order against the amendment—that it is not germane to the bill or any section in the bill. This is a public housing bill, and the amendment proposes to loan money to a private individual to build a home. . . .

MR. [PETER J.] DEMUTH [of Pennsylvania]: . . . Mr. Chairman, I offered this amendment to make a better rounded housing program. This amendment will develop more contented and better citizenry by making home ownership possible for many of those now ill-housed. . . .

Mr. Chairman, in regard to the point of order, in that this is a public housing bill and my amendment is aimed only to help the public secure better housing facilities, I contend that my amendment is germane to the purpose and intent of the bill.

THE CHAIRMAN:[11] The Chair is ready to rule.

The gentleman from Pennsylvania offers an amendment to the pending bill to which the gentleman from Missouri makes a point of order. The pending bill provides financial assistance to States and political subdivisions thereof. The amendment offered by the gentleman from Pennsylvania seeks considerably to change the purpose and scope of the bill in that it would make loans directly to individuals and provides for character loans and various other matters which, in the opinion of the Chair, are not germane to the bill.

The point of order is sustained.

Crime Control Measures: Firearm Regulation Proposed Instead of Assistance to States in Law Enforcement Research and Training

§ 6.6 To a bill designed to aid in the control of crime through research and training, an amendment aimed at the control of crime through regulation of the sale of firearms was held to be not germane.

The following exchange,[12] including the statement of objections to the proposed amendment, the response by the proponent of the amendment,[13] and the ruling of the Chairman[14] on the point of order raised against the amendment, occurred during consideration of a bill relating to law enforcement and criminal justice:

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point

10. 81 CONG. REC. 9279, 75th Cong. 1st Sess., Aug. 18, 1937. Under consideration was S. 1685 (Committee on Education and Labor).

11. Jere Cooper (Tenn.).

12. 113 CONG. REC. 21849, 90th Cong. 1st Sess., Aug. 8, 1967. Under consideration was H.R. 5037 (Committee on the Judiciary).

13. Jonathan B. Bingham (N.Y.).

14. Daniel D. Rostenkowski (Ill.).

of order against the amendment on the ground that the amendment is not germane to the bill.

Mr. Chairman, the text of the bill before the Committee of the Whole provides for Federal assistance to States and localities and improvement of law enforcement.

There is no language in the bill dealing with any Federal crime, particularly with crime involving the control of firearms.

The amendment offered by the gentleman from New York would also amend title 18 of the United States Code and create a new Federal crime relative to the interstate shipment of firearms. . . .

MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, the very first purpose of the bill before us . . . is stated in its title as follows: "To assist State and local governments in reducing the incidence of crime." . . .

My amendment proposes an additional means for carrying out the same purpose. . . .

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

The gentleman from New York [Mr. Bingham] urges that the purpose of his amendment is the same as that of the bill—to assist State and local governments in reducing the incidence of crime. But it is a well-established principle of the germaneness rule that a common purpose or objective is not conclusive when judging the germaneness of an amendment. . . .

The Chair concludes that the amendment offered by the gentleman from New York [Mr. Bingham] is on a subject not now before this Committee and therefore sustains the point of order.

Energy: Solid Waste Amendments To Bill To Conserve Fossil Fuels

§ 6.7 To a proposition seeking to accomplish a result by one general method, an amendment which might indirectly achieve that result but by an unrelated method not contemplated in the original proposition is not germane; thus, to a measure designed to regulate and promote the production, allocation and conservation of energy (primarily directed toward crude petroleum and petroleum distillates but also touching on the use of other energy sources), an amendment providing for the prohibition of the production of non-returnable beverage containers was held not to be germane where nothing in the bill pertained to the control of solid waste or the production of consumer goods.

On Dec. 14, 1973,[15] the Chair held that to an amendment in the nature of a substitute intended to accomplish the conservation of energy resources by the regulation of the production, allocation and use of those resources, an amendment

15. 119 CONG. REC. 41755, 93d Cong. 1st Sess.

in the form of a new title prohibiting the manufacture or sale of non-returnable beverage containers was not drafted to achieve the conservation of energy resources by the regulation of those resources and was not germane.

Amendment offered by Mr. Vigorito to the amendment in the nature of a substitute offered by Mr. Staggers: At the end of the bill, add a new title as follows:

TITLE III—NONRETURNABLE BEVERAGE CONTAINER PROHIBITION ACT

Sec. 301. To reduce energy waste which is caused by the production of nonreturnable containers used for the packaging of soft drinks caused by the production of nonreturnable containers used for the packaging of soft drinks and beer, and to assure energy conservation, so that the essential needs of the United States are met, by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis.

(a) The Congress finds that the utilization of returnable beverage containers would result in substantial energy savings.

(b) It is the purpose of this Act to assist in the solving of this energy situation by preventing the use and circulation of the offending types of nonreturnable containers by banning their shipment and sale in interstate commerce. . . .

Sec. 304. (a) No person shall manufacture for sale, sell, offer for sale, or introduce or deliver for introduction in interstate commerce any non-returnable container with respect to which no refundable money deposit is required from the consumer. . . .

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I make the point of order that this amendment is not germane because obviously it creates a whole new title. It does not amend any existing section of the bill.

Second, it refers to nonreturnable beverage containers. This is not mentioned in the existing substitute.

Third, in effect it constitutes an amendment to the Solid Waste Disposal Act but with regulatory effect, affecting none of the operative provisions of the amendment and any reference to energy conservation; and, finally, the amendment regulates economic relationship between the purchaser and seller of consumer goods. This is not done anywhere in H.R. 11882, except maybe one could argue the windfall profits section might affect that, which this does not purport to amend.

For these reasons, Mr. Chairman, I am constrained to object and say it is not germane. . . .

MR. [JOSEPH P.] VIGORITO [of Pennsylvania]: . . . I think this is appropriate at this time because we are trying to save energy, and we definitely will save energy here, because we are using one-way containers, about 60 or 70 billion of them every year, and increasing at the rate of 70 billion every year. One returnable container can be used 20 times. . . .

THE CHAIRMAN:[16] The Chair is prepared to rule.

For all the reasons outlined by the gentleman from Florida the amend-

16. Richard Bolling (Mo.).

ment is clearly not germane to this bill and the Chair sustains the point of order.

Energy Projects and Regulation: Achieving Purpose by Creation of a Different Agency To Administer Provisions

§ 6.8 To a proposition to accomplish a result by one method (regulation by a government agency), an amendment to achieve the same fundamental purpose by another closely related method (another type of government entity) is germane. Thus, to a bill granting broad powers to the Bonneville Power Administration relating to the use and conservation of electric power in the Pacific Northwest, and establishing a council to approve plans and projects relating to energy planning, commercial fisheries and energy conservation, an amendment in the nature of a substitute creating instead a government corporation to perform similar and related duties was held germane as accomplishing the same result as the bill by a closely related method.

On Sept. 29, 1980,[17] during consideration of the Pacific Northwest Electric Power Planning and Conservation Act[18] in the Committee of the Whole, it was demonstrated that the test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill. The proceedings were as follows:

The bill reads as follows:

H.R. 8157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act". . . .

Sec. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife and to otherwise expeditiously and effectively carry out the

17. 126 CONG. REC. 27832–52, 96th Cong. 2d Sess.

18. S. 885.

Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and. . . .

RATES

Sec. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. . . .

Amendment in the nature of a substitute offered by Mr.

Weaver: Page 1, strike all after the enacting clause and insert in lieu thereof:

Section 1. This Act, together with the following table of contents, may be cited as the "Columbia Basin Energy Corporation Act of 1980". . . .

There is created a body corporate by the name of the "Columbia Basin Energy Corporation". The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from date of the first meeting of the Board.

FUND

Sec. 22. (a) There is hereby established in the Treasury of the United States a Columbia Basin Energy Corporation Administration Fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Corporation in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Board, (3) any appropriations made by the Congress for the fund, and (4) the following which are hereby transferred to the Corporation: (A) all moneys in the Bonneville Power Administration Fund established by the Federal Columbia River Transmission System Act of October 18, 1974, (B) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Corporation, acting by and through the Board, as authorized in this Act and other Acts relating to the Columbia Basin Energy Corporation system, subject to such

limitations as may be prescribed by any applicable appropriation Act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Corporation. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the bill before us is one which arranges to deal with the Pacific Northwest power problems through giving certain power to the administrator of BPA, by arranging for the backing of the funding of construction by use of the rate of all the facilities in the area. It sets up a council relating to the planning for energy and for commercial fisheries and it deals with the use of conservation as a mechanism for substituting for the production of new power.

The gentleman's amendment, on the other hand, is violative of the rule of germaneness because it sets up a mechanism which goes beyond and is not related to the fundamental purpose of the legislation and which, in going toward the fundamental purpose of the legislation, uses mechanisms not authorized and not contemplated and not of the same character as the functions of the basic legislation.

The amendment offered by the gentleman is different in a number of noteworthy sections. For one thing, it sets up a corporation which would be appointed with the board of directors, two to be appointed by the President and a number of others to be appointed by the several States. Apart from the constitutional questions that this raises, the proposal would have a board which would essentially be a corporate body, there being no corporation in the legislation which is before the Committee at this time but, rather, only an advisory council. This board would have sweeping powers roughly equivalent to those of the Tennessee Valley Authority and which are, therefore, much more sweeping in character. The board would be able to function without regard to the civil service laws at page 10 section 5.

Furthermore, the legislation confers upon the Secretary of Labor the power to determine wage rates and so forth, and compensation, something which is not included in the legislation before us. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, another point, let me also say the amendment is not germane to the bill in that it sets up a Government corporation, a Government corporation, and none is provided for in the basic legislation. Therefore, it is not germane to the main legislation. . . .

MR. [JAMES] WEAVER [of Oregon]: . . . The bill before us sets up a council in which one provision is appointed by the Secretary of Energy, that is the so-called fallback provision, but, nevertheless, it is in the bill that the council, which, by the way, is not an advisory council, it has vast powers, vast powers, to approve the plan and projects, is nominated by the Secretary of Energy, and mine is nominated by the President. So the rule says that the fundamental purpose of the amendment must be the same. I maintain the fundamental purpose of the amendment is the same because both the bill and the substitute are trying to solve the energy problems by creating a mechanism, energy problems in the Northwest, by creating a mechanism.

Mine sets up the Columbia Basin Authority which is quite similar to the

TVA. I think my substitute is very bad, you understand. It is just that the bill is much worse. It sets up a halfway TVA.

I support very strongly something else. But if you are going to have a TVA, I offer my substitute, Mr. Chairman, as a complete TVA.

THE CHAIRMAN:[19] The Chair is prepared to rule.

The Chair would cite section 798(b) of the House Rules and Manual relating to the fundamental purpose as a test of germaneness which says in part:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that the methods contemplated were closely related and that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill.

The Chair would further cite chapter 28, section 2.22 of Deschler's Procedure, and I quote:

> The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered.

Finally the Chair would note on page 209 in Cannon's Procedure in the 75th Congress, that to a proposal to create a bureau to administer a program a substitute was held germane which established a board rather than a bureau to administer the program.

The bill under consideration utilizes the Bonneville Power Administration and a planning council, while the amendment creates a corporation.

Therefore, on the basis of the precedents cited, the Chair would overrule the point of order.

Bill Authorizing Federal Energy Research and Development Administration To Conduct Programs—Amendment Authorizing Council on Environmental Quality To Evaluate Environmental Effects of Energy Technology

§ 6.9 To a proposition to accomplish a result by one method (regulation by a governmental agency), an amendment to achieve the same fundamental purpose by another closely related method (use of another governmental agency) is germane; thus to a bill authorizing the Federal Energy Research and Development Administration to conduct a broad range of programs involving energy sources, including environmental research related to the development of energy sources, an

19. Matthew F. McHugh (N.Y.).

amendment authorizing the Council on Environmental Quality to evaluate environmental effects of energy technology was held germane.

During consideration of the Energy Reorganization Act of 1973[20] in the Committee of the Whole on Dec. 19, 1973,[1] the Chair, overruling a point of order, held the following amendment to be germane:

MR. [JOHN R.] DELLENBACK [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dellenback: Page 55, line 8, insert a new section 308 to read as follows:

"Sec. 308. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

"(1) the adequacy of attention to the probable environmental effects of the application of energy technology, and

"(2) the adequacy of attention to environmental protection in connection with energy processes.

"(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

"(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

"(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology."

Renumber the subsequent sections. . . .

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it goes beyond the authority of this committee and goes to the authority of other committees.

It seeks to authorize money, and it goes beyond the committee's authority.

I do not have the amendment in front of me, but I was listening to it as the gentleman was reading it. There are a number of things in it relative to the duties of the Council on Environmental Quality, pending the authorization for the funding of the Council on Environmental Quality, the hiring of consultants by the Council on Environmental Quality, as well as others.

It ranges all over the jurisdiction of almost every Member's committee in this Congress besides the one that is handling the bill here, and, therefore, the amendment should be stricken down as nongermane. . . .

20. H.R. 11510.

1. 119 CONG. REC. 42618, 42619, 93d Cong. 1st Sess.

MR. DELLENBACK: . . . As the Chairman is aware, the bill which is before us deals expressly with the question of the responsibilities of the Administrator engaging in and supporting environmental and other research related to the development of energy sources and utilization technologies.

I submit to the Chairman that this particular amendment, while it does, of course, on its face deal with the responsibilities of the Council on Environmental Quality, is dealing with this critically important field of environmental research, and it is within the scope of the bill. . . .

If we are going to open up the field of environmental research, as this bill does open it up, we should be able to deal with it in this way and insure that that which is done is analyzed, researched, and reported back to the Congress.

THE CHAIRMAN:[2] The Chair is prepared to rule.

The Chair feels that the language on page 33 of the bill beginning at line 16, covers this point. It reads:

> (4) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

The bill thus authorizes the Administrator of ERDA to engage in precisely the type of environmental research which the amendment would confer upon the Council.

The Chair would like to cite from the House Manual, page 445:

> To a proposition to accomplish a certain purpose by one method, an amendment to achieve the same fundamental purpose by another closely related method may be germane. Thus, to a bill proposing to regulate certain activities through the use of a governmental agency, an amendment proposing to regulate such activities by another governmental agency is germane (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905).

The Chair overrules the point of order.

Bill To Extend Federal Energy Administration—Amendment To Abolish Agency and Transfer Functions

§ 6.10 To a bill reenacting a law to extend the existence of the Federal Energy Administration, an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held to be germane.

On June 1, 1976,[3] the Committee of the Whole had under consideration a bill (H.R. 12169) reenacting a law, to extend the existence of the Federal Energy Administration. That law provided, in the absence of such extension, for termination of the agency and a consequent transfer of its functions to other agencies. An amendment in the nature of a

2. Dan Rostenkowski (Ill.).

3. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

substitute was offered which itself provided for termination of the agency and the transfer of certain of its functions to other agencies—matters deemed to be within the jurisdiction of committees other than that which reported the bill:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs . . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office of Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission. . . .

Mr. John D. Dingell, of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor. . . .

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give

notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. . . .

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, the rules of the House under rule X(i)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore, the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us, both as it was originally drawn and as it is amended, does only two things, and as amended it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Agency Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the lan-

guage of the bill. Therefore the bill before the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations. . . .

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and modify certain functions within the jurisdiction of the committee dealing with the bill on the floor. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: . . . The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514, of the Rules of the House of Representatives:

> . . . Thus 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. . . .

THE CHAIRMAN:[4] The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Mrs. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

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4. William H. Natcher (Ky.).

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—Public Law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

Energy Conservation: Different Classes of Tax Incentives

§ 6.11 To a title of a bill containing several taxes and tax credits and having energy conservation as its fundamental purpose, amended to include a section imposing a civil penalty on fuel-inefficient cars, an amendment repealing the oil depletion tax credit in order to increase federal revenues and to discourage petroleum production was held not to fall within the class of energy conservation provisions in that title and was ruled out as not germane.

During consideration of the Energy Conservation and Conversion Act of 1975[5] in the Committee of the Whole on June 13, 1975,[6] the Chair sustained a point of order against the following amendment:

> MR. [SAM] GIBBONS [of Florida]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gibbons:
>
> SEC. —. REPEAL OF PERCENTAGE DEPLETION ON OIL AND GAS ROYALTY INCOME.
>
> (a) Subsection (d) of section 613A of the Internal Revenue Code of 1954 (relating to persons entitled to percentage depletion on 2,000 barrels of oil per day) is amended by adding at the end thereof the following new paragraph:
>
> "(5) Royalty Income Excluded.—Subsection (c) shall not apply to income derived from a nonoperating mineral interest as defined in section 614. In applying such definition for purposes of this paragraph, the taxpayer's share of the costs of production of the oil or gas shall be treated as zero if his percentage share of such costs is substantially less than his percentage share of the production.". . .
>
> MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, the subject of a depletion allowance is very definitely not germane to either this title or to the bill. There is nothing in this title that in any way relates to that section of the code. There is nothing in this title that in any way relates to the kind of tax treatment the gentleman from Florida (Mr. Gibbons) refers to in his amendment.
>
> This is a title that deals with tax credits. The depletion allowance is not a tax credit. This title deals with fuel conservation, and the depletion allowance is not a conservation matter.
>
> The amendment offered by the gentleman from Florida (Mr. Gibbons) is not germane to either this title or to the bill. . . .
>
> MR. GIBBONS: . . . Mr. Chairman, let me point out that this bill deals with taxes, it deals with tax credits, it deals with tax deductions, it deals with all kinds of tax matters. It is intimately infected with the oil and gas problem, and this amendment deals with that oil and gas problem. It deals with conservation of fuel. This amendment would have the effect of pro-

5. H.R. 6860.

6. 121 CONG. REC. 18817, 94th Cong. 1st Sess.

moting conservation because the royalty owner would not be taxed through a tax subsidy when the royalty is granted. For these reasons I think the amendment is germane to the bill.

THE CHAIRMAN:[7] The Chair is ready to rule.

As the gentleman from Florida (Mr. Gibbons) well knows, under the rule governing the consideration of amendments to this bill, any amendment, of course, must be germane to the pending title. Here we have title III and, as the gentleman well knows, in this title the bill deals with tax credits and other matters, but not depletion allowance matters.

This is not a tax, or the same kind of tax, as those contained in the pending title, and since it is not a tax designed to accomplish the same purpose as those in this title and is not of the same class as those contained in the pending title, the Chair must sustain the point of order, and the point of order is sustained.

Parliamentarian's Note: The rule providing for the consideration of the bill specified that only amendments which had been printed in the Record could be offered. While the amendment was printed in the Record, it was printed as an amendment to title V, not title III, and would therefore have been subject to a point of order on that ground.

7. William H. Natcher (Ky.).

Energy Conservation: Rebates to Purchasers in Lieu of Regulatory Measure To Promote Fuel Efficient Automobiles

§ 6.12 To an amendment designed to accomplish a result by one method, an amendment thereto designed to accomplish a related result but by a different and unrelated method is not germane; thus, to an amendment in the nature of a substitute for a title of a bill designed to conserve energy through the imposition of civil penalties on manufacturers of low miles-per-gallon autos, an amendment thereto designed to conserve energy through tax rebates to purchasers of high miles-per-gallon autos was ruled out as not germane.

During consideration of the Energy Conservation and Conversion Act of 1975[8] in the Committee of the Whole on June 12, 1975,[9] Chairman William H. Natcher, of Kentucky, sustained a point of order and ruled that the following amendment was not germane:

MR. [PHILIP R.] SHARP [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

8. H.R. 6860.

9. 121 CONG. REC. 18695, 18698, 18701, 18702, 94th Cong. 1st Sess.

Amendment offered by Mr. Sharp: Page 58, strike out line 4 and all that follows down through line 20 on page 71 and insert in lieu thereof the following: . . .

(b)(1)(A) Any manufacturer who the Secretary determines under subsection (a) to have violated a provision of section 302(a)(1) of this Act, shall be liable [for a] civil penalty equal to [a specified amount] per gallon by which the average fuel economy of the automobile manufactured by such manufacturer during such model year is exceeded by the applicable average fuel economy standard established under section 302(a)(1) of this Act, multiplied by (ii) the total number of automobiles manufactured by such manufacturer during such model year. Such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General. . . .

(2) Any person who the Secretary determines after opportunity for presentation of data, views, and arguments to have violated a provision of section 305 of this Act, other than paragraph (1) thereof, shall be liable to the United States for a civil penalty of not more than $10,000 for each violation; each day of a continuing violation constituting a separate violation. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Ottinger to the amendment offered by Mr. Sharp: Page 24, after line 5, insert the following:

REBATE FOR FUEL EFFICIENT PASSENGER AUTOMOBILES

Sec. 308. (a) The Secretary, in accordance with rules he shall prescribe, shall pay to each person a rebate with respect to each domestically manufactured passenger automobile which is purchased by such person after August 31, 1976, determined in accordance with the following table:

(1) In the case of a 1976 model year passenger automobile:

[If the fuel economy rate is at least 21.5 but less than 26.5, the rebate is $100; if the fuel economy rate is at least 26.5, the rebate is $200.]

(c) There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, in the first place this amendment is not germane to the Sharp amendment. Under the special rule, only germane amendments to the Sharp amendment would be in order. This is not germane.

Second, Mr. Chairman, it violates our international GATT obligations and treaties.

Third, it violates the budget authority under Public Law 93–344 which says that it shall not be in order in either the House or Senate to consider any bill or resolution which provides new spending authority, described in section (c)(2)(c), "Or any amendment which provides such new spending authority which is to become effective before the first day of the fiscal year or of the calendar year in which the resolution was reported."

For those reasons, I insist on my point of order. . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . Under the rule, Mr. Chairman, the only amendments which are germane to the Sharp amendment are in order at this time. The reading of the amendment makes it very clear that the amendment directs, and I quote:

> The secretary shall pay to each person a rebate with respect to each domestically manufactured passenger automobile which is purchased by such person after August 31, 1976, allowed in accordance with the following table:

Mr. Chairman, the amendment fails on three grounds. It is, first of all, essentially an appropriation, because there is nowhere in there authorization for the expenditure of money—simply a direction to the Secretary to pay money. This, therefore, constitutes an appropriation of funds, and as such, constitutes an amendment which would direct an appropriation and an expenditure of money without a piece of legislation.

Mr. Chairman, it fails in two other particulars to meet the requirements of the rules of germaneness.

First of all, in an amendment that sets up standards of automobile efficiency and civil penalties, this would add a direction to pay money. Obviously, that is not the type of amendment or legislation which might be anticipated by Members. So it fails the second test.

Third, Mr. Chairman, it is a proposal which would logically have gone to the Committee on Appropriations, as opposed to having come to the Committee on Interstate and Foreign Commerce, which would have had jurisdiction over the Sharp amendment, or to the Committee on Ways and Means, which has jurisdiction over the main piece of legislation.

As such, it fails the test of notice to the membership, which is one of the inherent tests of germaneness. . . .

MR. OTTINGER: . . . I do think the amendment is germane. In point of fact, a very similar amendment was offered in the Committee on Interstate and Foreign Commerce, and it was found to be germane. As a matter of fact, the gentleman from Michigan . . . in his original bill, had such a provision in the bill. I do not think the gentleman will deny it.

Mr. Chairman, this specifically contemplates authorization. It is not an appropriation. It says there shall be authorized to spend such money as may be appropriated.

With respect to the budget resolution, I understand there is nothing to prohibit offering such and the House adopting a new provision which goes above the budget, but we have to make adjustments like that.

So I would ask that the various points of order be overruled.

THE CHAIRMAN: The Chair is ready to rule.

The question involved pertains to the germaneness of the amendment offered by the gentleman from New York (Mr. Ottinger).

In Deschler's Procedure, chapter 28, section 6.2, we find the following provision:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

The amendment offered by the gentleman from New York (Mr. Ottinger) provides for a rebate to the purchaser. This amendment approaches the issue in a way completely unrelated to the Sharp amendment, which imposes a civil penalty upon the manufacturer.

Therefore, the Chair holds that the amendment is not germane. The point of order is sustained.

Bill To Promote Conversion From Petroleum to Coal as Energy Source—Amendment To Provide Government Aid to Private Industry for Construction of Facilities for Liquefaction of Coal

§ 6.13 To a bill designed to increase supplies of fossil fuels, and increase the use of domestic energy supplies other than petroleum through conversion to coal, and containing an entire title dealing with industrial conversion from oil and gas to coal, an amendment adding a new title providing government loans and other assistance to private industry for the construction and operation of facilities for the liquefaction and gasification of coal was held germane as within the scope of the bill.

On Sept. 18, 1975,[10] the Committee of the Whole having under consideration the Energy Conservation and Oil Policy Act of 1975 (H.R. 7014), an amendment was offered to add a new title to the bill to which a point of order was raised and overruled. The proceedings were as follows:

MR. [TIM LEE] CARTER [of Kentucky]: Mr. Chairman, I offer an amendment in the form of a new title to title VIII.

The Clerk read as follows:

Amendment offered by Mr. Carter: On page 356, line 6, insert the following new Title and renumber subsequent Titles accordingly:

TITLE VIII—COAL GASIFICATION AND LIQUEFACTION DEVELOPMENT

Sec. 801. (a) The Administrator shall establish a program of assistance to private industry for the construction and operation of one or more facilities for the liquefaction and gasification of coal. In order to effectuate such program, the Administrator may make loans and issue guarantees to any person for the purpose of engaging in the commercial operation of facilities designed for the liquefaction or gasification of coal.

(b)(1) For the purpose of making loans or issuing guarantees under this section, the Administrator shall consider (A) the technology to be used by the person to whom the loan or guarantee is made or issued, (B) the production expected, (C) reasonable prospect for repayment of the loans. . . .

Sec. 802. (a) The Administrator is authorized. . . .

(3) Each lease shall further provide that the lessee shall have options to purchase the facilities at any time within ten years after the date of the respective lease at a price to be agreed upon by the parties. Each option shall be conditioned, however, upon the right of the Administrator within the ten-year term to offer the facilities for sale at public auction and the lessee shall be entitled to purchase the facilities if he meets the highest bona fide offer in excess of the agreed option price. In order that an offer may be considered bona

10. 121 CONG. REC. 29338–41, 94th Cong. 1st Sess.

fide, it shall be offered by a bidder who shall have been determined by the Administrator to be financially and technically qualified to purchase and operate the facilities. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I raise a point of order that the amendment is not germane. . . .

The point of order is as follows: A reading of the amendment will show that under subsection 801(a), it would authorize a very large program of loans and grants for the construction and operation of facilities for the liquefaction and gasification of coal.

Nowhere else in the bill are there loans and grants, and nowhere else in the bill are there provisions for that kind of stimulus for the construction of facilities for the liquefaction or gasification of coal.

In addition to these loans and guarantees, the Administrator is vested with authority to guarantee performance of contracts of persons receiving loans from the administration for the purchase, construction, and acquisition of equipment and supplies necessary to construct and operate such a facility. This again, Mr. Chairman, is not within the purview of the bill.

In addition to this, construction plans and construction of facilities, further down under (d)(2), could be financed in whole or in part, including exploration and development.

In addition to this, the possibility of exemptions and exceptions from the air and water pollution laws are included under (c)(2)(d), or, rather, under paragraph (d).

To go along further, by no stretch of the imagination could my colleagues be anticipated to anticipate an amendment of this kind and character coming to this bill and relating to the air and water pollution laws. Indeed the language is sufficiently broad to make this exempt from State statutes, as well as from Federal statutes, and that is a matter clearly not before the committee at this particular time. Then we have the question of compliance with Federal and State air pollution laws. . . .

In addition to this, under section 802(a)(3), the amendment provides for acquisition of private interests in all such facilities as may have heretofore been constructed or acquired relating to gasification of coal and other types of energy uses. Again this goes far beyond the scope and sweep of the bill before the committee.

Again, under section 802(b)(1), these facilities could then be leased or rented under conditions and terms as agreed on by and between the parties, apparently without regard to existing Federal statutes relating to the sale, leasing, or disposal of real estate, and that is a matter which is under the jurisdiction of other committees and which is the subject of control under other statutes not presently before the House and not mentioned or alluded to in the provisions of H.R. 7014 now before the committee. . . .

MR. [CLARENCE J.] BROWN of Ohio: As much as I am reluctant to do so, I would have to suggest to the chairman of the subcommittee that I think that the gentleman's amendment is germane.

I would like to cite the provisions of the purposes of the act, section 102. Item (3) in that section says, "to in-

crease the supply of fossil fuels in the United States, through price incentives and production requirements."

The gentleman's amendment squares, it seems to me, specifically with that. As the gentleman from Kentucky (Mr. Carter) has pointed out, item (6) says "to increase the use of domestic energy supplies other than petroleum products and natural gas through conversion to the use of coal."

This would certainly encourage the use of coal.

Section 606 in the bill provides similar incentives to those provided by the amendment of the gentleman from Kentucky (Mr. Carter) for coal mines. Pollution requirements would not be overridden by the legislation or the legislative modification of the gentleman from Kentucky unless specified, that is, those existing pollution requirements would not be overridden unless they were specified in the amendment, and they are not specified in the amendment. They would, therefore, continue to apply.

It seems to me that the amendment of the gentleman from Kentucky specifically does encourage the development and use of additional fossil fuels by the various provisions in his amendment and that those provisions are in the bill and have been added by other amendments, and, therefore, would be germane to this legislation.

THE CHAIRMAN:[11] The Chair is ready to rule.

For substantially the reasons just outlined by the gentleman from Ohio (Mr. Brown), and in view of the fact that title III has several provisions going to the general issue of maximizing availability of energy supplies, including coal, and, as pointed out, title VI encourages industrial conversion from oil and gas to coal, for example, by a similar loan guarantee mechanism as proposed in the amendment, the Chair finds that the amendment inserting a new title is germane to the bill under consideration and overrules the point of order.

Agricultural Credit: Reappropriation in Lieu of New Budget Authority

§ 6.14 It is not germane to change a direct appropriation of new budget authority from the general fund of the Treasury into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account; thus, to a bill providing new budget authority for emergency agricultural credit, an amendment contained in a motion to recommit with instructions to provide, in lieu of that new budget authority, for a transfer of unexpended balances of funds previously appropriated for a totally unrelated purpose was held to be not germane.

11. Richard Bolling (Mo.).

On Feb. 28, 1985,[12] during consideration of H.R. 1189[13] in the House, Speaker Pro Tempore Alan D. Wheat, of Missouri, sustained a point of order against a motion to recommit the bill with instructions to the committee of jurisdiction. The proceedings were as follows:

H.R. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Agricultural Credit Appropriations Act".

DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for guaranteed loans under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, $1,000,000,000, which shall be in addition to the $150,000,000 provided in Public Law 98–396 and the $500,000,000 made available by Public Law 98–473. Such funds shall be available in order that farm producers may obtain the necessary financing for calendar 1985 operations. Such funds shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans and the reduction in rate of interest. . . .

THE SPEAKER PRO TEMPORE: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conte moves to recommit the bill, H.R. 1189, to the Committee on Appropriations, with instructions to that committee to report the bill back to the House forthwith, with the following amendment.

On page 2, in line 10, after "$1,000,000,000," insert "to be derived by transfer from unobligated balances in the Energy Security Reserve.".

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I make a point of order against the motion to recommit with instructions in that it attempts to propose as instructions, language which would not have been in order directly as an amendment during the reading of the bill. The instructions include what is in effect a rescission which was not considered by the House and which would have violated clause 7 of rule XVI if there had been a reading of the bill for amendment.

The bill under consideration provides supplemental appropriations for fiscal year 1985. The gentleman's instructions would rescind funds appropriated in fiscal year 1980 for the Synthetic Fuels Corporation, a matter clearly not related to this bill.

Mr. Speaker, because the motion contains language not in order during consideration of the bill in the House, I believe it violates the germaneness rule of the House. I ask for a ruling of the Chair. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, the point of order should be overruled. An amendment in a motion to recommit with instructions

12. 131 CONG. REC. 4133, 4134, 4146, 99th Cong. 1st Sess.

13. Emergency Farm Credit Appropriation, fiscal 1986.

must be germane to the bill as a whole. Although the amendment does affect previously appropriated funds, so do several provisions of the bill itself.

On page 2, in lines 15 through 18, there is language that provides that funds in the bill "shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans." This language directly affects loans guaranteed with funds under existing law.

On page 3, in lines 2 through 14, there is language which provides for "review of FATM loans," and "deferral of principal and interest and the foregoing of foreclosure." This language directly affects loans held by the Farmers Home Administration.

On page 4, in lines 2 through 5, there is language directing the administrator of the Small Business Administration to use loan guarantee authority to restructure existing loans.

Taken as a whole, the bill clearly affects the use of previously appropriated funds and authority. My amendment, which also affects previously appropriated funds, is germane, and therefore I ask the Chair to overrule the point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Mississippi makes the point of order that the motion to recommit offered by the gentleman from Massachusetts (Mr. Conte) is not germane to the bill H.R. 1189. The bill reported from the Committee on Appropriations provides only new budget authority for emergency agricultural credit. The bill does not directly transfer or reappropriate any unexpended balances of appropriations nor does it rescind previously appropriated funds.

In the opinion of the Chair, the effect of the motion to recommit is to decrease sums already appropriated for a program—Synfuels payments for future defaults on loans guaranteed pursuant to the Energy Security Act—totally unrelated to the program under consideration—farm credit—and to convert into immediate budget outlays obligational authority which was not intended to represent any outlays except in the event of a future default. The amendment in the motion to recommit has the effect of transferring the original appropriation for Synfuels loan guarantees, a proposition not contemplated in the bill reported from the Committee on Appropriations. The Chair sustains the point of order.

Parliamentarian's Note: The pending bill was not a general appropriation to which clause 6 of Rule XXI would apply. Otherwise, the amendment would clearly have been a reappropriation in violation of that rule.

Bill Authorizing Agricultural Loans To Encourage Farm Ownership—Amendment Directing Federal Land Banks To Transfer Designated Property for Resale

§ 6.15 To a bill authorizing the Secretary of Agriculture to make loans for the purpose of enabling certain persons to acquire farms, an amend-

ment directing the federal land banks to transfer designated real property to the Secretary of the Treasury for purposes of resale was held to be not germane.

On June 29, 1937,[14] the House was considering a bill designed to encourage and promote ownership of farm homes. An amendment was offered[15] directing the transfer of certain land owned by the federal land banks, for purposes of resale by the Secretary of Agriculture. The germaneness of the amendment was discussed in the following exchange:(16)

> MR. [MARVIN] JONES [of Texas]: Mr. Chairman, I desire to make a point of order against the amendment. . . . It would authorize acquiring land from the Federal land banks and the trading of stock in the banks. These are not involved in this bill. . . .
>
> MR. [OTHA D.] WEARIN [of Iowa]: . . . I desire to call the attention of the Chair to the enacting clause of this bill, which specifies that it is an act to encourage and promote ownership of farm homes. It can be seen that the enacting clause itself, therefore, does not set out that this proposed act provides exclusively for loans. It says it is a provision to encourage and promote the ownership of farm lands, which is precisely what my amendment does.
>
> THE CHAIRMAN [William J. Driver, of Arkansas]: . . . It is true that this amendment seems to direct the thought to the same purpose, the acquisition of land for the purpose of placing the same in the hands of tenants, sharecroppers, and so forth, for the purpose of providing farm homes for that class of citizens; but there is a very distinct difference in the provision for the acquisition of such homes under the terms of this amendment and the provisions of the bill. One is the purchase of a home direct by the tenant and the furnishing of the money by the Secretary of Agriculture for the purpose of enabling him to acquire the title. In this amendment, however, new machinery is set up for the purpose of operating with property that was not considered at all in the bill under consideration. New machinery is brought into life and authorized to operate in connection with the use of properties owned by a separate and distinct agency of the Government.
>
> The Chair, therefore, is of the opinion that this amendment is not germane to the provisions of the bill under consideration. . . .

Proposition and Amendment as Stating Different Formulas for Acreage Reserve Programs and Affecting Different Feed Grains

§ 6.16 To a proposition stating a formula for establishing a minimum acreage allotment

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14. See 81 CONG. REC. 6574–79, 75th Cong. 1st Sess. Under consideration was H.R. 7562 (Committee on Agriculture).

15. 81 CONG. REC. 6577, 6578, 75th Cong. 1st Sess., June 29, 1937.

16. *Id.* at p. 6578.

for corn and relating to acreage reserve programs for diverted acres and for feed grains, an amendment providing another formula for acreage reserves and containing provisions as to other feed grains was held to be germane.

In the 85th Congress, a bill was under consideration which sought to establish a minimum acreage allotment for corn and to provide acreage reserve programs for diverted acres and for feed grains. An amendment was also pending which provided an alternative formula for establishing a minimum acreage allotment for corn and containing provisions relating to acreage reserve programs for diverted acres. To such amendment, which was in the nature of a substitute, the following amendment was offered:(17)

> Amendment offered by Mr. [William R.] Poage [of Texas] to the substitute offered by Mr. [Harold D.] Cooley [of North Carolina]: At the end of the pending amendment add the following new section:
>
> Sec. 2. Section 103(b) of the Agricultural Act of 1956 is amended to read as follows:
>
> (b) Notwithstanding any other provision of law, in addition to all other programs authorized by this act, the Secretary is authorized and directed to formulate and carry out an acreage-reserve program for 1957 for acreage diverted from the production of each of the commodities specified in subsection (a) of this section except corn produced in the commercial corn-producing area. Individual farms may participate in such acreage-reserve program for diverted acres up to (a specified acreage). . . . For purposes of this subsection the measure of feed grain acreage on the farm shall be the average acreage planted in the 3 most recent years, adjusted for unusual weather conditions, to the following crops for harvest as grain: Corn produced outside the commercial corn-producing area, wheat produced on farms to which marketing quotas are not applicable, grain sorghums, barley, rye, and oats.

The following point of order was raised against such amendment:

> MR. [CHARLES A.] HALLECK [of Indiana]: Mr. Chairman, I make a point of order against the Poage amendment for the reason that it introduces matter not covered in the amendment which it seeks to amend. The amendment as offered deals only with corn as one commodity. The gentleman's amendment to that seeks to broaden that to include feed grain.

The proponent of the amendment defended the amendment as follows: (18)

> MR. POAGE: . . . The Harrison (19) amendment has for its purpose the

17. 103 CONG. REC. 3580, 85th Cong. 1st Sess., Mar. 13, 1957. Under consideration was H.R. 4901 (Committee on Agriculture).

18. 103 CONG. REC. 3580, 85th Cong. 1st Sess., Mar. 13, 1957.

19. Some confusion arose from the fact that the Poage amendment, while in-

control of excess corn. . . . The Poage amendment adopts another means of controlling the excess supply of corn. Since they are both directed at achieving the same result, I submit the amendment is in order.

In overruling the point of order, the Chairman[20] stated:[1]

The question touches the germaneness of the formula or plan offered by the gentleman from Texas [Mr. Poage] as an amendment to the plan offered by the gentleman from North Carolina [Mr. Cooley]. As the gentleman from Texas says, it is related to the corn program. It differs as to method, and since it differs as to method and not in substance, it is related to the purposes of the legislation, and the Chair therefore overrules the point of order.

Bill Regulating Marketing of Agricultural Products—Amendment To Fix Prices After Determinations Made by Secretary of Agriculture

§ 6.17 To a bill regulating the marketing of domestically produced farm products, an amendment in the nature of a substitute providing for certain guaranteed payments by dealers, manufacturers, and others to the producers of agricultural products was held to be not germane.

In the 75th Congress, during consideration of a bill regulating the marketing of farm products, a substitute amendment was offered which provided that the Secretary of Agriculture should determine the cost of production of agricultural products, and that such determination should furnish the basis for payments to be made by dealers to the producers of such products. In the course of ruling that the amendment was not germane, the Chairman[2] described the provisions of the bill and the substitute as follows:[3]

The bill under consideration is a bill to regulate the marketing of domestically produced farm products.

The substitute . . . provides among other things, that the Secretary of Agriculture shall determine the costs of production of such agricultural products and shall issue a proclamation to that effect.

It further provides that after that proclamation has been issued all deal-

tended as an amendment to the Harrison amendment, was actually offered as an amendment to the Cooley amendment, which was itself a substitute for the Harrison amendment. Mr. Poage subsequently reintroduced his amendment as an amendment to the Harrison amendment (see 103 Cong. Rec. 3581, 85th Cong. 1st Sess., Mar. 13, 1957).

20. Lawrence Brooks Hays (Ark.).

1. 103 Cong. Rec. 3581, 85th Cong. 1st Sess., Mar. 13, 1957.

2. Lindsay C. Warren (N.C.).

3. 82 Cong. Rec. 1284, 1285, 75th Cong. 2d Sess., Dec. 10, 1937. Under consideration was H.R. 8505 (Committee on Agriculture).

ers, manufacturers, millers, elevator operators, processors, [and the like] shall pay to the producers of such agricultural products not less than such average costs of production price. . . .

There is also a provision . . . dealing with tariff adjustments, something entirely foreign to the bill now under consideration. . . .

The Chair, citing precedent,[4] indicated that, while the purpose of both the bill and the amendment was farm relief, the wide difference in the methods of approach of the two rendered the amendment improper.

Agriculture: Tariff and Import Restriction in Lieu of Domestic Price Supports

§ 6.18 To a proposal to provide financial assistance to domestic agriculture through a system of price support payments, an amendment seeking to protect that segment of domestic agriculture by restricting imports in competition therewith is not germane, since seeking to accomplish a purpose by an unrelated method within the jurisdiction of another committee.

The proceedings of Oct. 14, 1981, relating to H.R. 3603, the Food and Agriculture Act of 1981, are discussed in § 4.71, supra.

Proposition To Permit Transfer of Certain Federal Timberlands in Exchange for Timberlands Acquired From Private Owners—Amendment Permitting Transfer of Timber Rights Only

§ 6.19 To a proposition relating to compensation, in the form of transfers of certain federal timberlands, to be given to private owners in exchange for timberlands acquired by the government for public use, an amendment imposing restrictions on such exchanges was held to be germane.

On Feb. 17, 1954, the following proposition was under consideration:[5]

That whenever the United States finds it necessary to acquire for any public use timberlands which are being operated as part of a forest area to provide a sustained yield of timber for processing purposes . . . [the agency concerned] shall . . . provide that . . . federally owned lands situated within the same community area . . . shall be transferred to the owners of the pri-

4. See the ruling of Speaker Henry T. Rainey (Ill.), cited in 8 Cannon's Precedents § 2969.

5. 100 Cong. Rec. 1925, 1926, 83d Cong. 2d Sess. Under consideration was H.R. 4646 (Committee on Interior and Insular Affairs).

vate lands acquired if said owners so elect, as compensation pro tanto for the lands taken. . . .

The following amendment was offered: (6)

And provided further, That title to the lands involved shall not be transferred, and that it shall be determined that such exchange of timber will not impair the efficient administration or operation of the overall unit of land on which the exchanged timber is situated.

Mr. Wesley A. D'Ewart, of Montana, made a point of order against the amendment on the ground that it was not germane. In support of the point of order, he stated:

Mr. Chairman, the amendment reads in the first phrase, "title to the land involved shall not be transferred." The whole purpose of the legislation is to transfer title. Therefore, this amendment is contrary to the whole purpose of the bill.

The proponent of the amendment stated in reply:

As far as the amendment not being germane is concerned, the bill involves the transfer of timber rights; not the transfer of title. I think this amendment only secures to the Forest Service and to the Government the proposition that title shall remain in the Government, and the timber rights shall be preserved, which is the purpose of H.R. 4646 and is the stated purpose of the legislation.

In disposing of the point of order, the Chairman (7) stated: (8)

The Chair is ready to rule. The committee amendment provides that whenever the United States finds it necessary to acquire timberlands being operated as part of a unit to provide a sustained yield for processing purposes, the private owners from whom such lands are acquired may under certain conditions elect to be compensated therefor by exchange of other federally owned timberlands, and certain limitations are imposed upon such exchanges.

The amendment of the gentleman from Montana seems to have the same objective but it provides somewhat different and additional conditions upon such exchanges.

. . . [T]o a proposition to accomplish a certain purpose by one method a proposition to achieve the same purpose by another closely related method is germane.

The Chair is of the opinion that the amendment of the gentleman from Montana falls into this category and, therefore, overrules the point of order.

Wage and Price Stabilization: Replacing Advisory Function With Mandated Prices

§ 6.20 To a bill extending executive authorities which are advisory and informational in nature, an amendment to confer direct mandatory au-

6. 100 Cong. Rec. 1928, 83d Cong. 2d Sess., Feb. 17, 1954.

7. Alvin E. O'Konski (Wis.).

8. 100 Cong. Rec. 1928, 83d Cong. 2d Sess., Feb. 17, 1954.

thority on an executive official belongs to another class and is not germane; thus, to a bill extending the advisory and informational authority of the Council on Wage and Price Stability to encourage voluntary programs to resist inflation, an amendment directing the President to issue orders and regulations stabilizing economic transfers including wages and prices was held not germane.

During consideration of H.R. 2283 in the Committee of the Whole on Mar. 20, 1979,[9] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

H.R. 2283

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Council on Wage and Price Stability Act is amended to read as follows:

"Sec. 6. There is authorized to be appropriated to carry out the provisions of this Act not to exceed—

"(1) $6,952,000 for the fiscal year ending September 30, 1979, which shall remain available until expended;

"(2) $8,483,000 for the fiscal year ending September 30, 1980; and

"(3) $8,483,000 for the fiscal year ending September 30, 1981.".

THE CHAIRMAN:[10] The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 2, strike out lines 1 and 2 and insert in lieu thereof the following:

That section 3(a) of the Council on Wage and Price Stability Act is amended . . .

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

(10) hold regional hearings on the Council's standards, regulations, and other major actions which affect general consumer interests; and

(11) enlist voluntary individual and group participation from the public to help monitor the performance of the Council's anti-inflationary programs. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stratton: On page 3 at the end of line 5 insert the following new section:

Sec. 4. (a) Strike out section 3(b) of the Council on Wage and Price Stability Act.

(b) Insert in the Council on Wage and Price Stability Act a new section 4 as follows:

Sec. 4(a). Presidential Authority.—Within sixty days of the date of enactment of this Act the President shall issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other comparable economic transfers at levels not less than those prevailing on October 1, 1978. Such orders and regulations shall provide for—

(1) the making of such adjustments, as may be necessary to prevent gross inequities;

9. 125 CONG. REC. 5549, 5550, 5562–64, 96th Cong. 1st Sess.

10. Butler Derrick (S.C.).

(2) wage and salary increases or adjustments, after October 1, 1978, based on the application of cost of living and productivity formulas. . . .

(b) Delegation.—The President may delegate the performance of any function under this Act to the Council.

(c) Penalty.—Whoever willfully violates any order or regulation under this Act shall be fined not more than $5,000. . . .

(e) Expiration.—The authority to issue and enforce orders and regulations under this Act expires at midnight September 30, 1983, or upon any earlier date provided in a concurrent resolution of the Congress. . . .

MR. [WILLIAM S.] MOORHEAD of Pennsylvania: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York (Mr. Stratton) for two reasons.

First. The amendment offered by the gentleman from New York (Mr. Stratton) which seeks to strike down section 3(b) of the original act, is well beyond the fundamental purpose of this act, which is the gathering of information and voluntary programs to fight inflation. Certainly the amendment offered by the gentleman from New York (Mr. Stratton), which is a mandatory program, is outside of such fundamental purpose of the act.

Second. If the amendment is adopted, it will establish a precedent which allows amendments striking limiting language, such as section 3(b) of the original act, and then inserting language of an entirely different scope, of a much broader application, and allowing, once limiting language is stricken, the broadening of the scope which would put a chilling effect on all attempts by the Congress to insert limiting sections, specifically in a particular law. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I wish to speak on the point of order.

I would also point out that in addition to the argument offered by the gentleman from Pennsylvania, the scope of the amendment is so broad that it goes well beyond the particular authorities that the present statute, Public Law 93–387, contains, and is therefore nongermane. First of all, the present statute allows the President to establish the Council which is the subject of this legislation. The gentleman's amendment shifts the power completely to the President, who may or may not under his amendment place this power in this or any other agency of Government, as appears on the second page of his amendment.

Furthermore, it permits the President to delegate to any officials or departments the powers his amendment suggests, which goes beyond the scope of the current law, and also provides for criminal penalties and injunctions upon application to the district court, none of which is in the present law and is beyond its scope.

It also sets up an expiration date, which the present law does not contain. So, in many specifics, it is well beyond the scope of the present act, and nongermane for that reason. . . .

MR. STRATTON: . . . This is a bill to amend the Council on Wage and Price Stability and to extend the authority granted by such act. My bill is designed to provide a method whereby the Council on Wage and Price Stability can achieve this price and wage

stability within the period determined by the original act. Therefore, in my judgment it simply represents an additional duty imposed on the Council which will perhaps enable it to achieve the objective that, so far, it has not achieved.

THE CHAIRMAN: The Chair is ready to rule.

The amendment, to be germane, must accomplish the purpose of the bill by a closely related method to that in the bill.

The amendment would amend section 3(b) of the Wage and Price Stability Act. That subsection presently contains the disclaimer that nothing in the basic act, which is being extended and amended by the pending bill, should be construed to confer mandatory wage and price control authority upon the Council or to affect separate authorities under the Emergency Petroleum Allocation Act. In lieu of that disclaimer, the pending amendment would confer upon the President or Council mandatory wage and price control authorities.

The authorities being extended by the pending bill are of a readily definable class—they are all advisory or informational in nature. On the other hand, the amendment confers authorities of a different class—authorities which are mandatory in nature. For the same reason that the Chair feels it would not be germane to impose direct wage and price controls on specified levels of income or commodities as an amendment to this bill, it is not in order to confer direct mandatory authority upon an executive official to impose such controls.

On June 19, 1952, Chairman Mills held not germane to a bill extending authority in law to settle labor disputes by negotiation and collective bargaining, an amendment to the same law empowering the President to take possession of plants closed by work stoppages.

The Chair sustains the point of order.

A similar amendment, but one which "authorized" rather than directed the President to issue orders and regulations stabilizing economic transfers, was offered on Mar. 21, 1979, and ruled out of order as not germane:[11]

Amendment offered by Mr. Weiss: Page 3, insert after line 5 the following:

Sec. 5. (a) Section 3(b) of the Council on Wage and Price Stability Act is amended by striking out "Nothing in this Act" and inserting in lieu thereof "Except as provided in section 8, nothing in this Act".

(b) Such Act is amended by adding after section 7 the following new section:

"PRESIDENTIAL AUTHORITY

"Sec. 8. (a) The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on January 1, 1979, and to stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth. Such orders and regulations may provide for the making of such ad-

11. See 125 CONG. REC. 5779–82, 96th Cong. 1st Sess.

justments as may be necessary to prevent gross inequities.

"(b) The President may delegate the performance of any function under this section to the Council as he may deem appropriate. . . .

MR. MOORHEAD of Pennsylvania: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York (Mr. Weiss).

I cite as precedent for that, because it is absolutely on all fours with the prior ruling, the ruling of the present occupant of the chair on the amendment offered by the gentleman from New York (Mr. Stratton).

The amendment offered by the gentleman from New York (Mr. Weiss), as the gentleman from New York (Mr. Stratton) has stated, is very similar; I would say it is almost identical, and in fact part of it seems to be merely a photocopy of the previous amendment. . . .

MR. [TED] WEISS [of New York]: . . . What we have today is an amendment to the Council on Wage and Price Stability. We are talking about wage and price stability. We are talking about inflation. What the amendment that I have offered seeks to do is to provide an additional weapon, an additional basis, for dealing with wage and price instability. Nothing could be more germane than what we do, which is not to mandate, not to impose mandatory controls, but simply to allow the President the standby authority to impose it. It is discretionary, it is voluntary upon the part of the President.

I should say, even if that were not the case, Mr. Chairman—and I now have before me in my hand the act itself—there is a provision in the act which is anything but voluntary. What it says is—and this is section 2(G)(1)—the Council shall have the authority for any purpose relating to this act to require periodic reports for the submission of information maintained in the course of business. And then it goes on to say that they have the power to issue subpenas. Then they go on to say that, in case of the refusal to obey this section, or the subpena, that the Council may request the Attorney General to seek the aid of the U.S. district court. Now, that is not voluntary.

So it seems to me that the premise that we have is a maze of voluntary informational advisory provisions in the bill before us. But what we are asking for is different, is totally erroneous, because ours is no less voluntary than the act that it seeks to amend and, secondly, because the (act) itself is not totally voluntary. It has mandatory provisions. . . .

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

The Chair believes that the underlying reasons cited in his ruling yesterday, are applicable to the pending amendment in determining its germaneness to H.R. 2283. The principle of germaneness which the Chair enunciated yesterday, and which is supported in many precedents contained in Deschler's, chapter 28, section 6 and on page 532 of the House Rules and Manual, suggests that to be germane, an amendment to accomplish the same result as that sought to be accomplished by a pending bill must also suggest a closely related method of accomplishing that result. The precedent relied upon yesterday, when examined in the full context of the entire Defense Production Act under consideration supports the Chair's position.

As a further example, to a proposition whose fundamental purpose was registration and public disclosure by lobbyists, but not regulation of the activities of lobbyists an amendment prohibiting lobbying in certain places or placing monetary limits on contributions by lobbyists was held not germane (Chairman Bolling, September 28, 1976, cited on page 532 of the House Rules and Manual). There, as here, the pending bill was limited in scope to a proposition which established a mechanism for gathering and distributing information relating to certain conduct, and the amendment which was ruled out as not germane went beyond the scope of the bill to directly regulate the activity or conduct in question.

The Chair sustains the point of order.

Bill To Establish Limitation on Salaries—Amendment To Permit Stabilization of Salaries on Basis of Levels Existing at Specified Time

§ 6.21 To a provision in a bill fixing a limitation on salaries, an amendment seeking by another method to accomplish the same end was held to be germane.

On Mar. 11, 1943, the following proposition was being considered:[12]

No action shall be taken under authorization of this act, or otherwise, which will limit the payment of annual salaries to a maximum amount less than the greater of the following:

(1) The annual rate of salary paid to such employee on December 7, 1941; or

(2) An amount which after reduction by the Federal income taxes thereon would equal $25,000.

An amendment was offered to the bill, as follows:[13]

MR. [BERTRAND W.] GEARHART [of California]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

. . . No provision of law heretofore enacted . . . shall be held or considered to authorize a limitation, in terms of a stated amount of money . . . of the aggregate amount which may . . . be paid to . . . any individual as compensation for personal services. . . . This section shall not prevent the stabilization of wages or salaries on the basis of levels which existed on any stated date between January 1, 1942, and September 15, 1942.

The following exchange related to a point of order made against the Gearhart amendment:[14]

MR. [ALBERT A.] GORE [of Tennessee]: . . . The amendment is not germane to the amendment offered by the gentleman from Tennessee nor is it germane to the [bill]. It is broader in scope. It takes in subject matter which is contained in neither the amendment nor the bill. . . .

MR. GEARHART: Mr. Chairman, I merely point out that the section to

13. 89 CONG. REC. 1891, 78th Cong. 1st Sess.

13. 89 CONG. REC. 1891, 78th Cong. 1st Sess.

14. *Id.*

which I offered my amendment is a section which fixes limitations on salary earnings. The amendment I offer would also fix limitations upon salary earnings. . . .

THE CHAIRMAN (Clifton A. Woodrum, of Virginia): The Chair thinks that both the section in the bill and the amendment regulate restrictions on salaries. The Chair is unable to see from reading the amendment . . . that it is any broader in scope than the section 4 in the bill and, therefore, overrules the point of order.

Amendment Providing for Suspension of Ceiling Prices—Substitute Amendment Stating Different Conditions for Suspension of Ceiling Prices

§ 6.22 To an amendment providing for suspension of ceiling prices under certain designated conditions, a substitute amendment providing for suspension of ceiling prices under other, but similar, designated conditions is germane.

On June 20, 1952, a proposition was being considered which provided in part:[15]

(5) The ceiling price for any material shall be suspended as long as (1) the material is selling below the ceiling price and has sold below that price for a period of 3 months; or (2) the material is in adequate or surplus supply to meet current civilian and military consumption and has been in such adequate or surplus supply for a period of 3 months.

To such proposition, a substitute amendment was offered:[16]

Provided however, That the ceiling price for any material, which by its nature is not susceptible to speculative buying and not more than 10 percent of which is purchased with Government funds for defense purposes, shall be suspended as long as: (1) The material is selling below the ceiling price and has sold below that price for a period of 6 months; or (2) the material is in adequate or surplus supply to meet current civilian and military consumption and has been in such adequate or surplus supply for a period of 6 months, if such material requires expansion of productive facilities beyond the levels needed to meet the civilian demand as set forth in section 2 of this act.

In response to a point of order raised against the substitute amendment, the Chairman[17] indicated that the amendment did not go beyond the purposes and scope of the legislation considered in committee, and held the substitute amendment to be germane.[18]

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15. 98 CONG. REC. 7713, 82d Cong. 2d Sess. Under consideration was H.R. 8210 (Committee on Banking and Currency).

16. 98 CONG. REC. 7718, 82d Cong. 2d Sess., June 20, 1952.

17. Wilbur D. Mills (Ark.).

18. 98 CONG. REC. 7718, 82d Cong. 2d Sess., June 20, 1952.

Bill Conferring Authority Upon Independent Board to Determine Minimum Wages and Maximum Hours in Industry—Amendment Providing That Determination Be Made by Division of Department of Labor—Substitute Amendment Specifically Setting Wages and Hours

§ 6.23 Where a bill concerned the determination of minimum wages and maximum hours in industry by an independent board exercising broad discretionary powers, an amendment in the nature of a substitute which provided that such determination be made by a division newly established in the Department of Labor was held to be germane; and a further substitute amendment proposing to fix minimum wages and maximum hours in specific terms without resort to the exercise of discretion by any agency was held to be germane to the amendment in the nature of a substitute.

On Dec. 15, 1937,[19] the Committee of the Whole had under consideration S. 2475, the Wages and Hours bill, which had as its purpose the elimination of substandard labor conditions in occupations in or affecting interstate commerce, through prohibition of interstate shipment of goods produced under such conditions, and through utilization of an independent board exercising broad discretionary powers with respect to the establishment of minimum wages and maximum hours in industry. An amendment in the nature of a substitute was offered which sought to establish a wages and hours division in the Department of Labor which was to exercise similar discretionary powers, within prescribed limits. A point of order against such amendment was overruled. A substitute amendment was then offered to such amendment for the purpose of fixing minimum wages and maximum hours in specific terms, rather than through the exercise of discretion by a government agency. The substitute amendment was held to be germane to the amendment in the nature of a substitute. The proceedings were as follows:

> THE CHAIRMAN:[20] . . . The Clerk will report the Senate bill.
>
> The Clerk read as follows:
>
> *Be it enacted, etc.,* That this act may be cited as the Black-Connery Fair Labor Standards Act of 1937.

19. 82 CONG. REC. 1572, 1580–94, 75th Cong. 2d Sess.

20. John W. McCormack (Mass.).

PART I—LEGISLATIVE DECLARATION; DEFINATIONS; LABOR STANDARDS BOARD

LEGISLATIVE DECLARATION

Section 1. (a) The employment of workers under substandard labor conditions in occupations in interstate commerce, in the production of goods for interstate commerce, or otherwise directly affecting interstate commerce (1) causes interstate commerce and the channels and instrumentalities of interstate commerce to be used to spread and perpetuate among the workers of the several States conditions detrimental to the physical and economic health, efficiency, and well-being of such workers . . . (4) leads to labor disputes directly burdening and obstructing interstate commerce and the free flow of goods in interstate commerce; and (5) directly interferes with the orderly and fair marketing of goods in interstate commerce.

(b) The correction of such conditions directly affecting interstate commerce requires that the Congress exercise its legislative power to regulate commerce among the several States by prohibiting the shipment in interstate commerce of goods produced under substandard labor conditions and by providing for the elimination of substandard labor conditions in occupations in and directly affecting interstate commerce. . . .

LABOR STANDARDS BOARD

Sec. 3. (a) There is hereby created a Board, to be known as the Labor Standards Board, which shall be composed of five members who shall be appointed by the President by and with the advice and consent of the Senate and in such appointment industrial and geographic regions shall be given consideration. The President shall from time to time designate one of the members of the Board to act as chairman. . . .

PART II—ESTABLISHMENT OF FAIR LABOR STANDARDS

MINIMUM-WAGE AND MAXIMUM-HOUR STANDARDS . . .

4(a) Whereas it is necessary for the development of American commerce and the protection of American workers and their families that substandard wages and hours be eliminated from interstate industry and business . . .

It is declared to be the policy of this Act to maintain, so far as and as rapidly as is economically feasible, minimum-wage and maximum-hour standards, at levels consistent with health, efficiency, and general well-being of workers and the maximum productivity and profitable operation of American business.

(b) Having regard to such policy . . . the Board shall by order from time to time declare . . . minimum wages which shall be as nearly adequate as is economically feasible, without curtailing opportunity for employment, to maintain a minimum standard of living necessary for health, efficiency, and general well-being; *Provided*, That the Board's jurisdiction in declaring minimum wages shall not include the power to declare minimum wages in excess of 40 cents per hour, but higher minimum wages fixed by collective bargaining or otherwise shall be encouraged, it being the objective of this Act to raise the existing wages in the lower-wage groups so as to attain as rapidly as practicable a minimum wage of 40 cents per hour without curtailing opportunities for employment and without disturbance and dislocation of business and industry. . . .

THE CHAIRMAN: . . . The gentlewoman from New Jersey offers an amendment, which the Clerk will report.

The Clerk read as follows:[1]

Mrs. [Mary Teresa] Norton moves to strike out all after the enacting clause down to and including all of section 1 of the bill S. 2475 and insert in lieu thereof the following as a substitute for the Senate bill:

"That this act may be cited as the Fair Labor Standards Act of 1937.

"PART I—LEGISLATIVE DECLARATION; DEFINITIONS; WAGE AND HOUR DIVISION OF DEPARTMENT OF LABOR

"LEGISLATIVE DECLARATION

"Section 1. (a) The employment of workers under substandard labor conditions in occupations in interstate commerce, in the production of goods for interstate commerce, or otherwise directly affecting interstate commerce (1) causes interstate commerce and the channels and instrumentalities of interstate commerce to be used to spread and perpetuate among the workers of the several States conditions detrimental to the physical and economic health, efficiency, and well-being of such workers. . . .

"DEFINITIONS

"Sec. 2. (a) As used in this act unless the context otherwise requires— . . .

"(8) 'Oppressive wage' means a wage lower than the applicable minimum wage declared by order of the Administrator under the provisions of section 4.

"(9) 'Oppressive workweek' means a workweek (or workday) longer than the applicable maximum workweek declared by order of the Administrator under the provisions of section 4. . . .

"Sec. 3. (a) There is hereby created in the Department of Labor a Wage and Hour Division which shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division (hereinafter referred to as the Administrator). . . .

"PART II—ESTABLISHMENT OF FAIR LABOR STANDARDS

"It is declared to be the policy of this act to establish minimum-wage and maximum-hour standards, at levels consistent with health, efficiency, and general well-being of workers and the profitable operation of American business. . . .

"(b) Having regard to such policy and upon a finding that a substantial number of employees in any occupation are employed at wages and hours inconsistent with the minimum standard of living necessary for health, efficiency, and general well-being, the Administrator shall appoint a wage and hour committee to consider and recommend a minimum-wage rate or a maximum workday and workweek . . . *Provided, however,* That no such committees shall be appointed with respect to occupations in which no employee receives less than 40 cents per hour or works more than 40 hours per week. . . .

"(g) A committee's jurisdiction to recommend labor standards shall not include the power to recommend minimum wages in excess of 40 cents per hour or a maximum workweek of less than 40 hours, but higher minimum wages and a shorter maximum workweek fixed by collective bargaining or otherwise shall be encouraged; it being the objective of this act to raise the existing wages in the lower wage groups so as to attain as rapidly as practicable a minimum wage of 40 cents per hour without curtailing opportunities for employment and without disturbance and dislocation of business and industry, and a maximum workweek of 40 hours without curtailing earning

1. 82 CONG. REC. 1580, 75th Cong. 2d Sess.

power and without reducing production. . . .

Mr. Bertrand H. Snell, of New York, raised the point of order that the amendment was not germane:[(2)]

MR. SNELL: . . . I call the attention of the Chair very briefly to one matter. The original Senate bill, 2475, has for a title the following:

> To provide for the establishment of fair labor standards in employments in and affecting interstate commerce, and for other purposes.

The title of the amendment offered by the committee is exactly the same as the title of the original Senate bill. In other words, the intent and purpose of each bill is exactly the same, but as set up in the very first paragraph in the first section of the Senate bill, it proposes to accomplish this end by setting up an independent board consisting of five members with certain specific qualifications, and there is also the proposition to give them certain authority to do certain things.

The committee amendment, offered by the chairman of the Labor Committee, tries to accomplish the same end, but does so in an entirely different method. It sets up a Wages and Hours Division under the Department of Labor to be headed by one man, and the authority given to that one man is entirely different from the authority given to the board set up in the original bill. In other words, it is distinctly a new method which was never mentioned in the original Senate bill.

There is nothing about wages and hours in the title or the objects of the Senate bill. I maintain, Mr. Chairman, without going over the complete argument I made earlier in the afternoon, that the method proposed by the amendment is entirely different from the method proposed by the original bill, therefore is not germane and should not be held to be germane at this time. . . .

MR. [JOHN J.] O'CONNOR of New York: Mr. Chairman, this is a very important parliamentary matter, in the opinion of many Members, because it goes to one of the fundamental rules of the House, rule XVI, relating to "germaneness." This rule as to "germaneness" when adopted early in the history of the Congress in 1790 was a new departure in parliamentary law and without any precedent. It has been interpreted countless times. Sometimes it has been strained, reflecting the particular attitude of the membership at that time, and sometimes it has reflected the attitude of the then presiding officer.

The argument I shall make will be directed at the point of order made by the distinguished minority leader (Mr. Snell) . . . and the point of order made by the distinguished gentleman from South Dakota (Mr. Case) all going to the same point.

With regard to the point of order made by the gentleman from South Dakota, I believe he has directed his argument more against the merits of the proposal than against the parliamentary procedure. . . .

The distinguished gentleman from New York (Mr. Snell) the minority leader, has admitted in his second argument on his point of order the crux of this question, when he states that

2. *Id.* at p. 1586.

the "intent and purpose of these two bills is the same." This is the whole issue here.

The gentleman has referred to the titles of the two bills. Of course, it is well held in parliamentary procedure, as announced in section 2916 of Hinds' Precedents, that the title of a bill is of no influence whatever in deciding what is in the bill.

In his first argument the gentleman from New York (Mr. Snell) referred to subtitles and pointed out that the subtitle of the Senate bill referred to a Labor Standards Board while the subtitle of the committee amendment referred to a Wage and Hour Division of the Department of Labor. If they are important, they are not so unrelated as to affect the question under consideration. Furthermore, they are merely titles.

What subject are we considering here? How would anybody briefly describe it in a few words? He or she would say we are taking up the subject of wages and hours. Minimum wages and maximum hours are what we are discussing, and this is the issue in every one of at least a half dozen bills which have been introduced in the House.

The point of order of the distinguished minority leader (Mr. Snell), however, is directed toward the method by which we shall approach this goal, to do something about minimum wages and maximum hours. The point I make is that the subject matter of the bill being wages and hours, this amendment offered by the lady from New Jersey is in the nature of a substitute. It also deals with wages and hours. Any other amendments which may be offered hereafter dealing with this subject, is germane irrespective of the particular method proposed to be adopted to reach the ultimate objective.

As far as I know, I have examined every single, solitary precedent in Hinds and Cannon and in other works, and I have not found one precedent which would sustain the point of order made by the distinguished minority leader. Every one of the precedents cited by the gentleman from New York can be distinguished from the question in point, because this is a new proposal.

Congress and the Government are engaged in a new venture, you may call it, in legislation. There is nothing on the statute books today in reference to "minimum wages and maximum hours." We are not amending any existing law. We are not giving any new powers to any existing agency of the Government. We are starting on an entirely new venture, an attempt to do something about wages and hours in industry.

As everybody knows, the amendment offered by the distinguished gentlewoman from New Jersey (Mrs. Norton), in the nature of a substitute, is offered as a new, complete, clean bill, as it has been called, for the purpose of avoiding confusion as far as possible. The Senate bill went to the House Committee on Labor, which first reported some 60 amendments to the Senate bill. Then the House Labor Committee reported other amendments, and then finally decided to bring in a clean copy of the bill, including all of the House committee amendments, and to offer that as a substitute, treating it as one new bill. All

the amendments included in this committee substitute, except one, are practically minor perfecting amendments, about which there can be little complaint, and possibly no point of order.

The issue all comes down to the question of the method of administration of the act. The issue devolves as to section 3 of the original bill and section 3 of the amendment offered by the distinguished gentlewoman from New Jersey (Mrs. Norton). Section 3 of the original bill was entitled "Labor Standards Board." Section 3 of the new bill is entitled "Administrative Agency." Section 3 of the Senate bill, the original bill, provided for the setting up of a board of five members, and the section had five or six subsections relating to the place of office, the appointment of employees, the making of reports, and other minor matters. Section 3 of the House Labor Committee amendment is the same, except that it provides for the appointment of an administrator in the Department of Labor rather than a board of five members. Outside of this one detail, both sections are substantially the same.

Now, no one can say that whether or not we put the administration of this act in the Labor Department or in a board of five, or in some other agency, or in no agency, is the outstanding feature of this bill. The outstanding feature is the proposal to do something about minimum wages and maximum hours, and there is no one who can now dispute that point. How we shall do it is another question.

I wish to call to the attention of the Chair an authority directly in point, in my opinion. I have seen no authorities to the contrary. They all point in the direction which I am arguing, but this authority is directly on the point and should be conclusive.

In Cannon's Precedents, volume 8, at section 3056, the headline is:

> 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.
>
> To a bill proposing the adjudication of claims arising out of informal contracts with the Government through the agency of the Secretary of War, an amendment proposing to adjudicate such claims through the agency of a commission appointed for that purpose was held to be germane. . . .

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from New York [Mr. Snell] makes the point of order against the amendment, one of the reasons advanced being that the substitute provides for the setting up of a bureau as a division of the Department of Labor under an administrator, whereas the Senate bill provides for the establishment of a board. Also, that the method proposed by the amendment pending establishes a different one from that set forth in the Senate bill. Points of order raised by the gentleman from Colorado [Mr. Martin] and the gentleman from South Dakota [Mr. Case] are involved in the point of order raised by the gentleman from New York, and in part the point of order raised by the gentleman from Georgia [Mr. Cox] is also involved, but in part it is not.

The Chair recognizes the seriousness of this question. The Chair is indebted to those who have presented their arguments on both sides. The Chair realizes that the matter of germaneness at times is one filled with great uncer-

tainty. The Chair realizes that there is a twilight zone. The Chair also realizes that too narrow an interpretation of the rule might interfere with the conduct of the Committee of the Whole House or of the House in the proper consideration of a bill.

The Chair anticipated this particular point of order and has had an opportunity of giving consideration to the precedents interpreting the rule which prompted the point of order being raised. During the general debate on the pending Senate bill, the Chair was informed by a number of Members that certain amendments would be offered to it, some in the nature of a substitute and others in the nature of perfecting amendments thereto. The Chair has taken notice and has utilized its opportunity during the general debate to review the decisions on germaneness embodied in Hinds' and Cannon's Precedents of the House of Representatives. The Chair has also listened intently to the discussion of the point of order on the floor and has examined the precedents cited by gentlemen on both sides of the question.

In deciding this question it may be appropriate to examine into the meaning of the word "germane" as it relates to parliamentary law. In this respect the Chair calls attention to a statement made in a decision on germaneness by Mr. Chairman Fitzgerald, of New York, on September 22, 1914, which is to be found in Cannon's Precedents, volume 8, section 2993. The Chair quotes from that decision:

> The meaning of the word "germane" is akin to, or near to, or appropriate to, or relevant to, and "germane" amendments must bear such relationship to the provisions of the bill as well as meet other tests; that is, that they be a natural and logical sequence to the subject matter, and propose such modifications as would naturally, properly, and reasonably be anticipated.

The Chair also calls attention to a decision made by Mr. Chairman Garrett, of Tennessee, September 19, 1918, section 2911 of volume VIII of Cannon's Precedents, wherein it was held generally that the rule providing that amendments must be germane was construed as requiring that the fundamental purposes of the amendment be germane to the fundamental purposes of the bill to which it is offered. The Senate bill pending before the Committee of the Whole at the present time provides generally for the establishment of fair labor standards in employments in and affecting interstate commerce. To accomplish that result the bill sets up a board, conferring upon that board certain specified powers; asserts that the declared policy of the act is to maintain minimum wage and maximum hours standards, fixing the limits to be achieved in the one case at a minimum wage of 40 cents per hour and in the other a maximum of 40 hours per week. Certain discretionary powers are lodged in the board and certain conditions and limitations are placed upon such discretion. It is a broad plan, attempting to achieve a definite result.

Coming more directly now to the immediate question presented to the Chair, involving the question of germaneness of the amendment offered by the lady from New Jersey to the Senate bill, the Chair finds that the amendment, of course, differs somewhat from the Senate bill. It nec-

essarily follows that it would do so; otherwise it would not have been offered. The question for the Chair here is to ascertain whether it differs so widely in its details from the Senate bill to justify the Chair in holding it not germane. The Chair has listened attentively to the citations of precedents involving the question of germaneness of amendments to farm legislation which have occurred during the past 12 years. The Chair studiously examined those decisions prior to the time when the pending question presented itself, and the Chair believes that they can be distinguished from the instant question as well as from the decision referred to by the gentleman from Michigan in connection with the ruling made by the distinguished gentleman from North Carolina [Mr. Warren] only several days ago.

It seems to the Chair that this entire question turns upon one point, and that is whether a new agency proposed by the amendment offered by the lady from New Jersey to administer the provisions of the pending bill is so different from the agency set up in the Senate bill to accomplish that purpose as to warrant the Chair holding the amendment not germane. It seems to the Chair that the other provisions in the pending bill involve solely a question of detail, and do not, in and of themselves, provide a great departure from the terms of the Senate bill. Therefore, it appears to the Chair that the point for him to determine is whether the change in agency to administer this act is so different as to make the amendment not germane.

Again referring to those decisions of germaneness made in the past, in the consideration of farm legislation, the Chair would distinguish them in this manner: The amendments in those cases, it seems to the Chair, were not ruled out on the ground that the substitution of a new governmental agency to administer the terms of the bill were not germane, but went, rather, to the authority of the new agency proposed to use a new and unrelated method in accomplishing that end. The Chair thinks that there is a decided difference between the substitution of a new agency to administer the law and the substitution of a new method of accomplishing a predetermined end.

The Chair happily finds, however, that it is not necessary for him to rely entirely upon his own opinion in reaching a conclusion on this question. The Chair has found, and the gentleman from New York has referred to a precedent involving a similar question. The Chair has found what he regards to be a direct and pointed decision on this matter.

The Chair has before him the following decision which the gentleman from New York has referred to, which may be found in Cannon's Precedents, volume 8, section 3056, wherein it was held that—

> To a bill proposing the adjudication of claims arising out of informal contracts with the Government, "through the agency of the Secretary of War," an amendment proposing to adjudicate such claims through the agency of a commission appointed for that purpose was held to be germane.

The Chair thinks that the decision by Mr. Chairman Crisp, of Georgia, is of sufficient importance that it should be read in its entirety. Mr. Chairman Crisp on that occasion said:

The bill before the House has for its object the validating and settling of damages arising out of informal contracts made by the War Department. The bill before the House provides that the Secretary of War, or any of his agents or representatives, can adjust and settle these differences. The amendment of the gentleman from Pennsylvania provides a different method or a different agent or a different tribunal to settle these differences. The Chair believes it is germane to the bill before the House. The Chair does not believe the House is confined to the particular method of settlement of these claims that the committee reports. The Chair believes the amendment is germane, proposing another vehicle, and it is for the House to determine which shall be adopted.

For the reasons stated, Chairman Crisp overruled that point of order.

In conclusion, the Chair thinks that the fundamental purpose of the amendment proposed by the lady from New Jersey is germane to the fundamental purposes of the bill now before us. The Chair, relying more specifically upon the decision of Mr. Chairman Crisp, just quoted, thinks the amendment comes within the rule of germaneness, and overrules the points of order.

A substitute amendment was offered: (3)

MR. [GLENN H.] GRISWOLD [of Indiana]: Mr. Chairman, I offer a substitute to the Norton amendment. . . .

THE CHAIRMAN: . . . The Clerk will report the amendment.

The Clerk read as follows:

Mr. Griswold offers the following amendment as a substitute: In lieu of the matter proposed by the pending amendment insert the following:

"That as used in this act unless the context otherwise requires—

"(1) "Person" includes an individual, partnership, association, corporation, business trust, receiver, trustee, trustee in bankruptcy, or liquidating or reorganizing agent. . . .

"Sec. 2. It shall be unlawful to employ any person in any employment affecting interstate or foreign commerce at a wage less than 40 cents an hour, or at work in excess of 8 hours per day or more than 40 hours in any 1 week, or to employ any person under conditions of oppressive child labor as hereinafter defined: *Provided*, That in case of emergency the provisions of this act shall not apply during the period of such emergency: *Provided further*, That such employer affected file with the State labor commissioner or other proper State official designated by law a sworn statement as to the necessity for such action: *Provided further*, That such employer shall pay to his workers during such emergency wages of not less than time and one-half for work in excess of 8 hours per day or 40 hours in any 1 week.

"Sec. 3. Any person in any State or Territory or possession of the United States or the District of Columbia guilty of violation of any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than $100 for each offense. The employment of each employee at a wage less than that fixed in this act, or for hours longer than those fixed in this act, unless excepted as provided in section 3, shall constitute a separate offense.

"Sec. 4. The district courts of the United States and possessions shall have jurisdiction of the violations of this act. . . .

3. *Id.* at p. 1591.

MR. [ROBERT C.] RAMSPECK [of Georgia]: Mr. Chairman, I make the point of order that this substitute for the amendment offered by the gentlewoman from New Jersey [Mrs. Norton] is not germane to the amendment to which it is offered for the reason that it not only sets up a different procedure and a different agency but it is for a different purpose.

The pending amendment offered by the gentlewoman from New Jersey proposes to set up fair labor standards. It proposes not one wage scale or one hour limitation but different wage scales and different hour limitations to be arrived at by the procedure outlined in her amendment. The proposal offered by the gentleman from Indiana [Mr. Griswold], on the contrary, is a penal statute solely and exclusively. It makes it unlawful for any person to employ anybody for more than 40 hours per week except for the exemptions named in the bill. It makes it unlawful to pay anybody less than 40 cents per hour and therefore it is for a different purpose which is to set up a single standard of wages and hours, whereas the amendment offered by the gentlewoman from New Jersey sets up plural standards and plural hours, to be administered by an administrative agency in the Department of Labor. This proposal would be administered by the officers enforcing the criminal laws of the United States and by the criminal divisions of the district courts of the United States, whereas the proposal of the gentlewoman from New Jersey is administered by an executive department and the amendment provides for a series of steps before reaching the maximum purpose.

I would like to call the Chair's attention to this language taken from the testimony of Assistant Attorney General Robert H. Jackson, who presented the legal phases of the bill as originally introduced, to the House and Senate committees, and it applies likewise to the purpose sought to be accomplished by the proposal now before the Committee of the Whole offered by the gentlewoman from New Jersey. Mr. Jackson said this:

> The bill recognizes the very practical exigencies which make it impossible to prescribe for all goods which enter into interstate commerce a single minimum fair-wage standard or a single maximum reasonable workweek standard. Even in the treatment of national problems there are geographic and industrial diversities which cannot be ignored. For that reason the bill makes a distinction between labor conditions which are clearly oppressive under any circumstances and labor conditions which may be found unreasonable under circumstances prevailing in particular industries or in particular geographic areas. As to labor conditions that are clearly oppressive, the regulatory provisions of the bill are largely automatic, but as to labor conditions which depend for their unreasonableness upon particular circumstances, the regulations become effective only after appropriate administrative findings and audits. The administration of these provisions is placed in a labor standards board of five members.

The only difference between Mr. Jackson's statement and the proposal of the gentlewoman from New Jersey is that instead of a board we have wage and hour committees appointed by an administrator, but the method provided is for consideration of economic factors, of the cost of living, of the cost of transportation, of wages paid for like work of comparable char-

acter in the community under investigation, and the unit cost of production, all of which are ignored in the substitute offered by the gentleman from Indiana, who proposes to set up a single rigid standard, which I submit to the Chair, under his own ruling a few moments ago on the point of order made by the gentleman from New York, is a different purpose arrived at also by a different method, and therefore, Mr. Chairman, I believe the substitute is not germane to the amendment offered by the gentlewoman from New Jersey. . . .

MR. O'CONNOR of New York: Mr. Chairman, earlier today I said I believed that any bill that approaches a possible solution of the question of wages and hours is germane as a substitute to the pending bill.

The original bill provided for a board to administer its provisions. The Norton amendment provides for an administrator in the Department of Labor. The Griswold substitute provides for no administrator whatsoever. In that respect all these proposals are germane. The original bill and the Norton amendment provide for flexible wages and flexible hours. The Griswold amendment provides for fixed wages and fixed hours. Surely, if you have a flexible schedule, you could always offer an amendment to make a rigid or fixed schedule.

There has been some talk about enforcement of the act, putting such enforcement into the courts. That result has nothing to do with administration of the measures. Probably in the other bills before us there are provisions whereby some parts of the measures will be enforced by the courts, but any bill that deals with wages and hours, irrespective of any schedule of wages and hours, irrespective of whether such schedules are flexible or rigid, irrespective of what method of administration is selected or whether there is no administration at all, I contend all these measures are germane to the Senate bill first under consideration by the House. They all aim at the ultimate objective of solving the national problem of minimum wages and maximum hours for our workers.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair is of the opinion that the ruling made by the Chair a short time ago on the point of order raised by the gentleman from New York [Mr. Snell] applies as well to the point of order raised by the gentleman from Georgia [Mr. Ramspeck].

In addition to the citations mentioned by the Chair on the previous occasion, the Chair calls attention in connection with the point of order raised by the gentleman from Georgia [Mr. Ramspeck] to a precedent in section 3054 of Cannon's Precedents, volume 8, where, in the syllabus, it is stated:

> To a proposition providing for the attainment of an objective by a specific method a proposal to achieve the same objective through the adoption of another method closely related may be germane.
>
> To a bill authorizing the Secretary of War in his discretion to discharge enlisted men, an amendment directing the Secretary of War to prescribe regulations permitting the discharge of such men was held to be germane.
>
> An instance wherein a proposal to instruct an executive to take definite action was held to be germane to a proposal to authorize him to take such action.

The Chair believes, having in mind the broad objective of this bill, the es-

tablishment of minimum wages and maximum hours, that the Committee of the Whole and the House are not precluded from considering another method or another means of accomplishing that purpose than the one recommended by the Senate bill or by the House committee, both methods being germane. The Chair believes it germane for the Committee of the Whole House on the state of the Union under the rules, to consider a mandatory minimum-wage and maximum-hour provision in preference to the amendment of the committee or the provisions of the Senate bill. Which is the desirable course to take is a matter for the Committee to determine.

In the opinion of the Chair, the substitute offered by the gentleman from Indiana [Mr. Griswold], for the reasons stated, is germane, and the Chair overrules the point of order.

Bill Providing for Promulgation of National Standards for Drinking Water—Amendment Permitting Judicial Remedy to Prevent Discharge of Contaminants into Streams

§ 6.24 To a bill providing for promulgation and enforcement of national drinking water standards to protect the public health from contaminants of any source of public water supply, an amendment permitting a judicial remedy in equity to assure safe drinking water by preventing discharges or emissions of contaminants in violation of law was held germane as limited to the control of drinking water sources covered by the bill.

During consideration of H.R. 13002[4] in the Committee of the Whole on Nov. 19, 1974,[5] the Chair overruled a point of order against the following amendment:

MR. [PHILLIP E.] RUPPE [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ruppe: Page 132, line 18, strike out the quotation marks.

Page 132, insert after line 18 the following:

"EQUITABLE RELIEF

"Sec. 1449. (a)(1) Except as otherwise provided in paragraph (2), in any action which is commenced by (or at the request of) the Administrator and which requests equitable relief for the purpose of assuring safe drinking water, if a party shows that a defendant in such action is discharging or emitting any substance in violation of Federal law (or any State law which is enforceable under Federal law) and that such discharge or emission presents or contributes to a public health risk, the court shall grant such equitable relief as may be necessary promptly to assure that such discharge or emission does not present or contribute to such risk.

4. The Safe Drinking Water Act.

5. 120 CONG. REC. 36395, 36396, 93d Cong. 2d Sess.

"(2) A court is not required by this section to grant equitable relief with respect to a discharge or emission if the person who is discharging or emitting such substance demonstrates that—

"(A) the public health risk does not exist; or

"(B) it would be arbitrary or capricious to grant such relief (taking into account technological and economic considerations, size of population at risk, and availability of alternative sources of drinking water).

"(b) Nothing in this section shall be construed to have the effect of limiting any other provision of law which requires or authorizes any court to prohibit or limit any discharge or emission. . . .

MR. [JAMES T.] BROYHILL of North Carolina: Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill. The bill provides the requirement that the Administrator of EPA will prescribe national primary drinking water regulations. Also, it has provisions in it to provide for State enforcement of these national primary drinking water regulations and also sets up certain oversight by the Administrator in case the States fail to adopt or implement these standards.

Mr. Chairman, this amendment deals with discharge of pollutants into a stream. The bill has enough provisions dealing with this discharge of pollutants. The legislation deals only with water treatment in order to comply with the standards that are set up as a result of the bill and the enforcement of these standards. This, again, is realistically an amendment to the Federal Water Pollution Control Act. . . .

MR. RUPPE: . . . First of all, in response to the question of germaneness, I would like to make the following four points:

The major bill deals with the issue of safe drinking water, and that is exactly the thrust of the amendment.

The amendment deals with the possible health hazards connected with the drinking of water from a raw water source. There are many references to raw water sources in the bill—it is not limited to solely water systems. . . .

MR. BROYHILL of North Carolina: . . . Since it has been agreed that the amendment deals with emissions and discharges into streams and since the amendment deals with that and that the bill has nothing whatever to do with that subject matter and that is the subject of jurisdiction of another committee, I maintain it is not germane to this legislation, or to the legislative jurisdiction of the committee. . . .

MR. [WILLIAM H.] HARSHA [of Ohio]: Mr. Chairman, I would just like to reemphasize the point made by the distinguished gentleman from North Carolina (Mr. Broyhill), that this clearly deals with the discharge and emission into the navigable waters of the country, and is under the jurisdiction of the Federal Water Pollution Control Act and amendments which we adopted in 1972. It has nothing to do with the language of the bill presently being considered by the Committee; nor does the Committee on Interstate and Foreign Commerce have any jurisdiction over water pollution. That is within the sole jurisdiction of the Committee on Public Works. To attempt to amend that law by this means is not germane nor within the jurisdiction of this legislation. . . .

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

In the opinion of the Chair, the amendment is limited in scope to the question of equitable relief to assure safe drinking water, and does not go to the broader question of water quality generally. The bill goes to the question of contamination of drinking water by any source, including injections of contaminants into underground water. Thus an amendment to provide a remedy which is limited to the control of contamination of drinking water sources is germane to the bill.

For that reason, the Chair must overrule the point of order.

—*International Instead of Domestic Approach To Maintaining Standards for Clean Water*

§ 6.25 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was ruled out as not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee.

On Nov. 19, 1974,[7] during consideration of H.R. 13002[8] in the Committee of the Whole, it was held that to a bill reported from the Committee on Interstate and Foreign Commerce authorizing the Administrator of the Environmental Protection Agency to promulgate national drinking water regulations and requiring cooperative federal-state enforcement of those standards, an amendment directing the President to negotiate international agreements to protect drinking water in the United States from contaminants outside the United States was held to go beyond the scope of the bill and to include a subject within the jurisdiction of the Committee on Foreign Affairs and was ruled out as not germane. The proceedings were as follows:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vanik: Page 132, insert after line 18 the following new section:

"INTERNATIONAL AGREEMENTS

"Sec. 1449. For the purpose of protecting drinking water in the States from contamination by contaminants from sources outside the jurisdiction of the States and the United States, the President shall—

6. William Nichols (Ala.).

7. 120 CONG. REC. 36393, 36394, 93d Cong. 2d Sess.

8. The Safe Drinking Water Act.

"(1) seek to negotiate multilateral treaties, conventions, resolutions, or other agreements and seek to formulate, present, and support appropriate proposals at the United Nations and other appropriate international entities, and

"(2) seek to implement and enforce existing treaties and agreements to which the United States is a party or signatory and which may serve to provide such protection.". . .

MR. [H. R.] GROSS [of Iowa]: . . . Mr. Chairman, it is my contention that this amendment goes far beyond the scope of this legislation. There is no provision in this legislation, as far as I can see, for involvement in international treaties or agreements and no funds authorized in the wording of the bill for that purpose. . . .

MR. VANIK: . . . In response to the point of order that is made by my distinguished colleague, the gentleman from Iowa, I want to point out that this amendment does not provide for any appropriation of funds. It merely requests that the President explore the possibilities of working out conventions and agreements with Canada on drinking water standards.

I do not know how else we can achieve the same standards on the Great Lakes for the millions of Americans who depend on the Great Lakes for their water supplies, if we cannot work this out in some way by agreement with respect to a mutuality of standards between the United States and the Government of Canada.

We cannot compel the Canadians to do anything. Our statutes have no effect, and I think that if we are going to achieve a better quality water, if we are going to maintain the standards proposed by this legislation for drinking water for those people who must depend on the Great Lakes in the nations that are involved, it can only be achieved by agreements and treaties and by conventions with the Government of Canada. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule on the point of order.

The Chairman advises the gentleman from Ohio that the subject of international agreements is not within the scope of the bill and that the subject of the amendment comes under the jurisdiction of another committee of the House; namely, the Committee on Foreign Affairs.

Therefore, the amendment is not germane and the Chair must sustain the point of order raised by the gentleman from Iowa.

Clean Air: Amendment Invoking Provisions of Law Not Within Jurisdiction of Reporting Committee

§ 6.26 To a proposition temporarily suspending certain requirements of a law, an amendment accomplishing that result by prohibiting federal assistance under another law (within the jurisdiction of a different House committee) where there has been failure to comply with standards imposed by the amendment was held to be not germane.

9. William Nichols (Ala.).

On May 1, 1974,[10] during proceedings relating to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, the Committee of the Whole was considering an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements, including the temporary suspension of certain emission standards imposed upon automobile manufacturers. An amendment was offered which sought to impose restrictions on emissions, only for new automobiles, in designated geographical areas, through requirements affecting the manufacture, purchase, and registration of automobiles. The amendment also sought to withdraw state entitlements to federal assistance under the Clean Air Act or under the Federal Water Pollution Control Act. The latter act was within the jurisdiction of the Committee on Public Works. The amendment was ruled out of order as not germane. The proceedings are discussed in greater detail in § 4.5, supra.

10. 120 CONG. REC. 12520, 12522–24, 93d Cong. 2d Sess.

Amendment Proposing Interim Period of Public Ownership in lieu of Private Ownership of District of Columbia Transportation Authority

§ 6.27 To a committee amendment restoring the District of Columbia transportation franchise to the Capital Transit Company, a substitute amendment providing for an interim public transportation authority operated by the District of Columbia Commissioners pending sale to private operators, was conceded to be not germane.

In the 84th Congress, a proposition was under consideration relating to the reinstatement of a franchise for operation of a transportation system in the District of Columbia.[11] To such proposition, an amendment was offered which stated in part that:[12]

> It is hereby declared to be a matter of legislative determination . . . that operation of the Capital Transit Co., the operator of the principal transportation system located within the Washington metropolitan area, will cease August 14, 1956, consequent upon repeal of its franchise rights and charter

11. Under consideration was H.R. 8901 (Committee on Interstate and Foreign Commerce).

12. 102 CONG. REC. 8417, 84th Cong. 2d Sess., May 17, 1956.

by Public Law 389, 84th Congress (69 Stat. 724); that the Congress finds the establishment of an adequate transportation system to operate in the Washington metropolitan area, commencing August 15, 1956, as a replacement for Capital Transit Co., cannot be accomplished at the present time by the ordinary operations of private enterprise without public participation. . . .

The amendment sought to grant,[13]

. . . to a public body corporate consisting of the Commissioners of the District of Columbia for an interim period certain powers to acquire . . . and operate an adequate transportation system or systems in the Washington metropolitan area. . . .

The following proceedings then took place:[14]

MR. [J. PERCY] PRIEST [of Tennessee]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Massachusetts [Mr. Heselton] is not germane to the committee substitute. . . .

MR. [JOHN W.] HESELTON [of Massachusetts]: . . . I concede the point of order.

THE CHAIRMAN:[15] The point of order is sustained.

Amtrak: Tax Incentives in Lieu of Direct Financial Assistance To Improve Rail Service

§ 6.28 To a bill within the jurisdiction of the Committee on Interstate and Foreign Commerce reorganizing Amtrak through financial assistance and other methods to improve rail passenger services, an amendment to achieve track improvements solely through tax incentives by amending the Internal Revenue Code, is not a related method and is not germane, since it would fall within the jurisdiction of the Committee on Ways and Means.

The Chair, in the proceedings of July 25, 1979, discussed in greater detail in § 4.66, supra, relied for its ruling on the fact that the methods proposed by the amendment to improve rail passenger service fell within the jurisdiction of the Committee on Ways and Means, rather than the Committee on Interstate and Foreign Commerce, which had jurisdiction over the bill. In so ruling, the Chair was rejecting the contention of the proponent of the amendment that the fundamental purpose of both bill and amendment was the same, and that the methods used by both to achieve the purpose were closely enough allied to render the amendment germane.

13. *Id.*
14. *Id.* at p. 8424.
15. Augustine B. Kelley (Pa.).

Income Tax in Lieu of Sales Tax in District of Columbia

§ 6.29 To a bill providing for a sales tax for the District of Columbia, a substitute proposing an amendment to the income tax laws was held to be germane.

On Mar. 14, 1949, the following amendment was offered to a bill relating to a sales tax for the District of Columbia:[16]

> There is hereby annually levied and imposed for each taxable year upon the taxable income of every resident a tax at the following rates:
>
> Two percent on the first $2,000 of taxable income. . . .

A point of order was made against the amendment:

> MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, we are considering titles I and II of this bill; that is a sales tax. It is an entirely different proposition from the income tax; in fact, it is usually put in a separate title or in a separate bill.
>
> Mr. Chairman, I make the point of order that a substitute for a sales tax of an income tax is not germane to the pending bill at this point.

In ruling on the point of order, the Chairman[17] stated:[18]

> The gentleman from New York has offered an amendment as a substitute to the pending bill. The Chair is constrained to rule that it is germane, because in the gentleman's substitute he proposes a method of taxation which though somewhat different from the method proposed in the bill, nevertheless, is a method of taxation, and it is germane at this point.
>
> The Chair overrules the point of order.

Dollar Limitation on Expenditures—Amendment Increasing Limitation in Amount Computed Pursuant to Given Formula

§ 6.30 To a provision fixing an expenditure limitation at a specific dollar amount for a fiscal year, an amendment increasing the limitation by an amount to be computed pursuant to a specified formula was held to be germane.

On May 21, 1969, it was held that, to that section of an appropriation bill setting a limitation of $192,900,000,000 on expenditures for the fiscal year, an amendment increasing the limitation by an amount equal to certain budgetary fixed costs was germane.[19]

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16. 95 CONG. REC. 2444, 81st Cong. 1st Sess. Under consideration was H.R. 3347 (Committee on the District of Columbia).

17. Hale Boggs (La.).

18. 95 CONG. REC. 2444, 81st Cong. 1st Sess., Mar. 14, 1949.

19. See the proceedings at § 15.51, infra.

Budget Procedure: Introducing Executive Branch Into Congressional Rule-making

§ 6.31 To a proposition changing Congressional budget procedures to require consideration of balanced budgets, an amendment changing concurrent resolutions on the budget to joint resolutions, bringing executive enforcement mechanisms into play, was held not germane.

The proceedings of July 18, 1990, relating to H.R. 5258, the Balanced Budget Act of 1990, are discussed in § 5.6, supra.

Proposition Amending Rule To Permit Recorded Teller Votes—Amendment to Another Rule To Allow Roll Call Vote in House on Amendments Rejected in Committee of the Whole

§ 6.32 To a proposition amending a rule of the House so as to permit recorded teller votes, a substitute amendment addressed to another rule of the House and requiring in certain instances a roll call vote in the House on amendments rejected in the Committee of the Whole was held to be not germane.

On July 27, 1970, the House was considering a proposal[20] to permit, upon demand of one-fifth of a quorum, the recording by clerks of individual teller votes in the House or in the Committee of the Whole. The following amendment in the nature of a substitute was offered by Mr. Wayne L. Hays, of Ohio:[1]

> RECONSIDERATION BY ROLL CALL VOTES OF AMENDMENTS DEFEATED IN COMMITTEE OF THE WHOLE HOUSE
>
> . . . Rule XXIII . . . is amended by adding . . . :
>
> 9. When any measure is reported from a Committee of the Whole House, it shall be in order . . . for any Member, who has proposed an amendment to that measure in the Committee of the Whole House which has been defeated by teller vote, to offer a motion, which shall require for adoption the affirmative vote of at least one-fifth of a quorum, demanding the reconsideration of that amendment by roll call vote taken in the manner provided by rule XV.

The following proceedings then took place with respect to the proposed substitute:[2]

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20. 116 CONG. REC. 25796, 91st Cong. 2d Sess. The proposal, in the form of an amendment to clause 5 of Rule I of the Rules of the House offered by Mr. Thomas P. O'Neill, Jr. (Mass.), is set forth in § 6.33, infra. Under consideration was H.R. 17654 (Committee on Rules).

1. 116 CONG. REC. 25801, 91st Cong. 2d Sess., July 27, 1970.

2. *Id.*

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, I want to raise a point of order against the consideration of this amendment at this time. . . .

Mr. Chairman, as I understand the substitute, the substitute is addressed to rule XXIII of the House, whereas the current amendment, the one offered by the gentleman from Massachusetts (Mr. O'Neill), is addressed to rule I. The O'Neill amendment primarily deals with procedures under consideration in the Committee of the Whole, whereas the substitute primarily deals with matters in the House rather than in the Committee of the Whole. That is the main substance of my objection. . . .

MR. HAYS: . . . I concede the point of order.

THE CHAIRMAN (William H. Natcher, of Kentucky): The point of order is conceded.

The point of order is sustained.

Proposition Amending Rule To Permit Recorded Teller Votes—Amendment Adding Language to Same Rule to Allow Roll Call Vote in House on Amendments Rejected in Committee of the Whole

§ 6.33 To an amendment to the rules of the House to permit, upon demand of one-fifth of a quorum, the recording of teller votes in the House or in Committee of the Whole, an amendment adding language to permit a separate roll call vote in the House, upon demand of one-third of a quorum, on any amendment rejected in Committee of the Whole by a teller vote was held to be germane as providing a different method for the recording of teller votes.

On July 27, 1970,[3] Mr. Thomas P. O'Neill, Jr., of Massachusetts, offered the following amendment to the rules:

RECORDING TELLER VOTES

Clause 5 of Rule I of the Rules of the House of Representatives is amended to read as follows:

. . . If . . . any Member requests tellers with clerks and that request is supported by at least one-fifth of a quorum, the names of those voting on each side of the question shall be entered in the Journal. . . .

Subsequently, Mr. Leslie C. Arends, of Illinois, stated:[4]

Mr. Chairman, immediately after the adoption of the O'Neill amendment . . . I want to offer an amendment adding the sentence that when we go back into the House from the Committee of the Whole any amendment that has been adopted by a teller vote or defeated by a teller vote shall have a difference in this respect: On the adoption of the amendment it takes

3. 116 CONG. REC. 25796, 91st Cong. 2d Sess. Under consideration was H.R. 17654 (Committee on Rules).

4. 116 CONG. REC. 25814, 91st Cong. 2d Sess., July 27, 1970.

. . . one-fifth to ask for a recorded vote, but on any defeated amendment that if a vote is requested we ask for one-third of the membership to rise in order to get a vote. I believe we ought to make a distinction between an approved or disapproved teller vote amendment.

The amendment was offered by Mr. Arends:

The Clerk read as follows:

Amendment offered by Mr. Arends to the amendment offered by Mr. O'Neill of Massachusetts. After the last sentence of the O'Neill amendment add the following new language:

"When any measure is reported from a Committee of the Whole House, it shall be in order, immediately after the order for the engrossment and third reading of the measure and before consideration of the question of final passage, for any Member with respect to any amendment which has been defeated by teller vote in the Committee of the Whole, to offer a motion, which shall require for adoption the affirmative vote of at least one-third of a quorum, demanding the reconsideration of that amendment by roll call vote taken in the manner provided by Rule XV. Such motion is of the highest privilege and shall be decided without debate. If, upon reconsideration by roll call vote, the amendment is adopted, then the amendment shall be deemed to have been read in the third reading, and shall be included in the engrossment, of that measure."

Mr. O'Neill made a point of order against the amendment. The Chairman[5] ruled as follows:[6]

The amendment offered by the gentleman from Illinois (Mr. Arends) provides for the recording of teller votes. The pending amendment offered by the gentleman from Massachusetts also provides for the recording of teller votes. Therefore, the Chair overrules the point of order. . . .

Another amendment in the nature of a substitute, also relating to reconsideration by roll call votes of amendments defeated in the Committee of the Whole House, had been ruled out as not germane because it was addressed to a different rule of the House than that to which the O'Neill amendment related. See § 6.32, supra.

Ethics in Government: Limits on Outside Earned Income in Addition to Disclosure

§ 6.34 To a proposition intending to regulate the conduct of a class of persons by several diverse methods, an amendment adding an additional approach to accomplish the same result may be germane; thus, to a title of a bill providing for financial disclosure and regulation of

5. William H. Natcher (Ky.).
6. 116 Cong. Rec. 25815, 91st Cong. 2d Sess., July 27, 1970.

ethical conduct and conflicts of interest by employees of the executive branch, an amendment prohibiting employees covered by said title and receiving a certain level of compensation from receiving above a certain percentage of outside earned income was held germane as an additional regulation of ethical conduct related to those contained in the title.

During consideration of H.R. 1 (Ethics in Government Act of 1977) in the Committee of the Whole on Sept. 27, 1978,[7] the Chair overruled a point of order against the following amendment:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 51, after line 19, insert the following new section and renumber accordingly:

"Sec. 243. Except where the employee's Agency or Department shall have more restrictive limitations on outside earned income, all employees covered by this Act who are compensated at a pay grade in the General Schedule of Grade 16 or above shall be limited in outside earned income to not more than fifteen percent of their salary.". . .

MR. [GEORGE E.] DANIELSON [of California]: . . . The proposed amendment in the first place by its terms applies to employees covered by this act. The act has three titles: Title I which is on the legislative branch; title II, executive branch; and title III, judicial branch. We are here presently dealing only with title II, the executive branch. Therefore the amendment is broader than the subject matter pending before the committee under the rule and would be subject to a point of order.

Second, the other point of order I would like to raise is that this bill by its terms is a financial disclosure act. It is to require certain officers and employees of the United States to answer as to their income and financial holdings and transactions and report as to those. It does not limit income.

A limitation of income is within the rules of the House and by special mention in the rule under which this bill is being heard, an amendment by the gentleman from Tennessee (Mr. Quillen) could have been entertained, but that I submit respectfully is not a broad enough exemption to the rule to permit the entire bill to reach earnings limitations in addition to the financial disclosure. . . .

MR. ASHBROOK: Mr. Chairman, will the gentleman from California withhold his point of order until I ask unanimous consent to change the word "act" to "title"? . . .

I would ask unanimous consent to change the word "act" to "title" in the amendment. That is the intention of the amendment.

THE CHAIRMAN:[8] Is there objection to the request of the gentleman from Ohio?

There was no objection.

7. 124 CONG. REC. 32006, 32007, 95th Cong. 2d Sess.

8. Edward P. Boland (Mass.).

Does the gentleman from California insist on his point of order?

MR. DANIELSON: Yes. As to the other point of order, as to the scope of the bill, the earnings limitation as opposed to the financial disclosure, yes. . . .

MR. ASHBROOK: . . . I think the entire thrust of the bill does relate, as we have said particularly as to income having a relationship to ethics, and I think on that point my amendment would be germane.

THE CHAIRMAN: The Chair is ready to rule.

Title II approaches the issue of the ethical conduct of executive branch employees in three diverse ways, one, disclosure; two, creation of the Office of Ethics to monitor employee conduct; and, three, imposition of civil penalties for conflicts of interest. The amendment suggests a fourth approach to the issue of ethical conduct of executive branch employees and as modified is germane to title II as a whole.

The Chair overrules the point of order.

Bill To Limit Campaign Expenditures for Radio and Television—Amendment To Effect Limitation on Newspaper and Periodical Expenditures

§ 6.35 To a bill intended to limit campaign expenditures for radio and television, an amendment making any such expenditures contingent upon compliance with a limitation on newspaper and periodical expenditures was held to be not germane.

In the 91st Congress, during consideration of a bill[9] imposing limits on the amounts permitted to be spent on radio and television broadcasting by certain candidates for elective office, an amendment to such proposition was offered for purposes of prohibiting any broadcasting expenditures by such candidates unless they certified that their newspaper and periodical advertising expenses did not exceed certain limits. The amendment stated:[10]

> [No] . . . candidate in an election . . . for a major elective office [may] spend for the use of broadcasting stations on behalf of his candidacy in such elections any amount of money unless he has first certified to the broadcast licensee from whom he proposes to make the purchase of time that his total expenditures for newspaper or periodical advertisements on behalf of his candidacy in such an election will not exceed [a specified sum].

The amendment was held to broaden the scope of the bill and was ruled out on a point of order. The basis of such ruling was explained by the Chairman[11] as follows:[12]

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9. Under consideration was H.R. 18434 (Committee on Interstate and Foreign Commerce).

10. 116 CONG. REC. 28165, 91st Cong. 2d Sess., Aug. 11, 1970.

11. Samuel S. Stratton (N.Y.).

12. 116 CONG. REC. 28166, 91st Cong. 2d Sess., Aug. 11, 1970.

The gentleman from Massachusetts has made a point of order against the amendment offered by the gentleman from Indiana on the grounds that it is not germane. . . .

The amendment offered by the gentleman from Indiana is drafted as an amendment to that part of the bill . . . which seeks to impose limits on the amounts which may be spent by candidates for major elective offices for the use of broadcasting stations.

The bill pertains solely to radio and television.

The amendment offered by the gentleman from Indiana, however, introduces another subject: Expenditures for newspaper and periodical advertising.

The effect of the amendment is to significantly broaden the scope of the bill. While both the bill, in part, and the amendment have a common purpose—limiting campaign expenditures—this fact alone does not insure the germaneness of the amendment. The Chair has examined a ruling made by Chairman Cannon, of Missouri, in the 77th Congress which stands for the following proposition.

> The fact that an amendment and the provision in the bill to which the amendment is offered have a common purpose and are directed toward the same objective is not conclusive, and an amendment dealing with a subject to which there is no reference in the text to which offered is not germane to the bill [Rec. p. 875–878, Feb. 10, 1941].

Since there is no mention in the pending bill of an expenditure control on any campaign costs except radio and television, the Chair finds that the amendment is not germane and sustains the point of order.

Consumer Protection: Congressional Oversight in Lieu of New Independent Executive Agency

§ 6.36 To a bill establishing an independent agency within the executive branch for the protection of consumer interests, an amendment in the nature of a substitute emphasizing the committee oversight responsibility of the legislative branch and authorizing Congressional committees to order the consumer office to take certain actions, and creating an office within the legislative branch as a function of the committee oversight responsibility was held to be not germane.

On Nov. 5, 1975,[13] during consideration of a bill establishing an agency for consumer protection[14] in the Committee of the Whole, it was illustrated that to a bill seeking to accomplish a purpose by one method, an amendment proposing to accomplish that result by another method not contemplated by the bill is not ger-

13. 121 CONG. REC. 35041–43, 35046, 35047, 94th Cong. 1st Sess.

14. H.R. 7575.

mane. The proceedings were as follows:

MR. [ELLIOTT] LEVITAS [of Georgia]: Mr. Chairman, I offer an amendment as a substitute.

The Clerk read as follows:

Amendment offered by Mr. Levitas as a substitute:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Consumer Protection Act of 1975".

STATEMENT OF FINDINGS

Sec. 2. The Congress finds that the interests of consumers are inadequately represented and protected within the Federal Government; that vigorous representation and protection of the interests of consumers are essential to the fair and efficient functioning of a free market economy; that it is the primary responsibility of each Federal agency to serve and protect the consuming public and to orient its operations toward this goal; and that it is within the legitimate oversight authority and responsibility of the Congress to establish mechanisms whereby the operations of Federal agencies may be subjected to critical examination to insure that those purposes are faithfully pursued.

Sec. 3. (a)(1) There is hereby established an office of the Congress to be known as the Office of Consumer Protection. The Office shall be headed by a Director who shall be nominated by the President pro tempore of the Senate and the Speaker of the House of Representatives, and confirmed by majority vote of the Senate and of the House of Representatives. . . .

Sec. 5. (a) The Office shall, in the performance of its functions, advise the Congress as to matters affecting the interests of consumers; and protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States. . . .

Sec. 7. (a) Whenever a committee of the Congress having specific oversight responsibility with respect to the operations of a Federal agency determines that the result of a proceeding or activity of such agency may substantially affect an interest of consumers, such committee may by resolution order the Director to intervene as a party or otherwise participate for the purpose of representing the interests of consumers, as provided in paragraph (1) or (2) of this subsection. . . .

(d) To the extent that any person, if aggrieved, would have a right of judicial review by law, the Director may, at the direction by resolution of the committee of the Congress having primary oversight responsibility, institute, or intervene as a party, in a proceeding in a court of the United States involving judicial review of any Federal agency action which such committee determines substantially affects the interests of consumers, except that where the Director did not intervene or participate in the Federal agency proceeding or activity involved, the court shall determine whether the Director's institution of the judicial proceeding would be necessary to the interests of justice. . . .

(e) When the committee of the Congress having primary oversight responsibility determines it to be in the interests of consumers, such committee may by resolution order the Director to request the Federal agency concerned to initiate such proceeding or to take such other action as may be authorized by law with respect to such agency. . . .

MR. [JACK] BROOKS [of Texas]: . . . I would review and point out that in

rule 16, section 78(c), committee jurisdiction as a test of germaneness is the section to which I refer, and it is quite obvious that this substitute amendment would give considerable authority and jurisdiction in this entire field to a branch of the Congress and would, if independently introduced, be referred undoubtedly to some other committee, other than the Committee on Government Operations. It would probably go to the Committee on House Administration and to the Committee on Rules, or maybe to all three.

I would rest on that argument that this substitute amendment is not germane and that a point of order lies against it. . . .

MR. LEVITAS: . . . I must say, I am somewhat taken by surprise that the chairman of the committee did offer this point of order, but it occurs to me, nevertheless, having one or two precedents here that perhaps that point of order is not well taken.

The question of germaneness, I believe, is quite clearly not confined to which committee has jurisdiction in reporting the original legislation.

I think that there are ample precedents to establish the fact that the question of committee jurisdiction itself is not a sufficient test of germaneness.

I would like to cite three precedents in particular that I think are quite pertinent and I will refer to the first in some detail because I think it is the most important. It is a precedent that occurred on December 15, 1937, and involves a ruling by the Chairman at that time. The point of order that was then made related to whether or not a Department of Labor—a proposal was made that would set up an authority within an independent agency. The substitute provided, however, for setting up a bureau as a division of the Department of Labor under an administrator, whereas the Senate bill provided for the establishment of an independent board.

In ruling that the point of order was not well taken, the Chair pointed out and quoted from Cannon's Precedents, volume 8, section 2993:

> The meaning of the word "germane" is akin to, or near to, or appropriate to, or relevant to, and "germane" amendments must bear such relationship to the provisions of the bill as well as meet other tests; that is, that they be a natural and logical sequence to the subject matter, and propose such modifications as would naturally, properly, and reasonably be anticipated.

Now, as I pointed out in my remarks, the purpose of both these bills is quite clearly to get the executive and the independent agencies to do their jobs. This is clearly stated in the findings incorporated in both pieces of the legislation that are offered. The only difference is which vehicle is to be used to carry out the responsibility of seeing that the independent agencies do their job. In further making his ruling, the Chair said as follows:

> It seems to the Chair that this entire question turns upon one point, and that is whether a new agency proposed by the amendment offered by the lady from New Jersey to administer the provisions of the pending bill is so different from the agency set up in the Senate bill to accomplish that purpose as to warrant the Chair holding the amendment not germane. It seems to the Chair that the other provisions in the pending bill involve solely a question of de-

tail, and do not, in and of themselves, provide a great departure from the terms of the Senate bill. Therefore, it appears to the Chair that the point for him to determine is whether the change in agency to administer this act is so different as to make the amendment not germane.

Again referring to those decisions of germaneness made in the past, in the consideration of farm legislation, the Chair would distinguish them in this manner: The amendments in those cases, it seems to the Chair, were not ruled out on the ground that the substitution of a new governmental agency to administer the terms of the bill were not germane, but went, rather, to the authority of the new agency proposed to use a new and unrelated method in accomplishing that end. The Chair thinks that there is a decided difference between the substitution of a new agency to administer the law and the substitution of a new method of accomplishing a predetermined end.

It seems to me, Mr. Chairman, that it is quite clear, based on the statement of findings in both bills, that the purpose of both is the same. The agency to carry it out only differs.

Concluding my point, Mr. Chairman, again in that precedent the Chair quoted from Cannon's Precedents, volume 8, section 4056, wherein it was held—

To a bill proposing the adjudication of claims arising out of informal contracts with the Government, "through the agency of the Secretary of War," an amendment proposing to adjudicate such claims through the agency of a commission appointed for that purpose was held to be germane.

One of those was a cabinet post, the other was a quasi-judicial body.

The Chair in that case stated:

The bill before the House has for its object the validating and settling of damages arising out of informal contracts made by the War Department. The bill before the House provides that the Secretary of War, or any of his agents or representatives, can adjust and settle these differences. The amendment of the gentleman from Pennsylvania provides a different method or a different agent or a different tribunal to settle these differences. The Chair believes it is germane to the bill before the House. The Chair does not believe the House is confined to the particular method of settlement of these claims that the committee reports. The Chair believes the amendment is germane proposing another vehicle, and it is for the House to determine which shall be adopted.

The other two precedents, Mr. Chairman, which I would like to cite are as follows: One was the ruling of the Chairman, Mr. Lanham, in the Record of June 9, 1941, reported at page 4905; and most recently, Mr. Chairman, the ruling of the Chair on December 19, 1973, found at page H11753.

Based on those authorities, Mr. Chairman, I submit that the test of germaneness is whether the substance to be accomplished is akin to the substance in the bill itself. I think that is quite clearly the case, as a reading of the findings in both situations provide. The only difference is the vehicle to carry it out, and I think it is quite clear in this instance that the precedents I called to the attention of the Chair of 1937 are quite clearly in point. . . .

THE CHAIRMAN:[15] . . . The bill H.R. 7575 would set up an independent

15. Richard Bolling (Mo.).

agency within the executive branch to protect and represent the interests of consumers. The amendment in the nature of a substitute offered by the gentleman from Georgia, while related to the general purpose of the bill—the protection of consumer interests—would establish an Office for Consumer Protection as an office of the legislative branch to further strengthen "the legitimate oversight authority and responsibility of the Congress to establish mechanisms whereby the operations of Federal Agencies may be subjected to critical examination to insure that those purposes are faithfully pursued."

While the amendment tracks the bill in many respects, conferring upon the congressional office many of the authorities given to the agency in the bill, to initiate actions for the protection of consumers, a major function of the office as stated in section 7 of the amendment is to institute or intervene in actions to protect the interests of consumers whenever a committee having specific oversight responsibility adopts a resolution ordering the Director to so participate.

It thus appears to the Chair that a primary method contemplated by the amendment to achieve the common purpose of protecting consumer interests is not closely enough related to the methods contained in the bill to permit the amendment to be considered germane.

A landmark germaneness decision in this area, which was cited by the gentleman from Georgia (Mr. Levitas), is cited on page 515 of the House Rules and Manual, where Chairman McCormack ruled on December 15, 1937, that, for a bill to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another executive agency was held germane. (See also Cannon's Precedents, vol. 8, sec. 3056.)

The precedents also indicate, however, that, to one method of attaining an objective, an amendment to accomplish the same objective by a different and unrelated method not contemplated by the bill is not germane. (Deschler's Procedure, chap. 28, sec. 6.2).

For example, to a bill providing relief to foreign countries through Government agencies, an amendment providing for such relief to be made through the Red Cross was held not germane December 10, 1974 . . . also cited on page 515 of the manual.

In the opinion of the Chair, the emphasis contained in the amendment in the nature of a substitute upon congressional oversight responsibilities and the authority conferred upon House and Senate committees to order certain actions to be undertaken by the Consumer Office in furtherance of those committees' oversight functions introduces an issue which is not sufficiently related to the scope of the pending bill.

The Chair therefore sustains the point of order.

Bill Authorizing President To Appoint Administrative Assistants—Amendment To Change President's Term of Office

§ 6.37 To a bill authorizing the President to appoint up to

six administrative assistants, an amendment proposing a constitutional amendment extending the terms of the President and Vice President to six years was held to be not germane.

In arguing that a constitutional amendment extending the terms of the President and Vice President was germane to a bill authorizing Presidential appointment of administrative assistants, the proponent of the amendment, Mr. Donald H. McLean, of New Jersey, stated:[16]

> A moment ago the ruling of the Chair was that this bill pertained to the Executive Department. Certainly the amendment I proposed pertains entirely to the executive department of the Government and is therefore in order. Much has been said about the physical and mental strain upon the Executive. The proposal for the election of the President for a term of 6 years . . . would relieve it. . . . (The amendment) has as one of its purposes the relief of the mental and physical strain on the occupant of the Executive Office, enabling the President to give his entire time to the duties of the Presidency. . . .

The Chairman[17] ruled that the amendment was not germane, pointing out that, "the bill proposes that the President . . . be allowed to appoint . . . administrative assistants. The amendment offered . . . proposes a constitutional amendment."[18] The Chairman expressly relied on the principle that, "to a proposition to effect a purpose by one method, a proposition to effect such purpose by another method, wholly unrelated, is not germane."

Bill To Amend Foreign Assistance Act—Amendment Authorizing Annual Appropriation to President To Accomplish Objectives of Bill

§ 6.38 Where a bill amending the Foreign Assistance Act of 1961 sought to provide new authorizations and declarations of policy, an amendment proposing alternatives to the several programs authorized in the bill and in the act was held to be germane.

In the 88th Congress, the Chairman[19] ruled that the amendment stated in part below was germane to a bill amending the Foreign Assistance Act of 1961:[20]

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16. 81 Cong. Rec. 7700, 75th Cong. 1st Sess., July 27, 1937. Under consideration was H.R. 7730 (Select Committee on Government Organization).

17. Wright Patman (Tex.).

18. 81 Cong. Rec. 7701, 75th Cong. 1st Sess., July 27, 1937.

19. Albert M. Rains (Ala.).

20. See 109 Cong. Rec. 15614, 88th Cong. 1st Sess., Aug. 22, 1963.

In order to more directly, and thus more effectively, and more economically accomplish the humanitarian objectives of the United States . . . there is hereby authorized to be appropriated to the President, as an alternative to the several programs authorized for such purposes by this Act and the Foreign Assistance Act of 1961, as amended, the sum of $1,000,000,000 annually. . . .

The Chair stated only that, "It is evident from a reading of the amendment that (it) is germane."

Bill Providing for Settlement of Foreign Claims Against United States—Amendment Providing for Settlement in Form of Credit Against Indebtedness of Foreign Nation

§ 6.39 To a bill directing the Secretary of the Treasury to pay out Treasury funds for the settlement of certain claims of foreign individuals against the United States, an amendment providing that such payments should be credited upon any indebtedness due to the United States by the claimants' governments, was held to be germane.

Under consideration was H.R. 7885 (Committee on Foreign Affairs).

On July 11, 1949, a bill was under consideration reading in part as follows:[21]

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum as may be necessary to effect full and final settlement of the following claims against the United States:

(a) Claim of the Government of Great Britain in [a specified amount] on behalf of John Bailey. . . .

A proposed amendment stated:[1]

[S]trike out "pay out of any money in the Treasury not otherwise appropriated" and insert "credit upon any indebtedness due to the United States by the claimant governments."

Objection was made to the amendment as follows:

MR. [JOHN] KEE [of West Virginia]: Mr. Chairman, I make the point of order that the amendment is not germane to the purposes and intent of the bill.

The Chairman,[2] however, overruled the point of order without further comment.[3]

21. 95 CONG. REC. 9236, 81st Cong. 1st Sess. Under consideration was S. 937 (Committee on Foreign Affairs).

1. 95 CONG. REC. 9238, 81st Cong. 1st Sess., July 11, 1949.

2. Raymond W. Karst (Mo.).

3. 95 CONG. REC. 9238, 81st Cong. 1st Sess., July 11, 1949.

Proposition Empowering President To Take Over Foreign Vessels, and Providing for Compensation Therefor—Amendment Providing That Compensation May Be in Form of Credit Upon Debt Owed by Foreign Nation

§ 6.40 To a proposition empowering the President to take over title or possession of foreign merchant vessels and providing just compensation shall be paid owners, an amendment providing that the compensation for such vessels to any nation indebted to the United States shall be in the form of a credit upon such debt was held to be germane.

In the 77th Congress, the following proposition was being considered:[4]

> That during the existence of the present emergency, the President is authorized and empowered . . . to purchase . . . or take over the title to . . . any foreign merchant vessel which is lying idle in waters within the jurisdiction of the United States and which is necessary to the national defense: Provided That just compensation shall be determined and made to the owner or owners of any such vessel in accordance with [certain statutory provisions].

An amendment to the proposition stated:[5]

> Provided further, That in the event any vessel taken over under the provisions of this act belongs to any government now indebted to the United States, the compensation to be paid . . . shall be paid by crediting the same upon such existing debt. . . .

In response to a point of order against the amendment, the Chairman[6] stated:[7]

> The language of the bill provides that vessels may be purchased by the American Government, and the provisions of this amendment merely go to the method whereby that purchase may be carried out. It provides for one method of payment. Therefore, the Chair holds it is germane to the purpose of the bill, and the point of order is overruled.

Bill Giving Administrator of Veterans' Affairs Authority To Establish Maximum Interest Rate for Loans to Veterans—Amendment Changing Existing Authority of Administrator to Manage Loan Program

§ 6.41 To a bill giving the Administrator of Veterans' Af-

4. 87 Cong. Rec. 3668, 77th Cong. 1st Sess., May 6, 1941. Under consideration was H.R. 4466 (Committee on Merchant Marine and Fisheries).

5. 87 Cong. Rec. 3678, 77th Cong. 1st Sess., May 6, 1941.

6. John M. Costello (Calif.).

7. 87 Cong. Rec. 3678, 77th Cong. 1st Sess., May 6, 1941.

fairs authority, for a two-year period, to establish a maximum interest rate for insured loans to veterans, an amendment changing the existing authority of the Administrator to finance and manage the loan program was held to be not germane.

In the 91st Congress, during the consideration of a proposition relating to the authority of the Administrator of Veterans' Affairs to establish a maximum interest rate for guaranteed veterans' loans, an amendment was offered for purposes of changing the existing authority of the Administrator to finance and manage the loan program. The effect of the basic proposition and the amendment thereto, and the basis for ruling that the amendment was not germane, were discussed by the Chairman[8] as follows:[9]

> The proposition before the Committee has a narrow purpose: To grant the Administrator of Veterans' Affairs authority, for a 2-year period, to establish a maximum interest rate for guaranteed or insured veterans loans. . . .
>
> The amendment offered by the gentleman from Texas [Mr. Wright Patman], authorizes and directs the Administrator, in certain situations, to purchase loan commitments from the lender-mortgagee in a veterans loan transaction. Such purchases would be funded through a revolving fund in the Treasury, with assets transferred from the national service life insurance fund. Commitments purchased by the Administrator under this authority could then be sold through the Participation Sales Act of 1966.
>
> It has been suggested that the purpose of the two propositions is similar in that both the committee amendment and the amendment offered by the gentleman from Texas are designed to help veterans obtain housing loans. In a very broad sense this may be true, but the precedents indicate that where a bill is drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

Bill and Amendment as Stating Different Conditions To Be Used in Determining Veterans' Pensions

§ 6.42 To that section of a bill providing a pension for certain veterans to be paid monthly under certain conditions, an amendment providing that such monthly payments be paid under other conditions was held to be germane.

During consideration of that section of a bill providing pensions for veterans based on age and

8. Charles E. Bennett (Fla.).

9. 115 CONG. REC. 27343, 91st Cong. 1st Sess., Sept. 29, 1969. Under consideration was H.R. 13369 (Committee on Veterans' Affairs).

physical condition,[10] an amendment was offered basing such pension payments in part on service performed during a period of open hostilities or in an actual theatre of war.[11] In ruling on a point of order against the amendment, the Chairman[12] stated:[13]

> Although the amendment . . . makes reference to periods of service in arriving at an amount to be paid per month, it nevertheless refers to a monthly amount of pension. Therefore, the Chair overrules the point of order.

Bill Relating to Free Postage for Armed Forces in Time of War—Amendment Proposing That Members of Armed Forces Be Furnished 15 Postage-free Envelopes Each Month

§ 6.43 To a section of a bill dealing with free postage for members of the armed forces in time of war, an amendment proposing that each member of the armed forces be furnished 15 postage-free envelopes each month was held to be germane.

On Feb. 28, 1942,[14] a bill relating in part to free postage for members of the armed forces was being considered. The following statement[15] by the Chairman[16] related to a proposed amendment to the bill and a point of order raised against such amendment:

> The Chair has examined the amendment. It provides every member of the military or naval forces of the United States . . . shall be furnished 15 penalty envelopes each month during the war. The title of the bill to which the amendment is offered provides free postage for soldiers, sailors, and marines.
>
> The Chair thinks the question involved is that of free postage for men in the military service. Whether a man is handed a certain number of envelopes that require no postage or is handed a certain number of postage stamps to be placed on some other envelope is a matter of mere detail. The Chair is of the opinion that the amendment is on the same subject as the provision of this title of the bill, and therefore, is of the opinion that it is germane, and overrules the point of order.

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10. See 95 Cong. Rec. 3058, 81st Cong. 1st Sess., Mar. 23, 1949. Under consideration was H.R. 2681 (Committee on Veterans' Affairs).

11. 95 Cong. Rec. 3063, 3064, 81st Cong. 1st Sess., Mar. 23, 1949.

12. Albert A. Gore (Tenn.).

13. 95 Cong. Rec. 3064, 81st Cong. 1st Sess., Mar. 23, 1949.

14. 88 Cong. Rec. 1792–94, 77th Cong. 2d Sess. Under consideration was S. 2208 (Committee on the Judiciary).

15. 88 Cong. Rec. 1793, 1794, 77th Cong. 2d Sess., Feb. 28, 1942.

16. Jere Cooper (Tenn.).

Bill Authorizing Funds To Reimburse Post Office for Costs of Air Transportation of Military Mail—Amendment Authorizing Direct Payments To Air Carriers

§ 6.44 To a bill authorizing use of funds to reimburse the Post Office Department for costs of air transportation of military mail, an amendment authorizing the Secretary of Defense in certain instances to make direct payments to air carriers for such transportation was held to be germane.

The following exchange, on July 21, 1956, concerned an amendment to certain proposals made with respect to the costs of air transportation of military mail:[17]

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment offered by the gentleman from Pennsylvania on the ground, first, that it relates to payment for air transportation of mail, and to methods of handling matters within the Post Office Department, two subjects which are entirely within the jurisdiction of two other committees, and not within the jurisdiction of the Committee on Armed Services. . . .
>
> MR. [DANIEL J.] FLOOD [of Pennsylvania]: . . . This deals not with matters before the Post Office Department; this deals with the Department of Defense, it deals with problems in the Department of Defense, it deals only with persons who can be covered by the Department of Defense.
>
> THE CHAIRMAN:[18] The Chair is prepared to rule.
>
> The gentleman from Pennsylvania [Mr. Flood] has offered an amendment to strike section 32 which reads:
>
> > There is herewith authorized to be made available appropriations of the Department of Defense for reimbursement to the Post Office Department for payment of costs of commercial air transportation of military mail between the United States and foreign countries.
>
> The amendment offered by the gentleman from Pennsylvania [Mr. Flood] reads:
>
> > The Secretary of Defense is authorized to provide for the commercial air transportation of military mail between the United States and foreign countries—
>
> With further language. It appears from the reading of the amendment offered by the gentleman from Pennsylvania [Mr. Flood] that it is germane, and the point of order is overruled.

Proposal To Withhold Pay of Retired Military Officers Who Engage in Selling of Products to Defense Department—Amendment To Penalize Defense Contractors Who Hire Retired Officers

§ 6.45 To an amendment in the nature of a substitute pro-

17. 102 CONG. REC. 13855, 13856, 84th Cong. 2d Sess. Under consideration was H.R. 7992 (Committee on Armed Services).

18. 18. Charles B. Deane (N.C.).

viding in part for the withholding of retired pay of military officers who engage in the selling of products to the Department of Defense within two years after their retirement, an amendment making it unlawful for contractors to hire such retired officers within the two-year period and disqualifying contractors who violate this provision from engaging in government contracts was held to be not germane.

The following exchange,[19] during consideration of a proposition[20] respecting activities of retired military officers, related to the germaneness to such proposition of an amendment having the same basic purposes but applying to persons other than retired military officers:

MR. KILDAY: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. In that connection, I call the Chair's attention to the fact that it includes the prohibition as to the person employing, that phrase not being included in either the amendment or the original bill. It creates a new civil penalty for violation which was not included in either the pending original bill or the pending amendment. For that reason it is not germane to the pending bill and amendment. . . .

MR. [F. EDWARD] HÉbert [of Louisiana]: . . . The title of the bill is "A bill relating to the employment of retired commissioned officers by contractors of the Department of Defense and the Armed Forces and for other purposes." . . .

. . . I submit that the amendment which I have offered provides as to the activity of the contractor and provides a penalty for a violation of law not with a jail sentence or a criminal prosecution, but with a civil penalty. . . .

[The amendment] deals with officer and contractor relations, and I certainly think the amendment is in order.

THE CHAIRMAN:[1] . . . The Chair has had an opportunity to study the amendment and finds that in paragraphs (c) and (d) the amendment refers to contractors. It imposes a penalty on contractors in the form of a suspension of the privilege of doing business with the Federal Government for a period of 2 years. The bill and amendment now under consideration deal solely with retired commissioned officers of the armed services. It is entirely outside the scope of the bill or of the amendment offered by the gentleman from Texas [Mr. Kilday]. Therefore, the Chair holds that the

19. 106 CONG. REC. 7682, 86th Cong. 2d Sess., Apr. 7, 1960. Under consideration was H.R. 10959 (Committee on Armed Services).

20. See 106 CONG. REC. 7680, 86th Cong. 2d Sess., Apr. 7, 1960 (amendment offered by Mr. Paul J. Kilday [Tex.]). For further discussion, see §4.39, supra.

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

amendment is not germane and the point of order is sustained.

Bill Authorizing Construction of Life Science Research Facility—Amendment Authorizing Expansion of Existing Life Science Research Facilities

§ 6.46 To a bill including an authorization for Ames Research Center in California for construction of a life science research laboratory, an amendment reducing that authorization and providing allocation of other sums authorized by the bill for expansion of existing life science research facilities at other locations was held to be germane.

On Aug. 1, 1963, a bill was under consideration authorizing funds for the National Aeronautics and Space Administration. An amendment to the bill was offered which provided in part that,[2]

> Of the amount authorized to be appropriated . . . $2,000,000 shall be for use in the expansion of the existing life sciences research facilities at Wright-Patterson Field, Ohio, or Brooks Medical Center, Texas, as determined by the Administrator.

A point of order was made based in part on the following argument:

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, this amendment refers to installations and the construction of facilities which are not set out in the original bill. . . .
>
> Second, the amendment is defective in that these are both Department of Defense installations. . . .
>
> . . . Obviously, it is not germane to the bill nor is it within the jurisdiction of the Science and Aeronautics Committee for the legislation now before us to determine authorization for Department of Defense facilities such as these two facilities are.

In response, the proponent of the amendment, Mr. James D. Weaver, of Pennsylvania, stated:

> Mr. Chairman, this is intended to maintain a life sciences research unit but to remove the funds allocated for the Ames Research Center and apply them at existing facilities either at Wright-Patterson Field or the Brooks Medical Center, Tex. That is the purpose of this amendment. It is related to the bill. . . .

In overruling the point of order, the Chairman[3] stated:[4]

> The Chair is prepared to rule. It is the opinion of the Chair that the amendment is germane. It deals with the same subject matter. . . .

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2. 109 CONG. REC. 13899, 88th Cong. 1st Sess. Under consideration was H.R. 7500 (Committee on Science and Astronautics).

3. Albert Thomas (Tex.).

4. 109 CONG. REC. 13899, 88th Cong. 1st Sess., Aug. 1, 1963.

Arts and Humanities: Additional Program To Assist Artists

§ 6.47 Where a bill seeks to accomplish a general purpose by diverse methods, an amendment which adds a specific method to accomplish that result may be germane; thus, to a bill containing three diverse titles authorizing grant programs for support of the arts and humanities, including subsidies through the National Endowment for the Arts to encourage and assist artists, an amendment in the form of a new title authorizing the employment of unemployed artists through the National Endowment for the Arts was held germane as a specific additional program related to the general programs already in the bill.

During consideration of H.R. 12838 (to amend the National Foundation on the Arts and Humanities Act of 1965) on Apr. 26, 1976,[5] Chairman Pro Tempore Edward I. Koch, of New York, overruled a point of order against the amendment described above. The proceedings were as follows:

TITLE I—ARTS AND HUMANITIES

STATE HUMANITIES COUNCILS

Sec. 101. (a) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection:

Sec. 11. (a)(1)(A) For the purpose of carrying out section 5, there are authorized to be appropriated $100,000,000 for fiscal year 1977, and $113,500,000 for fiscal year 1978. . . .

TITLE II—MUSEUM SERVICES

SHORT TITLE

Sec. 201. This title may be cited as the "Museum Services Act".

TITLE III—CHALLENGE GRANT PROGRAM

ESTABLISHMENT OF PROGRAM

Sec. 301. The National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section. . . .

MS. [BELLA S.] ABZUG [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 34, after line 11, insert the following new title:

TITLE IV—EMERGENCY PROGRAM FOR THE EMPLOYMENT OF ARTISTS

ESTABLISHMENT OF PROGRAM

Sec. 401. (a) The Congress of the United States recognizes the contributions which artists make to the

5. 122 CONG. REC. 11098–101, 94th Cong. 2d Sess.

cultural life of each community throughout the Nation as well as to the Nation as a whole. . . .

(b) The National Foundation on the Arts and Humanities Act of 1965, as amended by section 301, is further amended by adding at the end thereof the following new section:

"EMERGENCY PROGRAM FOR EMPLOYMENT OF ARTISTS

"Sec.13. (a) The Chairman of the National Endowment for the Arts with the advice of the National Council on the Arts, shall carry out a program, directly and through grants-in-aid to States, during any fiscal year in which the seasonally adjusted national rate of unemployment published by the Bureau of Labor Statistics of the Department of Labor exceeds 6.5 per centum as determined by the Chairman, of employment of unemployed artists in projects or products. . . .

"(b) In carrying out the program under subsection (a), the Chairman of the National Endowment for the Arts shall coordinate such program with programs for public service employment under the Comprehensive Employment and Training Act of 1973 and with other appropriate public programs providing employment for unemployed individuals. . . .

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, reading the amendment, I question the germaneness of this amendment. The jobs provision added into the Arts, Humanities, and Cultural Affairs Act, it seems to me fits better in the next bill coming up, the emergency job programs bill, and I raise a point of order on germaneness. . . .

Mr. Chairman, this amendment is not germane to the bill before us. It has to do with providing additional jobs of a public service nature. It fits more in the legislation next on the agenda. I do not see that it fits within the purview of the legislation we have before us. . . .

MS. ABZUG: Mr. Chairman, I disagree. I think it is germane to the purposes of this act. This act recognizes the contributions which artists make to the cultural life of the communities throughout the Nation.

Mr. Chairman, what this amendment does is to provide for the employment of artists in the program which is to be conducted and determined, the eligibility for which programs as well as the employment in the programs is determined by the Chairman of the National Endowment for the Arts. I think it is germane. . . .

THE CHAIRMAN PRO TEMPORE: The Chair is prepared to rule. The Chair has examined the "Ramseyer" in the committee report on page 23. Title I of the committee amendment extends the law which provides subsidies for projects and productions which would otherwise be unavailable for economic reasons and which will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence. This is a general purpose of the bill and the amendment provides a specific program of grants through the Chairman of the National Endowment for the Arts to accomplish that.

The amendment is germane as a new title to the bill which presently contains three diverse titles and the gentlewoman from New York is recognized for 5 minutes.

§ 7. Amendment Substituting Different Agency To Administer Provisions

An amendment that effects a substitution of one agency for another charged with administering the provisions of the bill may be germane. Accordingly, it has been held that, to an amendment placing certain duties upon an agency of the government, an amendment proposing to place such duties upon another agency was germane;[6] and where the fundamental purpose of the bill and amendment are clearly related, substituting a different agency to carry out that purpose may not render the amendment not germane.[7]

But a distinction has been made between the mere substitution of a different governmental agency to administer the terms of a bill, and the granting of authority to such an agency to use new and unrelated methods in accomplishing the purposes of the bill.[8] Discussing amendments ruled out in the past as not germane, the Chair on one occasion stated that the decisions in those cases rested not on the mere substitution of a new agency, but rather the substitution of unrelated methods of achieving the predetermined end.[9]

The applicable rule therefore seems to be that where a bill proposes regulation of certain activities through the use of a governmental agency, an amendment substituting a different agency is not germane if, in addition, it authorizes such agency to use new and unrelated methods in achieving the purposes of the bill, or if the agency is not one within the jurisdiction of the committee handling the bill.[10]

On one occasion, an amendment creating a new agency was held not germane, the Chair noting that the funds to be controlled by the agency were not limited to those authorized by the bill.[11]

Bill Authorizing Appropriation for Participation in United Nations Relief and Rehabilitation Administration; Amendment Authorizing Appropriation for Relief Purposes But Without Participation in Organization

§ 7.1 To a bill authorizing an appropriation to be ex-

6. §§ 7.1 and 7.9, infra.
7. § 7.3, infra.
8. § 7.4, infra.
9. § 7.7, infra.
10. § 7.6, infra.
11. § 7.1, infra.

pended by the President for participation by the United States in the work of the United Nations Relief and Rehabilitation Administration, an amendment authorizing an appropriation to be expended by the President to carry out the same work but not with the United Nations Relief and Rehabilitation Administration was held to be germane.

The following exchange[12] indicates the nature of the germaneness argument against the amendment and the disposition by the Chairman[13] of the point of order raised against the amendment:

> MR. LUTHER A. JOHNSON [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to the pending resolution. The pending resolution is to enable the United States to participate in the work of the United Nations Relief and Rehabilitation organization. The gentleman's amendment simply authorizes an appropriation to be made to the President for a certain character of relief and not within the purview of the pending resolution as stated in the preamble.
>
> THE CHAIRMAN: The Chair is prepared to rule.
>
> The amendment offered by the gentleman from Ohio appropriates money for purposes of relief. The Chair feels that it is in line with the general purposes of the bill and overrules the point of order.

Bill Authorizing Assistance to Greece and Turkey Through Reconstruction Finance Corporation—Amendment To Create New Commission To Control Funds Not Limited to Those in Bill

§ 7.2 To a bill authorizing appropriations for assistance to Greece and Turkey through the Reconstruction Finance Corporation, an amendment proposing the creation of a Foreign Funds Control Commission having control of funds not limited to those proposed in the bill was held to be not germane.

A bill[14] relating to appropriations for assistance to Greece and Turkey was under consideration on May 9, 1947. The Chairman[15] ruled out of order as nongermane an amendment offered by Mr. Fred L. Crawford, of Michigan:[16]

> The Clerk read as follows:

12. 90 CONG. REC. 653, 78th Cong. 2d Sess., Jan. 24, 1944. Under consideration was H.J. Res. 192 (Committee on Foreign Affairs).
13. Emmet O'Neal (Ky.).
14. Under consideration was H.R. 2616 (Committee on Foreign Affairs).
15. Francis H. Case (S.D.).
16. 93 CONG. REC. 4930, 80th Cong. 1st Sess.

Amendment offered by Mr. Crawford: On page 4, line 22, after the period, add a new section:

"Sec. 3a. There is hereby created the Foreign Funds Control Commission, which shall be an independent agency of Government directly responsible to the Congress.

"The Commission shall consist of three members—a Director, the Comptroller General, and the Secretary of the Treasury. . . .

"The Commission is hereby directed to administer all funds hereafter granted by the Treasury of the United States or previous grants if directed by the Congress to foreign countries, their nationals and agencies of whatever kind or nature.

MR. [CHARLES A.] EATON [of New Jersey]: Mr. Chairman, a point of order. . . . Mr. Chairman, the legislation the gentleman proposes is very important and very fundamental legislation, but it ought to come before the committee in a special bill. I make the point of order that it is not germane to the present bill.

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

The amendment . . . proposes [creation of] a Foreign Funds Control Commission, to be an independent agency of the Government and to have control not merely over the funds proposed to be authorized by the pending legislation but over funds that might be made available under other legislation. Consequently the Chair sustains the point of order and rules that the amendment is not germane.

Bill To Provide Foreign Aid Through Economic Cooperation Administration—Amendment To Provide Aid To Individuals Through Creation of World Relief Corporation

§ 7.3 To a bill providing for economical and financial assistance to foreign countries through an agency to be known as the Economic Cooperation Administration, an amendment to provide similar aid through an agency to be known as "World Relief, Inc." was held to be germane.

In the 80th Congress, during consideration of a bill relating to foreign assistance, an amendment, reading in part as follows, was offered for purposes of creating a corporate body with the function of furnishing aid to individuals: (17)

Sec. 102. That there be, and is hereby, created a body corporate with the name "World Relief, Incorporated" (herein called the Corporation). . . .

Sec. 107. That the purposes of this Corporation are and shall be to furnish, directly, food, clothing, and other urgently needed supplies to the needy individuals of the world. The Corporation is hereby specifically prohibited

17. 94 CONG. REC. 3627, 80th Cong. 2d Sess., Mar. 29, 1948. Under consideration was S. 2202 (Committee on Foreign Affairs).

from furnishing food, clothing, or other supplies to the governments of any cooperating country or any political subdivision thereof as distinguished from their individual citizens.

In overruling a point of order against the amendment, the Chairman[18] stated:[19]

The bill pending before the committee is a bill of considerable latitude. The title reads:

An act to promote the general welfare, national interest, and foreign policy of the United States through necessary economic and financial assistance to foreign countries which undertake to cooperate with each other in the establishment and maintenance of economic conditions essential to a peaceful and prosperous world. . . .

[T]he amendment that is offered in its present form does not, in the opinion of the Chair, go beyond the very general purposes outlined in the bill before us.

The Chair, therefore, overrules the point of order.

Bill To Provide Foreign Aid Through Government Agencies—Amendment Providing Aid Through Red Cross by Different Methods of Distribution

§ 7.4 To a bill providing relief to foreign countries through government agencies, an amendment providing for such relief to be made through the Red Cross, to be distributed by methods not contemplated in the bill, was held to be not germane.

In the 80th Congress, during consideration of a foreign aid bill, an amendment was offered for purposes of giving the Red Cross and similar organizations responsibilities with respect to providing relief to foreign countries.[20] The nature of the objections to the amendment, and the ruling by the Chairman,[1] are indicated below:

MR. [JOHN M.] VORYS [of Ohio]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill H.R. 4604, which, as its title indicates, is "to promote world peace and the general welfare, national interest, and foreign policy of the United States by providing aid to certain foreign countries." The entire structure of the bill provides for aid furnished by this Government to governments of other countries. The section of the bill in question . . . provides for agreements that the recipient countries are required to make before any of the aid is supplied. This amendment would provide a new subsection . . . by which the foreign country is not only required to insure the distribution of the bulk of the products through private organizations selected

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

19. 94 CONG. REC. 3629, 80th Cong. 2d Sess., Mar. 29, 1948.

20. 93 CONG. REC. 11242, 80th Cong. 1st Sess., Dec. 10, 1947. Under consideration was H.R. 4604 (Committee on Foreign Affairs).

1. Earl C. Michener (Mich.).

by an American representative, but each of the foreign countries is required to make an undertaking that the other countries insure that these private organizations selected by the American representative carry out the distribution.[2]

THE CHAIRMAN: . . . This is a bill to provide relief for specified foreign countries. A specific method is provided for administering that relief. That method proposed requires an agreement between the governments involved. The bill provides that the recipient governments must administer the relief in their respective jurisdictions. . . .

[The] amendment . . . creates a new plan of distribution, including participation by the Red Cross. . . . Part of the amendment undoubtedly is germane, but the amendment goes further and provides for distribution in a method and a manner not contemplated in section 5 or in the bill.[3]

Bill To Create Division of Water Pollution Control in Public Health Service—Amendment Proposing Water Pollution Study by Chief of Engineers and Surgeon General

§ 7.5 To a bill creating a division of water pollution control in the Public Health Service, to conduct a survey, issue a report, and to control pollution, an amendment in the nature of a substitute proposing a comprehensive water pollution study by the Chief of Engineers and the Surgeon General of the Public Health Service was held to be germane.

During consideration of a bill establishing a division of water pollution control in the Public Health Service, the following amendment in the nature of a substitute was offered:[4]

That the Chief of Engineers of the War Department and the Surgeon General of the Public Health Service, Treasury Department, are authorized and directed to make jointly a comprehensive study of water pollution and the means of eliminating or reducing water pollution. . . .

A point of order against the amendment was made as follows:

MR. FRED M. VINSON [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to the section and not germane to the bill. . . .

I do not have the amendment before me . . . but section 1 establishes a division of water-pollution control in the Public Health Service.

Nothing whatever is contained in section 1 [of the bill] with reference to

2. 93 CONG. REC. 11242, 80th Cong. 1st Sess., Dec. 10, 1947.

3. *Id.* at p. 11244.

4. 81 CONG. REC. 3694, 75th Cong. 1st Sess., Apr. 21, 1937. Under consideration was H.R. 2711 (Committee on Rivers and Harbors).

the purposes set out in the amendment offered by the gentleman from Missouri.

The proponent of the amendment, Mr. John J. Cochran, of Missouri, in defending the amendment, stated:

This bill provides for the stopping of pollution in the streams of the United States. That is the very purpose of my amendment. When the report is received from the Engineers of the War Department and the Public Health Service, then this Congress will have something to work on and can act intelligently.

The Chairman[5] ruled as follows:[6]

The Chair may say in reference to the point of order made by the gentleman from Kentucky [Mr. Fred M. Vinson] that the proposed amendment offered by the gentleman from Missouri [Mr. Cochran] provides for a survey and a report. The pending bill, H.R. 2711, not only provides for a survey and report but goes still further and sets up certain machinery to control the pollution of streams.

The Chair is of the opinion that the amendment is germane to the pending bill and therefore overrules the point of order.

Water Resources of Alaska: Investigation by Corps of Engineers in Lieu of Secretary of Interior

§ 7.6 To a bill authorizing the Secretary of the Interior to make investigations of projects for the conservation and utilization of water resources of the Territory of Alaska, an amendment proposing that such investigations be made by the Corps of Army Engineers was held to be not germane.

On June 1, 1955,[7] during consideration of a bill reported by the Committee on Interior and Insular Affairs dealing solely with an investigation of the water resources of the Territory of Alaska (a subject then exclusively within the jurisdiction of the Interior Committee), an amendment was offered to provide that the investigation should be carried out by a department other than the department named in the bill:

MR. [HOMER H.] BUDGE [of Idaho]: . . . Mr. Chairman, it appears to me that the amendment is germane. It substitutes an existing Government agency for another existing Government agency. It carries out the stated purposes of the legislation simply by a substitution of the agency to do the things which are called for in the legislation.

THE CHAIRMAN:[8] . . . The gentleman's amendment substitutes a de-

5. Wall Doxey (Miss.).
6. 81 CONG. REC. 3694, 75th Cong. 1st Sess., Apr. 21, 1937.
7. 101 CONG. REC. 7403, 84th Cong. 1st Sess. Under consideration was H.R. 3990 (Committee on Interior and Insular Affairs).
8. Chet Holifield (Calif.).

partment of the Government which does not come under the jurisdiction of the Committee on Interior and Insular Affairs, and therefore the Chair must rule that it is out of order. The Chair sustains the point of order.

Standards for Wages and Hours To Be Established by New Division in Labor Department in Lieu of Independent Executive Board

§ 7.7 To a bill providing for the establishment of fair labor standards through the utilization of an independent board having certain specified powers, an amendment proposing to accomplish the same result by establishing a wages and hours division in the Department of Labor was held to be germane.

On Dec. 15, 1937, during consideration of a bill concerned with the determination of minimum wages and maximum hours in industry by an independent board exercising broad discretionary powers, an amendment in the nature of a substitute which provided that such determination be made by a division newly established in the Department of Labor was held to be germane; and a further substitute amendment proposing to fix minimum wages and maximum hours in specific terms without resort to the exercise of discretion by any agency was held to be germane to the amendment in the nature of a substitute. See the proceedings of Dec. 15, 1937, with respect to S. 2475, discussed in § 6.23, supra.

Research in Tin Smelting: Control Vested in Bureau of Mines in Lieu of Government Corporation

§ 7.8 To a bill to continue an act providing for the maintenance of a government-owned smelting operation, and for financing of research in tin smelting and processing, an amendment proposing to give control of such research to the Bureau of Mines was held to be germane.

On July 25, 1950, the following amendment was offered to H.R. 8569, reported from the Committee on Banking and Currency, a bill to strengthen the common defense by extending for five years the authority for the Texas City tin smelter operation:[9]

> That on or before December 31, 1950, the present lease and smelting agreements, as amended, shall be terminated by the Reconstruction Finance

9. 96 Cong. Rec. 11011, 81st Cong. 2d Sess.

Corporation and the operation and management of the Government-owned tin smelter at Texas City, Tex., shall be awarded to bona fide American private enterprise which has no affiliations or interests whatsoever in tin mining or smelting outside of the Western Hemisphere, or, if this cannot be accomplished satisfactorily, such operation and management shall be given to and undertaken by the United States Bureau of Mines, Department of the Interior: And provided further, That all research and experimentation performed with United States Government funds at, or for the Government-owned tin smelter at Texas City, Tex., after December 31, 1950, shall be conducted by or under the supervision of the United States Bureau of Mines. . . .

In ruling on a point of order made against the amendment, the Chairman[10] stated:[11]

The Chairman has examined the basic law sought to be extended by the bill now before the committee. The language in the basic law states clearly, among other things, "to finance research in tin smelting and processing, and (4) to do all other things necessary to the accomplishment of the foregoing shall continue in effect until June 30, 1951, or until such earlier time as the Congress shall otherwise provide."

The amendment offered by the gentleman from Pennsylvania [Mr. Saylor] offers an alternative proposition, to place it in other departments of the Government.

Therefore the Chair holds that the amendment is germane and overrules the point of order.

Amendment Substituting National Defense Mediation Board for National Mediation Board as Agency To Perform Same Duties

§ 7.9 To an amendment placing certain duties upon the National Mediation Board, an amendment proposing to place such duties upon the National Defense Mediation Board was held to be germane.

The following exchange in the 77th Congress[12] concerned an amendment substituting "National Defense Mediation Board" for "National Mediation Board" in a proposition relating to military appropriations:

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order. The amendment offered by the gentleman from South Dakota deals with the National Mediation Board. The amendment offered by the gentleman from Michigan deals with the National Defense Mediation Board, an entirely different subject and therefore not germane to the original amendment. . . .

10. Prince H. Preston, Jr. (Ga.).

11. 96 CONG. REC. 11011, 81st Cong. 2d Sess., July 25, 1950.

12. 87 CONG. REC. 4905, 77th Cong. 1st Sess., June 9, 1941. Under consideration was H.R. 4965 (Committee on Appropriations).

MR. [ALBERT J.] ENGEL [of Michigan]: . . . The gentleman from South Dakota [Mr. Case] intended to write "National Defense Mediation Board" and unintentionally wrote "National Mediation Board." They are not the same Boards.

THE CHAIRMAN:[13] In the opinion of the Chair, the amendment offered by the gentleman from Michigan [Mr. Engel] to the amendment offered by the gentleman from South Dakota [Mr. Case] is simply a change in the Board which would have control, under the amendment as offered. The Chair thinks it is entirely in order for the gentleman from Michigan to offer an amendment for a different Board to be charged with the operation than the Board stated in the amendment as originally offered, and therefore overrules the point of order.

§ 8. Individual Proposition Offered as Amendment to Another Individual Proposition

A well-established principle governing questions of germaneness is that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class.[14] The question for the Chair frequently consists in determining what comprises an "individual proposition."[15] For example, it has been held that, to a bill relating to relief for one class, an amendment seeking to include another class is not germane.[16]

Appropriation Bill Containing Funds for Agency—Amendment Appropriating Funds for Different Agency for Related Purpose

§ 8.1 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency for the same general purpose may not be germane although authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of

13. Fritz G. Lanham (Tex.).

14. See, for example, §§ 8.8, 8.17, infra.

15. Where a bill relates to the maintenance and administration of a certain parkway, a proffered amendment affecting the administration of a different parkway is not germane. See § 3.60 (Parliamentarian's Note), supra.

16. See § 13.19, infra.

Agriculture was held not germane.

On July 24, 1981,[17] during consideration of the Energy and Water Development Appropriations for fiscal 1982[18] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

> MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Weaver: Page 16, line 19, insert immediately before the period the following: ", and *Provided further*, That $5,000,000 of the funds provided herein shall be made available to the Secretary of Agriculture for the establishment of pilot wood utilization projects and demonstrations as authorized by the Wood Residue Utilization Act of 1980, Public Law 96–554.". . . .
>
> MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I make a point of order against the gentleman's amendment. . . .
>
> The amendment is not germane to this paragraph of the bill nor to the bill as a whole. The wood residue program is authorized by Public Law 96–554, and clearly is to be administered by the Forest Service, Department of Agriculture, which is funded under the Interior appropriations bill.
>
> This program was not authorized to be administered or funded by the Department of Energy, which is where the gentleman's amendment applies.
>
> Under clause 7, rule XVI, it is stated that it is not in order during consideration in the House to introduce a new subject by way of amendment, and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.
>
> I contend this amendment is not germane to this paragraph or this bill and is in violation of clause 7, rule XVI. . . .
>
> MR. WEAVER: . . . [T]he Department of Energy now funds wood utilization programs. This bill is law. We are not changing existing law. We are referring only to existing law and it is an energy manufacturing program and, therefore, definitely germane to this bill.
>
> THE CHAIRMAN:[19] The Chair is prepared to rule on the point of order made by the gentleman from Alabama (Mr. Bevill).
>
> For the reasons stated by the gentleman from Alabama, the distinguished chairman of the subcommittee, the point of order is sustained and the amendment is held not germane to the pending title of the bill, which relates only to the Department of Energy.

Amendment Changing Existing Law To Achieve Single Purpose Offered to Proposition Not Amending That Law

§ 8.2 An amendment changing existing law in order to achieve one individual purpose is not germane to a proposition which does not

17. 127 CONG. REC. 17226, 97th Cong. 1st Sess.

18. H.R. 4144.

19. Anthony C. Beilenson (Calif.).

amend that law and which seeks to accomplish another individual purpose.

The proceedings of Dec. 14, 1973, relating to H.R. 11450, the Energy Emergency Act, are discussed in § 41.20, infra.

Bill Granting Rights to Executive Agency Employees—Amendment To Extend Coverage of Bill to Legislative Employees

§ 8.3 Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends upon its relationship to the subject of the bill and not to the entire law being amended; thus, to 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 legislative branch employees, as defined in a different section of that title, was held to be beyond the scope of the bill and was held to be not germane.

On Oct. 28, 1975,[20] during consideration of a bill[1] dealing with the right to representation for federal executive employees during questioning, the Chair, in ruling that the amendment described above was not germane to that bill, reiterated the principle that one individual proposition is not germane to another individual proposition, even though the two belong to the same class:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—EMPLOYEE RIGHTS

"§ 7171. Right to representation during questioning

"(a) Any employee of an Executive agency under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay of such employee shall not be required to answer questions relating to the misconduct under investigation unless—

"(1) the employee is advised in writing of—

"(A) the fact that such employee is under investigation for misconduct,

"(B) the specific nature of such alleged misconduct, and

"(C) the rights such employee has under paragraph (2) of this subsection, and

20. 121 CONG. REC. 34031, 34036, 34037, 94th Cong. 1st Sess.

1. H.R. 6227.

"(2) the employee has been provided reasonable time, not to exceed 5 working days, to obtain a representative of his choice, and is allowed to have such representative present during such questioning, if he so elects. . . .

MR. [ROBIN L.] BEARD of Tennessee: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Beard of Tennessee: on page 1, line 8 insert immediately following the word "agency" the following: ", or any employee as defined under section 2107 of this Title,".

MR. CHARLES H. WILSON of California: Madam Chairman, I have a point of order against the amendment. . . .

Madam Chairman, under rule XVI, clause 7, of the Rules of the House, any amendment to a bill concerning a subject different from those contained in the bill is not germane and is subject to a point of order. The instant amendment proposes to make the bill applicable to a completely new class of employees other than what is covered under the bill, namely, congressional employees. However, the reported bill applies only to employees of executive agencies as defined under section 105.

In my opinion, the subject of the amendment is not similar to any of the subject matters involved in H.R. 6227 which I have just outlined and is not germane. . . .

MR. BEARD of Tennessee: . . . Madam Chairman, I feel the amendment is germane to this particular bill inasmuch as the people we are including in this bill are Federal employees and those concerning whom we are legislating today are Federal employees. . . .

Madam Chairman, if I may be heard further on the point of order, all this does is to remove an exemption rather than add a group of employees. It is just removing an exemption, and I believe that is the fair thing to do.

THE CHAIRMAN:[2] The Chair is prepared to rule.

The bill before us is very explicit as to its scope. It includes any employee of an executive agency. The bill itself, by its own terms, affects the class of civil servants known as executive agency employees.

The amendment offered by the gentleman from Tennessee (Mr. Beard) would seek to amend the bill by adding a totally different individual class of employees to the bill beyond the scope of the bill, namely, congressional employees as defined in section 2107.

The rule of germaneness, in terms of amendments of this kind, states as follows: One individual proposition may not be amended by another individual proposition, even though the two belong to the same class.

In light of that principle and in light of the scope of this bill, the Chair rules that this amendment is not germane and is, therefore, out of order. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Madam Chairman, respecting the chairperson's ruling, in regard to title V to which this bill addresses itself, an amendment to title V includes all employees, including the President, Members of Congress, and members of the uniformed services, even though this bill has application,

2. Barbara Jordan (Tex.).

as the gentlewoman has said, only to Federal employees. Therefore, this title V does apply to all Federal employees. . . .

THE CHAIRMAN: To the gentleman from California (Mr. Rousselot) the Chair would only state that the germaneness of the amendment must be weighed against the content and scope of the bill and not title V of the United States Code, as the gentleman would interpret it.

Bill Relating to Civil Service Employees—Amendment To Extend Coverage of Bill to Postal and District of Columbia Employees

§ 8.4 To a bill relating to a certain class of federal employees (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,[3] during consideration of a bill[4] 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:[5] . . . 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

3. 124 CONG. REC. 28437–39, 95th Cong. 2d Sess.

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

5. George E. Danielson (Calif.).

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 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 condi-

tions 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.

Bill Governing Political Activities of Federal Civilian Employees—Amendment To Extend Coverage to Military Personnel

§ 8.5 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 an-

other 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,[6] during consideration of the Federal Employees' Political Activities Act of 1977,[7] 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 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

6. 123 CONG. REC. 7713, 17714, 95th Cong. 1st Sess.

7. H.R. 10.

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:[8] 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 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.

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

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.

Bill Containing Cost-of-living Adjustment for Foreign Service Retirees—Amendment To Adjust Civil Service Annuities

§ 8.6 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 to be not 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,[9] wherein the Chair sustained a point of order against the amendment described above, were as follows:

9. 122 CONG. REC. 19224, 19226, 94th Cong. 2d Sess.

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:

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 Procedures, 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:[10] 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.

Bill Amending Part of Law Relating to Prohibition Against Former Executive Branch Employees Appearing Before Agency on Matters Within Former Responsibility—Amendment To Repeal Prohibition in Another Section of Law Against Appearances by Former Officials Irrespective of Subject Matter

§ 8.7 To a bill amending one subsection of law dealing with one prohibited type of activity, an amendment to another subsection dealing with a related but separate prohibited type of activity is not germane; thus, to a bill narrowly amending one subsection of existing law to modify prohibitions against former executive branch employees appearing before their former employing agency for a certain time on matters within their former responsibility, further narrowed by amendment to strike proposed changes in another subsection of that law relating to coverage of categories of former officials under the entire law, an amendment to a third subsection of that section of law to repeal a separate prohibition against appearances by former senior executive officials irrespective of the subject matter of the appearance or communication, was held not germane to the bill as perfected by amendment.

On May 16, 1979,[11] during consideration of S. 869 in the Committee of the Whole, the bill had been amended to narrow it to one subsection of law. The amended bill read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (b) of section 207 of title 18, United States Code, as amended by the Act of October 26, 1978 (Public Law 95–521, section 501 (a); 92 Stat. 1864)) is amended as follows: In clause (ii), strike "concerning" and insert "by personal presence at"; and in subparagraph (3), before "which was" insert ", as to (i)," and after "responsibility, or" insert ", as to (ii),".

10. John Brademas (Ind.).

11. 125 CONG. REC. 11470–72, 96th Cong. 1st Sess.

Subsection (d)(3) of the aforesaid section 207 is amended by striking "O–7" and inserting "O–9"; and by inserting after "or" the following: "at such pay grade of O–7 or O–8 who has significant decisionmaking or supervisory responsibility as designated by the Director of the Office of Government Ethics in consultation with the head of the department or agency concerned; or".

The Chair then sustained a point of order against the following amendment:

MR. [THOMAS N.] KINDNESS [of Ohio]: Mr. Chairman, I offer an amendment and ask unanimous consent for its immediate consideration.

The Clerk read as follows:

On page 2, following line 2, add the following new sections to the bill:

"Sec. 2. Subsection (c) of section 207 of title 18, United States Code, is hereby repealed.

"Sec. 3. Section 207 of title 18, United States Code is further amended—

(1) in subsection (d) by striking out "(c)" and inserting in lieu thereof "(b)(ii)";

(2) in subsection (e) by striking out "(c)" and inserting in lieu thereof "(b)(ii)";

(3) in subsection (f) by striking out "(a), (b), and (c)" and inserting in lieu thereof "(a) and (b)";

(4) in subsection (i) by striking out "(c)" and inserting in lieu thereof "(b)(ii)";

(5) in subsection (j) by striking out "(a), (b), or (c)" and by inserting in lieu thereof "(a) or (b)"; and

(6) by redesignating subsection (d) through (j) as subsections (c) through (i), respectively. . . .

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, the gentleman's amendment would repeal subsection (c) of title 207 of the United States Code. I respectfully submit that it is not germane inasmuch as the bill pending before the committee at this time refers only to subsection (b) of section 207 of the United States Code. It has nothing to do with subsection (c). Therefore, it is beyond the scope of the bill and is not germane. . . .

MR. KINDNESS: This railroad is running pretty fast. The chairman of the subcommittee has just shown a lack of confidence in this bill. So much so that all we can consider under a very narrowly drawn committee amendment is just a little bit of the section that is involved. The real controversy lies outside of subsection (b). . . .

Now, as to the germaneness of the amendment that is before us, it relates to section 207. It relates specifically to section 207(c). No amount of cute parliamentary maneuvering can remove subsection (b) from section 207. Under the rules of the House, the whole section is appropriate for consideration.

The previous ruling of the Chair related to the establishment of some other section of law; but this is right in the same section and it is inappropriate to limit the application of this bill to just a portion of the section which is, indeed, a sentence. To limit it to only subsection (b) would not be to even consider the complete sentence.

MR. [CARLOS J.] MOORHEAD [of California]: Mr. Chairman, I wanted to speak to that point of order. The title of this bill is an act to amend section 207 of title 18, United States Code. That is exactly what this amendment does. It amends section 207 of title 18 of the United States Code. It should be relevant.

MR. KINDNESS: Mr. Chairman, on that point, in connection with the point raised by the gentleman from California (Mr. Moorhead), we must relate the ruling of the Chair on the point of order that has been raised to section 501 of title 18 of the United States Code. There can be no way to relate the ruling to section 501 of title 18 without it being in order and germane to consider everything within that section 501. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I speak in opposition to the point of order. As has been said before, both the matter before the House and the amendment relate to section 207. Both address the same question, the precise question, that was addressed by the original bill. This amendment is both germane to the original bill and germane to the committee amendment.

It is stated in the report:

> The purpose of the proposed legislation is to make two clarifying amendments to section 207 of title 18, as amended by the Ethics in Government Act of 1978. This section bars certain government contacts or activity by former Federal officials and employees after they have left government employment.

Mr. Chairman, in discussing the purpose of the amendment, Mr. Charles Curtis is quoted on page 4. It is said:

> Many top level Federal officers and employees come to a Federal agency from outside the government. Generally, they serve for a limited term or at the pleasure of the agency head or the President. They do not intend, nor could they reasonably expect, to make a career in Federal service. It is fundamentally important, therefore, if we are to be able to convince senior, highly qualified individuals to contribute their talents to government that we preserve a reasonable opportunity that they will be able to continue to pursue their profession after they leave government.

Mr. Chairman, both the original bill and the amendment offered, and incidentally, both the original bill and the amendment offered open up section 207 in order to correct it for a specific purpose. They open that section to correct it in order to prevent a bar to persons going out of Government from continuing to engage in the type of skills and employment that they are trained for. The amendment that is contained in the original bill purports to do that by saying that nothing in the provision addressed will apply to an employee who does not appear personally before the agency.

The amendment that is offered to this simply strikes out all of the third paragraph that addresses the same kind of question and strikes out an absolute prohibition against an employee appearing before the commission at all for any purpose during a period of 1 year.

These both address the same problem. They have both been addressed in hearings before the committee; they have both been addressed by officials of Government over and over again.

Mechanically, this is germane because it deals with the same section, and substantially it is germane, because it deals with the same problem.

If a point of order could be so narrowly drawn, then there would be no opportunity to meet a question addressed in the same section of a bill except by one means. There would be no

option of meeting the same problem by another means.

In drawing so narrow a construction of the rules of germaneness, which, incidentally are not perfect—they are somewhat widely permitted to vary—if there could be any argument of reasonableness, it would be that one may address the question of the revolving door proposition either by permitting employees not to be barred absolutely for a year or by means of saying that a person will not be barred except for personal appearance. These are two ways of reaching the same question under the same section. . . .

MR. [HAROLD L.] VOLKMER [of Missouri]: . . . I would just like to note that even though the title itself refers to the full section, the body of the bill relates only to subsection (b) and subsection (d) as originally passed by the Senate and sent over to this body. It does not relate in any way to subsection (c), which is the subject of the amendment and, therefore, I believe the germaneness rule, which I will acknowledge is a narrow interpretation, should be followed here, and that only amendments to those two parts of section 207 would be in order. . . .

THE CHAIRMAN:[12] The Chair is ready to rule.

The Chair can only rule with respect to the legislation which appears before the Committee of the Whole in its present form, and that is S. 869.

By a previous amendment adopted in the committee, the reference to subsection (d)(3) has been stricken from the bill. The only other subsection that remains in the bill is subsection (b) of section 207 of title 18 addressing one category of employees. Any mention made of the title to the bill is not considered as a substantive part of the legislation and does not determine the germaneness of an amendment to the test.

Therefore, under the precedents as studied by the Chair, the Chair will sustain the point of order.

Bill To Increase Legislative Clerk-hire Allowance—Amendment Affecting Private Sector Employment

§ 8.8 To a bill increasing the allowance of Members and Delegates for clerk hire, an amendment providing that nothing in the act or in any executive order or rule of any government agency shall prohibit any employer from paying to any employee a wage equivalent to 75 cents per hour was held to be not germane.

The Chairman,[13] in making the above ruling with respect to an amendment offered by Mr. Howard W. Smith, of Virginia, stated:[14]

The gentleman from Virginia has offered an amendment which has been

12. E de la Garza (Tex.).

13. Jere Cooper (Tenn.).

14. 90 CONG. REC. 9013, 78th Cong. 2d Sess., Dec. 7, 1944. Under consideration was H.R. 5590 (Committee on Accounts), relating to clerk-hire allowances.

reported, to which the gentleman from Missouri[15] has made a point of order on the ground that the amendment is not germane to the pending bill. . . .

The Chair . . . invites attention to page 193 of Cannon's Precedents of the House of Representatives, which states under the subject of germaneness:

> One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

. . . [T]he Chair sustains the point of order.

Resolution Requesting Budgetary Information From President—Amendment Requesting Budgetary Information From Certain House Members

§ 8.9 To a resolution requesting the President to furnish certain information pertaining to the 1958 budget, an amendment requesting that House Members who signed the proposed program for the Democrats also furnish budgetary information was held to be not germane.

In the 85th Congress, during consideration of a resolution[16] as described above, the following amendment was offered:[17]

> Amendment offered by Mr. [Clare E.] Hoffman [of Michigan]: Page 1, line 5, immediately preceding the word "Resolved" insert:
>
> *Resolved,* That the signers of the proposed program for the Democrats in the House of Representatives . . . are . . . requested to furnish to the Clerk of the Committee on Appropriations a statement indicating whether the amounts named in the budget as submitted for foreign policy and national defense . . . are excessive or deficient. . . .

Mr. Clarence A. Cannon, of Missouri, made the point of order that the amendment was not germane. The Chairman, Jere Cooper, of Tennessee, in sustaining the point of order, stated:

> The pending resolution deals entirely and exclusively with the request for information from the executive branch of the Government. The gentleman's amendment deals entirely with a request for information with respect to the House of Representatives, part of the legislative branch of the Government, and is not germane.

Subsequently, during consideration of the same resolution, another amendment was ruled out of order on similar grounds. Such amendment stated:[18]

> Amendment offered by Mr. [Leslie C.] Arends [of Illinois]: After line 4, insert:
>
> *Resolved,* That the chairman of the Committee on Appropriations . . . be

15. Mr. John J. Cochran.

16. H. Res. 190 (Committee on Appropriations).

17. 103 Cong. Rec. 3525, 85th Cong. 1st Sess., Mar. 12, 1957.

18. *Id.* at p. 3527.

asked within 3 weeks to report to the House as to where reductions can be made in the budget.

Bill To Protect Federal Government From Subversive Activities—Amendment Relating to Protection of "Any Government" in United States

§ 8.10 To a bill relating to registration of Communist organizations and concerned with protection of the federal government from subversive activities, an amendment providing that "It shall be unlawful for any person . . . to collaborate [with others] in working for the overthrow . . . or weakening of any government in the United States," was held to be not germane.

In the 81st Congress, a bill[19] was under consideration to protect the United States against certain subversive activities. An amendment was offered[20] as described above. A point of order was raised against the amendment, as follows:

MR. [FRANCIS E.] WALTER [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is not germane. This is a registration act. The amendment would properly be to the Smith Act.

The following exchange ensued:

THE CHAIRMAN:[1] The Chair would like to inquire of the gentleman from Pennsylvania if he has taken into consideration that on page 9, in section 4 there are certain prohibited acts?

MR. WALTER: Mr. Chairman, I call the attention of the Chair to the fact those prohibited acts are on the part of employees of the Government. The amendment goes further and applies to anybody who conspires to overthrow the Government, either by force or violence or by peaceful means.

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

It is true that the amendment offered by the gentleman from Florida [Mr. Bennett] deals with acts relating to the destruction or weakening of any government in the United States, which the Chair would interpret to mean the government of any subdivision of the country, referring to section 4. The bill before the committee deals only with the Federal Government of the United States. Therefore the Chair is constrained to rule that the amendment is not germane to the bill now under consideration.

Subsequently, a similar amendment was allowed which deleted the reference to "any government" in the United States.

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19. H.R. 9490 (Committee on Un-American Activities).

20. 96 CONG. REC. 13762, 81st Cong. 2d Sess., Aug. 29, 1950.

1. Albert A. Gore (Tenn.).

Bill Providing for Census and Apportionment of Representatives—Amendment Invoking Constitutional Provisions Requiring Reduction of Basis of Representation Where Voting Rights Abridged

§ 8.11 To a bill providing for a census and apportionment of Representatives in Congress, an amendment was held to be not germane which sought to invoke constitutional provisions requiring reduction of the basis of representation where the right of citizens to vote is abridged.

In the 76th Congress, the bill[2] described above was under consideration when the following amendment was offered:[3]

> Amendment offered by Mr. [John C.] Schafer of Wisconsin: Page 2, after the period at the end of the last line insert: "Provided That in submitting the statement to Congress and making the apportionment, the reduction provided in section 2 of the fourteenth amendment to the Constitution shall be made."

Mr. Lindsay C. Warren, of North Carolina, raised the point of order that the amendment was not germane. In defense of the amendment, the proponent stated:

> Mr. Chairman, the committee reported the bill with an amendment excluding two classes of people who are not to be counted in the apportionment, namely, aliens and Indians. This amendment therefore opens up the bill so that . . . we can add another class of those to be excluded in the count. . . .

The Chairman, Marvin Jones, of Texas, in sustaining the point of order, noted that, "the pending bill only deals with the mechanics of an apportionment and does not deal with the census itself."[4] He cited the principle that, "One individual proposition may not be amended by another individual proposition,"[5] and also quoted a prior ruling of the Chair which had included the observation:

> . . . that even though a subject relates to the same matter, yet if it introduces a new element or an element of uncertainty, or if it provides a future action upon the happening of something indefinite, the matter so offered is not then germane as an amendment.[6]

Joint Resolution Proposing Constitutional Amendment To Reform Electoral College Process—Amendment Relating to Apportionment of Representatives

§ 8.12 To a joint resolution proposing a constitutional

2. S. 2505 (Committee on the Census).
3. 86 Cong. Rec. 4384, 76th Cong. 3d Sess., Apr. 11, 1940.
4. *Id.* at p. 4385.
5. *Id.* at p. 4384.
6. *Id.* at p. 4385.

amendment relating to the election of the President and Vice President by popular vote rather than through the electoral college process, an amendment pertaining to the apportionment of Representatives and the size of congressional districts was held to be not germane.

In the 91st Congress, a bill[7] was under consideration proposing an amendment to the Constitution relating to the election of the President and Vice President. The following amendment was offered to the bill:[8]

> Amendment offered by Mr. [Thaddeus J.] Dulski [of New York]: Page 3, insert after line 14 the following:
>
> Sec. 6. In each State entitled . . . to more than one Representative . . . there shall be established . . . a number of districts equal to the number of Representatives to which such State is so entitled. . . . [N]o district . . . shall contain a number of persons . . . more than 2½ per centum greater or less than the average obtained by dividing the whole number of persons in such State . . . by the number of Representatives to which such State is entitled. . . .
>
> Page 3, strike out lines 17 and 18, and insert in lieu thereof the following:
>
> Sec. 8. The first five sections of this article shall take effect one year after the 21st day of January following ratification. Section 6 of this article shall not apply to any Congress beginning prior to one year after the date of ratification of this article or to any Congress prior to the 93rd Congress.

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

> MR. [EMANUEL] CELLER [of New York]: . . . House Joint Resolution 681 relates to the election of the President and Vice President. The Dulski amendment prescribes standards for congressional redistricting and is not germane to the purposes of the resolution under consideration.

The Chairman, Wilbur D. Mills, of Arkansas, in ruling on the point of order, stated:[9]

> The joint resolution presently under consideration relates to the method of selecting the President and Vice President of the United States. There is no reference therein to the apportionment of Representatives or to their election.
>
> Therefore, the Chair holds that the establishment or description of congressional districts is not a matter that is within the scope of the pending joint resolution and the amendment is not germane.

Bill Regulating Poll Closing Time in Presidential Elections—Amendment Extending Coverage of Bill to Primary Elections

§ 8.13 To a bill regulating poll closing time in presidential

7. H.J. Res. 681 (Committee on the Judiciary).

8. 115 CONG. REC. 25983, 91st Cong. 1st Sess., Sept. 18, 1969.

9. *Id.* at p. 25984.

general elections, an amendment extending the provisions of that bill to presidential primary elections is not germane.

On Jan. 29, 1986,[10] it was demonstrated that an individual proposition may not be germane to another individual proposition although the two may belong to the same class, when the Chair sustained a point of order against the following amendment:

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Frenzel: On page 3, line 18, insert the following: "primary and" before the word "general".

On page 4, line 4, after the word "election" insert the following: "or a Presidential primary election in which there is more than one State conducting its primary election,". . .

MR. [DENNIS E.] ECKART of Ohio: Mr. Chairman, I offer a point of order based on clause 7 of rule XVI, the germaneness rule. I would cite in particular Deschler's Procedure, chapter 28, section 7 to the effect that "one individual proposition is not germane to another individual proposition." This bill deals exclusively with Presidential general elections. The amendment deals with Presidential primary elections. I make the point of order that the amendment is not germane and would go further to the point that suggests that not all States in fact have primaries. Many have conventions, many have other delegate selection processes known as caucuses, and therefore the application of this amendment across general election procedures would not be uniform. Therefore I insist on my point of order based on the germaneness rule. . . .

MR. FRENZEL: . . . It is true that the primary system is nonuniform. It is also true that this bill is not uniform, since it now eliminates certain jurisdictions, and, of course, from the origination did not include two of our great States, who have a part in both the general and the primary process.

However, the point that I made is, that without primary elections it would be impossible to select the candidates for the general election; and to say that a person's vote in the general election has a different value or weight than one in the primary election, I think, is something that is antithetical to our form of representative government.

It is all one process; it is inseverable, and whatever the precedent says about this thing, I think most sentient Americans would suggest that an election bill handled by a committee with election jurisdiction that could not be amended for a primary would be a very strange election bill, indeed. . . .

THE CHAIRMAN:[11] The Chair is prepared to rule.

As stated in the committee report, the sole purpose of the bill is to regulate Presidential general elections in

10. 132 CONG. REC. 684, 99th Cong. 2d Sess. Under consideration was H.R. 3525, a bill providing for uniform poll closing time for presidential elections.

11. Doug Barnard, Jr. (Ga.).

terms of poll closing. An amendment to extend the scope of the bill to Presidential primary elections is not germane under the principle that an individual proposition is not germane to another individual proposition although the two may belong to the same class, and the point of order is sustained.

Senate Amendment Relating to Availability of Senate Contingent Fund for Historical Items in Capitol—House Amendment Relating to Availability of House Unexpended Balances for Additional Purposes

§ 8.14 To a Senate amendment relating to availability of the Senate contingent fund for art and historical items in the Capitol buildings, a proposed House amendment relating also to the availability of House unexpended balances for those or other purposes authorized by law, or required to implement specified House resolutions (such as those relating to "mass franked mailings"), was conceded to be not germane.

The proceedings of May 24, 1990, relating to the conference report on H.R. 4404, the Dire Emergency supplemental appropriations, are discussed in § 27.36, infra.

Bill Authorizing Specified Individuals' Appeals From Court of Claims—Amendment Conferring Jurisdiction on Court of Claims To Hear Claims of Other Individuals

§ 8.15 To a bill authorizing an appeal to the Supreme Court from a judgment of the Court of Claims in a specific case, an amendment conferring jurisdiction on the Court of Claims to hear and determine another case was held to be not germane.

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

> Be it enacted, etc., That George A. Carden and Anderson T. Herd, or their legal representatives may, at any time within —— months after the date of the enactment of this act, appeal as of right to the Supreme Court of the United States from the judgment of the Court of Claims of the United States in the suit No. 42711 heretofore instituted. . . .

An amendment was offered providing in part: [14]

> That jurisdiction is hereby conferred upon the Court of Claims of the United States, notwithstanding any lapse of

12. H.R. 7230 (Committee on the Judiciary).
13. 86 CONG. REC. 10274, 76th Cong. 3d Sess., Aug. 13, 1940.
14. *Id.* at p. 10275.

time or statute of limitation, to hear, determine, and render judgment upon the claim or claims of (particular persons).

Mr. Zebulon Weaver, of North Carolina, raised the point of order that the amendment was not germane to the bill. Chairman Luther Johnson, of Texas, in sustaining the point of order, stated:

The bill under consideration, H.R. 7230, relates merely to one claim, that of George A. Carden and Anderson T. Herd. The bill confers upon these claimants the right to take their case from the Court of Claims to the Supreme Court of the United States. The amendment offered by the gentleman from Pennsylvania covers a number of other parties in other claims who it does not appear are in any way related to the pending bill.

Bill Prohibiting Speculation in Onion Futures—Amendment Prohibiting Speculation in Potato Futures

§ 8.16 To a bill prohibiting speculation in onion futures, an amendment prohibiting speculation in Irish potato futures was held to be not germane.

In the 85th Congress, during consideration of a bill[15] to amend the Commodity Exchange Act to prohibit trading in onion futures, an amendment was offered[16] as described above.

Mr. Victor L. Anfuso, of New York, raised the point of order that the amendment was not germane. In defense of the amendment, the proponent stated as follows:

MR. [CLIFFORD G.] MCINTIRE [of Maine]: Mr. Chairman, I do want to point out that my amendment is consistent with the legislative work which this committee has done. . . .

. . . I will accept the ruling of the Chairman, but in view of all the legislative work which has been done in relation to potatoes as well as onions, I feel that they, too, deserve consideration under this legislation.

The Chairman,[17] citing the principle that "one individual proposition may not be amended by another individual proposition," sustained the point of order.

Bill To Provide Price Support for Tung Nuts—Amendment To Provide Price Support for Honey

§ 8.17 To a bill to provide price support for tung nuts, a committee amendment to provide price support for honey was held to be not germane.

In the 81st Congress, during consideration of a bill[18] to pro-

15. H.R. 376 (Committee on Agriculture).

16. 104 CONG. REC. 4325, 85th Cong. 2d Sess., Mar. 13, 1958.

17. Wayne N. Aspinall (Colo.).

18. H.R. 29 (Committee on Agriculture).

vide price support for tung nuts, an amendment was offered[19] as described above. A point of order was raised against the amendment, as follows:

> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, since the committee amendment has no greater standing than any other amendment, the title of this bill is to amend the Agricultural Adjustment Act of 1938, as amended, to provide parity for tung nuts and for other purposes. I make the point of order that the inclusion of honey is not related to the bill and is, therefore, not in order.

Responding to the point of order, Mr. John Phillips, of California, stated: [20]

> On the point of order, Mr. Chairman, the title of the Agricultural Adjustment Act is all-inclusive. . . . This title, to which objection is raised on the floor, says specifically, "To amend the Agricultural Adjustment Act of 1938, as amended, to provide parity for tung nuts, and for other purposes." The committee, in the final line on page 3, has specified an amendment to the title to include tung nuts and honey.

The Chairman,[1] in ruling on the point of order, stated:

> The title of the bill does not control. It is the body of the bill that controls. When an individual proposition is added to another individual proposition by amendment, even though they are in the same class, they are not germane. The Chair sustains the point of order.

Bill Relating to Cost of Inspection of Meat—Amendment To Extend Coverage of Bill to Seafood

§ 8.18 To a bill proposing that the cost of federal inspection of meat and meat products be borne by the United States, an amendment seeking to extend coverage of the bill to seafood and seafood products was held to be not germane.

In the 80th Congress, during consideration of a bill[2] relating to the meat inspection service of the Department of Agriculture, an amendment was offered[3] as described above.

Mr. Clifford R. Hope, of Kansas, raised the point of order that the amendment was not germane to the bill. The Chairman,[4] in ruling on the point of order, stated:

> The Chair holds that the amendment is not germane. Under the rulings on the question of germaneness, one individual proposition may not be amended by another individual proposition, even

19. 95 CONG. REC. 10639, 81st Cong. 1st Sess., Aug. 2, 1949.

20. *Id.* at p. 10640.

1. John McSweeney (Ohio).

2. S. 2256 (Committee on Agriculture).

3. 94 CONG. REC. 6235, 80th Cong. 2d Sess., May 20, 1948.

4. Samuel K. McConnell, Jr. (Pa.).

though the two may belong to the same class. The Chair sustains the point of order.

Bill Providing Financial Relief for Agricultural Producers—Amendment To Extend Relief to Commercial Fishermen

§ 8.19 To a bill providing financial relief for one class (agricultural producers), an amendment extending such relief to another class (commercial fishermen), particularly where relief to the latter class is within the jurisdiction of another committee, is not germane.

During consideration of the Agriculture Credit Act of 1978[5] in the Committee of the Whole on Apr. 24, 1978,[6] Chairman Don Fuqua, of Florida, sustained a point of order against the following amendment:

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer amendments, and I ask unanimous consent that the amendments be considered en bloc.

THE CHAIRMAN: Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Weaver: Page 20, line 7, insert "and Commercial Fishing" after "Agricultural."

Section 202:

Page 20, line 11, strike out "and ranchers" and insert in lieu thereof ", ranchers, or commercial fishermen".

Page 20, line 12, strike out the comma and insert "or commercial fishing".

Page 20, line 14, insert "or fishing" before "cooperatives". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make the point of order the amendment is not germane to title II of the bill. I cite the title of title II which is "Emergency Agricultural Credit Adjustment Act of 1978." The purposes of title II of the bill are to make insured and guaranteed loans to bona fide farmers and ranchers who are primarily engaged in agricultural production, and to farm cooperatives, private domestic corporations or partnerships that are primarily and directly engaged in agricultural production.

No part of the bill deals with fishing activities or the fishing industry or has to do with establishing any loans or credits or otherwise providing financial assistance to any fishermen or those engaged in any fishing activity.

The whole structure and purpose of this title are limited to provision of credit to farmers and ranchers. Therefore, Mr. Chairman, I feel that the amendment is not germane to the title. . . .

MR. WEAVER: Mr. Chairman, I would like to say the Farmers Home Administration makes fish loans presently. This is a Farmers Home Administration bill. Certainly the fishermen should be given the right to borrow under this Emergency Loan Act.

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5. H.R. 11504.

6. 124 CONG. REC. 11080–81, 95th Cong. 2d Sess.

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Illinois (Mr. Weaver) would add commercial fishermen to the category of those eligible under title II of the bill. Title II, as indicated in section 202 on page 20, establishes a new emergency agricultural credit adjustment program for bona fide farmers and ranchers who are primarily engaged and directly engaged in agricultural production and to other farming entities engaged in agricultural production. While this program would be available to farmers and ranchers, the Committee on Agriculture has chosen to treat them as a generic class of persons engaged in the production of agricultural commodities—a matter properly within the jurisdiction of that committee.

As indicated in Deschler's Procedure, in section 7.17 of chapter 28—

> To a bill providing relief for one class, an amendment to extend the relief to another class is not germane—

Especially where, as here, the class of recipients who may receive credit assistance is sought to be to commercial fishermen, matters which are within the jurisdiction of another committee of the House, as pointed out in the colloquy a few minutes ago. So, therefore, the Chair sustains the point of order against the amendment.

Provision To Prohibit Use of Funds for Enforcement of OSHA Regulations Applicable to Small Farms—Amendment Requiring Expenditure To Assure Congressional Compliance With OSHA

§ 8.20 To a substitute amendment prohibiting the use of funds in a general appropriation bill for the enforcement of any regulation under the Occupational Health and Safety Act applicable to small farms, an amendment adding at the end thereof the requirement that such funds be expended to assure full compliance under that Act by Congressional Members and staff was held not germane.

During consideration of H.R. 14232 [7] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings of June 24, 1976,[8] were as follows:

> MRS. [MILLICENT] FENWICK [of New Jersey]: Mr. Chairman, I offer an amendment as a substitute for the

7. The Departments of Labor and Health, Education and Welfare Appropriation bill for fiscal 1977.

8. 122 CONG. REC. 20370, 20371, 94th Cong. 2d Sess.

amendment offered by the gentleman from Kansas (Mr. Skubitz).

The Clerk read as follows:

> Amendment offered by Mrs. Fenwick as a substitute for the amendment offered by Mr. Skubitz: On page 7, strike the period at the end of line 25, and insert in lieu thereof: ": *Provided* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which employs five or fewer employees.". . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Myers of Pennsylvania to the amendment offered by Mrs. Fenwick as a substitute for the amendment offered by Mr. Skubitz: At the end of the amendment offered by Mrs. Fenwick strike the period and add the following: "*Provided further,* That the funds appropriated under this paragraph shall be obligated or expended to assure full compliance of the Occupational Safety and Health Act of 1970 by Members of Congress and their staffs."

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the amendment is not germane. It is also in violation of the rule against legislating on an appropriation bill. . . .

THE CHAIRMAN:[9] The Chair is prepared to rule.

The gentlewoman from New Jersey (Mrs. Fenwick) has offered a substitute for an amendment offered by the gentleman from Kansas (Mr. Skubitz).

Both the amendment offered by the gentleman from Kansas (Mr. Skubitz) and the proposed substitute offered by the gentlewoman from New Jersey (Mrs. Fenwick) are applicable to farmworkers and have a precise reference to the number of employees engaged by a farmer.

The gentleman from Pennsylvania (Mr. Myers) would add to the substitute additional provisions requiring that funds appropriated under the program shall be obligated and expended to assure compliance with the Occupational Safety and Health Act by Members of Congress and their staffs.

Manifestly, this does constitute legislation on an appropriation bill; and, beyond that, it would not be germane, in the opinion of the Chair, to the pending substitute.

For those reasons, the Chair sustains the point of order.

Bill To Regulate Marketing of Domestically Produced Farm Products—Amendment To Control Importation of Farm Products

§ 8.21 To a bill to regulate the marketing of domestically produced farm products, an amendment proposing to control the importation of farm products was held to be not germane.

9. James C. Wright, Jr. (Tex.).

In the 75th Congress, during consideration of a farm bill[10] as described above, the following amendment was offered:[11]

> Page 80, at the bottom of the page, add a new section as follows:
>
> Sec. 389. That . . . the importation of dairy products into the United States is prohibited unless such products have been produced from cattle which are free from bovine tuberculosis. . . .

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

> MR. [JOHN M.] JONES [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is not germane to the paragraph, the section, or the bill itself. . . .

The Chairman, Jere Cooper, of Tennessee, noting that[12] "The purpose of the pending bill is to regulate the marketing of domestically produced farm products," and that the amendment sought to control the conditions under which farm products are produced in foreign countries, sustained the point of order.

Bill Providing for Foreign Aid—Amendment Relating to Relief in United States

§ 8.22 To a bill providing for aid to certain foreign countries, an amendment relating to relief in the United States was held to be not germane.

In the 80th Congress, a bill[13] was under consideration providing for aid to foreign countries. An amendment was offered[14] as described above. Mr. John M. Vorys, of Ohio, raised the point of order that the amendment was not germane to the bill.[15] The Chairman,[16] in sustaining the point of order, stated that the amendment "has nothing whatever to do with aid to foreign countries, but deals entirely with domestic conditions."

Provision Delaying Arms Shipment to Turkey Pending Certification of Progress in Resolving Cyprus Issue—Amendment To Require Further Certification as to Control of Opium Traffic

§ 8.23 To an amendment to a section of a bill delaying the shipment of certain arms to Turkey pending a Presidential certification that progress has been made with respect to the refugee problem on Cyprus, an amend-

10. H.R. 8505 (Committee on Agriculture).
11. 82 CONG. REC. 1193, 75th Cong. 2d Sess., Dec. 9, 1937.
12. *Id.* at p. 1194.
13. H.R. 4604 (Committee on Foreign Affairs).
14. 93 CONG. REC. 11295, 80th Cong. 1st Sess., Dec. 11, 1947.
15. *Id.* at p. 11296.
16. Earl C. Michener (Mich.).

ment thereto requiring that the President also certify that the government of Turkey has taken adequate measures to control the diversion of opium poppy into illicit channels was held not germane.

During consideration of S. 2230[17] in the Committee of the Whole on Oct. 2, 1975,[18] the Chair sustained a point of order against the amendment described above, citing the principle that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class. The proceedings were as follows:

THE CHAIRMAN:[19] The Clerk will read.

The Clerk read as follows:

Sec. 2. (a)(1) The Congress reaffirms the policy of the United States to seek to improve and harmonize relations among the allies of the United States and between the United States and its allies, in the interest of mutual defense and national security. In particular, the Congress recognizes the special contribution to the North Atlantic Alliance of Greece and Turkey by virtue of their geographic position on the southeastern flank of Europe and is prepared to assist in the modernization and strengthening of their respective armed forces.

(2) The Congress further reaffirms the policy of the United States to alleviate the suffering of refugees and other victims of armed conflict and to foster and promote international efforts to ameliorate the conditions which prevent such persons from resuming normal and productive lives. . . .

(b)(1) In order that the purposes of this Act may be carried out without awaiting the enactment of foreign assistance legislation for fiscal year 1976 programs—

(A) the President is authorized, notwithstanding section 620 of the Foreign Assistance Act of 1961, to furnish to the Government of Turkey those defense articles and defense services with respect to which contracts of sale were signed under section 21 or section 22 of the Foreign Military Sales Act on or before February 5, 1975, and to issue licenses for the transportation to the Government of Turkey of arms, ammunition, and implements of war (including technical data relating thereto): *Provided* That such authorization shall be effective only while Turkey shall observe the cease-fire and shall neither increase its forces on Cyprus nor transfer to Cyprus any United States supplied implements of war: Provided further, That the authorities contained in this section shall not become effective unless and until the President determines and certifies to the Congress that the furnishing of defense articles and defense services, and the issuance of licenses for the transportation of implements of war, arms and ammunition under this section are important to the national security interests of the United States; and

17. A bill authorizing appropriations for the Board for International Broadcasting for fiscal 1976, and to promote improved relations between the United States, Greece and Turkey.

18. 121 CONG. REC. 31480, 31481, 31486, 31489, 94th Cong. 1st Sess.

19. William H. Natcher (Ky.).

(B) the President is requested to initiate discussions with the Government of Greece to determine the most urgent needs of Greece for economic and military assistance.

(2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committees of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsection (b)(1)(B), together with his recommendations for economic and military assistance to Greece for the fiscal year 1976. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fascell: Page 3, line 6, strike out "(1)"; in line 15, strike out "and to issue licenses" and all that follows thereafter through "thereto)" in line 18 and insert in lieu thereof "if the President determines and certifies to the Congress that significant progress has been made with respect to the refugee problem on Cyprus"; on page 4, line 1, strike out ", and the issuance of licenses" and all that follows thereafter through "ammunition" in line 2; and on page 4, strike out line 9 and all that follows thereafter through line 16 on page 6.

MR. [CHARLES B.] RANGEL [of New York]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Rangel to the amendment offered by Mr. Fascell: On line 5 of the Fascell amendment after the word "Cyprus" insert the following: and if the President determines and certifies to the Congress that the Government of Turkey has taken adequate measures to control the diversion of opium poppy into illicit channels.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the amendment of the gentleman from New York (Mr. Rangel) to the Fascell amendment contains language that is not germane, not only to the Fascell amendment, but certainly not to the bill before us.

Mr. Chairman, this amendment violates rule XVI, clause 7, of the Rules of the House of Representatives, which provides that no motion or proposition on a subject different from that under consideration shall be admitted under the guise of an amendment.

This rule is construed by the precedents of the House to require that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. I cite Cannon's Precedents VIII, 2911. The relevant portion of this bill relates to the cessation of hostilities in Cyprus, not to the cultivation of poppies in Turkey. No matter how laudable the gentleman's amendment may be, or how much I may personally agree with the importance of elimination of poppy cultivation, this amendment is not germane to this bill, I submit, or to the amendment of the gentleman from Florida (Mr. Fascell), and my point of order should be sustained.

The title of the bill and the report from the Committee on International Relations before us make it clear that the fundamental purpose of this bill is to hasten a peaceful solution of the Cyprus situation. The committee did not undertake a comprehensive inquiry into the question of poppy cultivation in its consideration of this bill, which addresses quite different issues. We

have no way of knowing, on the basis of this report, what efforts the administration is making with the Government of Turkey to deal with this situation or what steps have been taken by the Government of Turkey. . . .

MR. RANGEL: . . . It appears to me that if we are talking about an agreement between the Turkish people and the Greek people, and certainly one of which the U.S. Congress has an interest, that this bill is broad enough to have the amendment included as being germane to the bill. . . .

MR. FASCELL: . . . The language in the bill in many places makes it very, very clear that what we are seeking to do here is to—and I quote from the bill—". . . to improve and harmonize relations among the allies of the United States and between the United States and its allies . . ."

The amendment which is pending, the principal amendment, lays down a condition stating that it is essential to harmonize those relationships. The amendment offered by the gentleman from New York (Mr. Rangel) seeks to impose another condition for that same purpose. I think it is clearly germane. . . .

MR. [JOHN] BRADEMAS [of Indiana]: . . . I would like to rise in support of the position voiced by the gentleman from Florida (Mr. Fascell) and to draw attention to the fact, Mr. Chairman, that even in the committee report there are separate views that touch upon the very subject which is the subject of the gentleman's amendment.

THE CHAIRMAN: The Chair is ready to rule.

The test of germaneness is whether the amendment offered by the gentleman from New York (Mr. Rangel) is germane to the amendment offered by the gentleman from Florida (Mr. Fascell).

Under Cannon's Procedures of the House of Representatives on page 202, we find the following:

> One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The amendment offered by the gentleman from Florida (Mr. Fascell) applies to one matter. The amendment offered by the gentleman from New York (Mr. Rangel) applies to a different and a separate matter.

Under the precedents supporting the principle set forth in Cannon's Procedures, the point of order must be sustained and the point of order is sustained.

The Chair recognizes the gentleman from New York (Mr. Stratton).[20]

Bill Providing Relief for Aliens Who Are Political Refugees—Amendment To Provide Similar Relief for Nonaliens

§ 8.24 To a bill providing relief for one class, an amendment to extend the relief to another class is not germane; thus, to a bill providing relief for aliens who are political refugees of a certain geographic area, an amendment

20. An amendment having a similar purpose was later offered to a section of the bill and was held to be germane. See § 10.21, infra.

broadening the coverage of the bill to persons from another geographic area who are not aliens as defined in immigration law was held not germane.

During consideration of H.R. 6755 (United States assistance to migrants and refugees) in the Committee of the Whole on May 14, 1975,[1] Chairman Morris K. Udall, of Arizona, sustained a point of order against the following amendment, demonstrating that one individual proposition is not germane to another individual proposition:

MS. [BELLA S.] ABZUG [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: On page 1, line 10, strike out "aliens" and insert in lieu thereof "persons".

On page 2, line 1, strike out "Cambodia or Vietnam," and insert in lieu thereof "Cambodia, Vietnam or the United States".

On page 2, line 13, strike out "aliens" and insert in lieu thereof "persons".

On page 2, line 16, strike out "Cambodia or Vietnam" and insert in lieu thereof "Cambodia, Vietnam or the United States.". . .

MR. [JOSHUA] EILBERG [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is not germane.

This bill deals with a particular class of people: refugees from Indochina, that is, Cambodia and Vietnam. The subject matter of the amendment offered by the gentlewoman from New York (Ms. Abzug) has to do with amnesty, a matter which is within the jurisdiction of the subcommittee chaired by the gentleman from Wisconsin (Mr. Kastenmeier), and is being separately considered by that subcommittee, actively considered.

This bill will cover those aliens, refugees, who have been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act. In addition, the term "refugee," as defined in the bill and as that term is interpreted under international law and under section 203(a)(7) of the Immigration and Nationality Act, does not include U.S. citizens, and the bill was not intended to cover that category or class of people. . . .

MS. ABZUG: . . . The bill before us deals with providing assistance to a certain class of individuals, namely, those who have had to flee their homeland because of fear of prosecution because of their political opinions, among other things. . . .

Mr. Chairman, my amendment is germane because it does not seek to add another class of persons. What my amendment says is that there are several persons or several groups eligible within the class, the class being those who have to flee their homeland because of fear of persecution because of their political opinions. That is the purpose of the legislation. We would not be addressing this question of assistance if these people were just ordinary refugees. What we are saying is that they are here in the country be-

1. 121 CONG. REC. 14360, 14361, 14362, 94th Cong. 1st Sess.

cause they fear persecution because of their political opinions, and that was the same reason we originally gave relief to the Cubans under the legislation which this bill tracks.

My amendment, I submit, is germane. It merely adds another group of persons and makes them eligible within the class. They are also persons who fled their country because of fear of personal and political persecution.

The American political refugee, the person who resisted the war in Vietnam because it was illegal and immoral, was forced to go into exile in Sweden and in Canada and is unable to return because of fear of prosecution, is entitled to the same kind of assistance that the Vietnamese and the Cambodian refugee is entitled to. . . .

MR. [PAUL S.] SARBANES [of Maryland]: . . . Mr. Chairman, the class to which H.R. 6755 addresses itself is to aliens who, in turn, meet other requirements contained within the legislation. The permanent legislation to which this pending legislation is related, since this is temporary legislation, is Public Law 87–510, the Migration and Refugee Assistance Act of 1962 which also deals with aliens as a class to which that legislation pertains.

The jurisdiction of the committee bringing this legislation to the floor of the House would not run to the programs proposed to be covered if the class were expanded to "persons" rather than "aliens," the jurisdiction of this committee rests upon its immigration and naturalization jurisdiction, and pertains to the class of aliens which is set out in the legislation in the Migration and Refugee Assistance Act of 1962.

MS. ABZUG: . . . I do not think the rule of germaneness is determined by the jurisdiction of a committee. The situation is that we are dealing with the bill that is before us now, and the question of whether this committee would have had jurisdiction over this or a bill with changed wording does not go to the question of germaneness. Therefore, I press my point, and simply say that my amendment merely brings in a third category of eligible persons, and the fact that they are or are not aliens does not preclude them from being covered for the purposes provided for the class for whom the bill addresses itself, namely, those who have been uprooted as a result of their political opinions from their homeland for fear of persecution.

THE CHAIRMAN: The Chair is prepared to rule.

The gentlewoman from New York (Ms. Abzug) has offered an amendment to the bill which, in several places, strikes out "aliens" and inserts "persons," and would strike "Cambodia or Vietnam" and insert "Cambodia, Vietnam or the United States," to which the gentleman from Pennsylvania (Mr. Eilberg) has made the point of order that the amendment is not germane to the bill.

The Chair has examined the bill and the report, and would characterize this bill as one which enables the United States to render assistance to a certain class of individuals, specifically, as stated on page 6 of the report, those individuals who are refugees from Indochina, and who are aliens.

The amendment, however, offered by the gentlewoman from New York, would extend the coverage of this act

to another class of individuals, specifically persons of the United States, who are citizens, but not aliens, even though they might be in a broader sense considered "political refugees."

The precedents of the House indicate that to a bill dealing with the relief of one class, an amendment seeking to include another class is not germane, both because one individual proposition is not germane to another individual proposition and because such amendment would broaden the scope of the bill.

The Chair refers to Deschler's Procedure, chapter 28, section 10.2, and Cannon's Precedents, volume 8, sections 2959 and 3046.

The Chair believes that these principles are applicable in the present situation. By striking the word "aliens" and inserting in lieu thereof the word "persons" and by including a new class of persons within the coverage of the bill, the amendment would broaden the bill beyond its original scope. The Chair, therefore, feels that the amendment is not germane, and the point of order is sustained.

Bill Relating to Evacuation of Persons—Amendment Relating to Evacuation of Commodities

§ 8.25 To a bill dealing with the evacuation of persons, an amendment dealing with the evacuation of commodities is not germane.

During consideration of the Vietnam Humanitarian and Evacuation Assistance Act[2] in the Committee of the Whole on Apr. 23, 1975,[3] the Chair sustained a point of order against the following amendment:

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment: The Clerk read as follows:

> Amendment offered by Mr. John L. Burton: Page 2 at the end of line 2, add such evacuation programs to include the evacuation of any gold, silver, or other valuable commodities belonging to the people of the United States that is determined to be in danger of being shipped to Switzerland, including 16 tons of gold.

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It goes far afield from the bill and it is not germane. . . .

MR. JOHN L. BURTON: . . . The title of the bill is "Humanitarian Aid and Evacuation."

"Evacuation," in the dictionary, is described as the removal of things. It is not limited to persons.

There is nothing in the title that says "an evacuation of persons." I think that it is very germane, the thought of some $83 million. . . .

MR. [FRANK] THOMPSON [Jr., of New Jersey]: "Things," as I have read the Webster International Dictionary—that is, the latest version—would certainly include gold but would not necessarily be limited to the evacuation or withdrawal of things confined only to precious metals. . . .

THE CHAIRMAN:[4] The Chair is prepared to rule.

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2. H.R. 6096.

3. 121 CONG. REC. 11550, 94th Cong. 1st Sess.

4. Otis G. Pike (N.Y.).

Under section 4 of the bill it says:

> For the purposes of section 2, evacuation shall be defined as the removal to places of safety . . .

And the Chair will not read all of the intervening words—

> with the minimum use of necessary force, the following categories of persons:

The gentleman's amendment goes beyond the scope of the bill and is not germane to section 2. Accordingly, the point of order is sustained.

Senate Amendment Striking Appropriation for Missile Program—House Amendment Reinserting Missile Appropriation and Earmarking Other Funds for Unrelated Programs

§ 8.26 To a Senate amendment striking an appropriation for a missile program from a general appropriation bill, a House amendment not only reinserting a portion of those funds but also earmarking other funds in the bill for specific grants unrelated to that missile program and waiving provisions of law otherwise restricting such grants was conceded to be nongermane.

The proceedings of Nov. 15, 1989, relating to H.R. 3072, Department of Defense appropriations for fiscal 1990, are discussed in § 27.13, infra.

Differing Bases of Selective Service Deferments

§ 8.27 To a bill amending the Selective Service Act and establishing categories of registrants on the basis of persons dependent on each registrant for support, an amendment was held to be not germane which sought deferment of certain agricultural workers from military service.

In the 78th Congress, during consideration of a bill[5] as described above, the following amendment was offered:[6]

> Amendment offered by Mr. [Hampton P.] Fulmer [of South Carolina]: On page 4, line 20, after the word "board", strike out all that follows in lines 20 to 24 inclusive, and insert, in lieu thereof, the following: "provided, however, That every registrant who is . . . employed substantially full time on a farm in connection with the production or harvesting of any agricultural commodity set forth in local board release No. 164 of the Selective Service System as being a commodity essential to the war effort shall . . . be deferred by his selective service local board from training and service under this act. . . ."

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5. H.R. 1730 (Committee on Military Affairs).

6. 89 CONG. REC. 3300, 78th Cong. 1st Sess., Apr. 12, 1943.

Mr. Andrew J. May, of Kentucky, raised the point of order that the amendment was not germane to the bill.[7] The Chairman,[8] in ruling on the point of order, stated:

> The bill establishes the categories of registrants on the basis of dependents. Certainly . . . a worker in agriculture should not come within that category.
>
> Further, on page 4 of the bill it is provided expressly that no deferment shall be made of individuals by occupational groups. The Chair feels that farmers come very clearly within the provisions of that language and therefore holds that the amendment is not germane.

Bill To Increase Cadet Corps at United States Military Academy—Amendment To Increase Certain Appointments to Military Academy and Naval Academy

§ 8.28 To a bill proposing to increase the corps of cadets at the United States Military Academy, an amendment was held to be not germane which sought to increase the number of men to be appointed both to the Military Academy and the Naval Academy from among sons of certain war veterans.

In the 77th Congress, a bill[9] was under consideration increasing the corps of cadets at the Military Academy. An amendment was offered[10] as described above. Mr. Andrew J. May, of Kentucky, raised the point of order that the amendment was not germane to the bill. The Chairman, J. Bayard Clark, of North Carolina, in ruling on the point of order, stated:[11]

> The Chair feels that the reference in the pending amendment to matters pertaining to the Naval Academy and the appointment of cadets to the Naval Academy takes it too far afield to make it germane to the pending bill; therefore the Chair sustains the point of order.

Bill Affecting Pensions for Veterans Based on Disability—Amendment Relating to Compensation for Service-Connected Disability

§ 8.29 To a privileged pension bill, a committee amendment which included provisions relating to compensation on account of service-connected disability was held to be not germane.

In the 84th Congress, during consideration of a bill[12] relating

7. *Id.* at p. 3301.
8. Francis E. Walter (Pa.).
9. H.R. 6979 (Committee on Military Affairs).
10. 88 Cong. Rec. 4158, 77th Cong. 2d Sess., May 13, 1942.
11. *Id.* at p. 4159.
12. H.R. 7886 (Committee on Veterans' Affairs).

to disability pension awards, a committee amendment was offered[13] as described above. A point of order was raised against the amendment, as follows:[14]

> MR. [WILLIAM H.] AYRES [of Ohio]: . . . This bill has been classified as a general pension bill, and as such, comes up for debate as a privileged matter. The term "pension" means payment for a non-service-connected disability. . . .
>
> Mr. Chairman, all of title II relates entirely to service-connected compensation for disabilities of a veteran or to his widow and/or children, and this is not germane to this bill.

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

> From the very beginning the House, in the adoption of its rules, has made a distinction between pensions and compensation. . . .
>
> There can be no doubt that the bill as presented here was a pension bill. The committee amendment seeks to add among other things compensation provisions to the pending bill. The fact that it was a pension bill gave it a privileged status and enabled the bill to be called up as a privileged bill, but the compensation part of the bill does not have a privileged status, as is true in the instance of the pension provisions.
>
> Therefore, as to the committee amendment, including both pension and compensation provisions, the rule is well established that if any part of an amendment is subject to a point of order the whole amendment is subject to a point of order. Therefore, the Chair sustains the point of order of the gentleman from Ohio.

A subsequent motion to recommit the bill with instructions to report back a pension bill with compensation provisions was also ruled out of order. The motion was as follows:[16]

> Mr. Ayres moves to recommit the bill, H.R. 7886, to the Committee on Veterans' Affairs with instructions to report it back forthwith with the following amendment: Strike out all after the enacting clause and insert the following: "That (a) all monthly wartime rates of compensation payable under public laws administered by the Veterans' Administration for disability less than total (not including special awards and allowances, dependency allowances, or subsistence allowances), are hereby increased by 10 percent." . . .

A point of order was made, as follows:

> MR. [EDMOND] EDMONDSON [of Oklahoma]: Mr. Speaker, I make a point of order against the motion to recommit on the same ground that the gentleman from Ohio [Mr. Ayres] made against the amendment to the first section of this bill namely, that it is not germane; that it is a compensation matter which he seeks by a motion to recommit to place in a privileged pension bill.

13. 102 CONG. REC. 11142, 84th Cong. 2d Sess., June 27, 1956.

14. *Id.* at p. 11143.

15. *Id.* at pp. 11143, 11144.

16. *Id.* at p. 11145.

The Speaker,[17] in ruling on the point of order, stated:

> [T]he Chair feels that the same point of order will lie against this motion to recommit with instructions as did lie against the committee amendment in the bill with reference to compensation; and therefore the Chair sustains the point of order.

Bill Affecting Naval Procurement—Amendment Affecting Procurement for Other Armed Services

§ 8.30 To a bill amending the Navy Ration Statute to permit oleomargarine to be served to naval personnel, an amendment providing that no oleomargarine be acquired for use by the armed services when surplus butter stocks are available to the armed services through the Commodity Credit Corporation was held to be not germane.

In the 85th Congress, a bill[18] was under consideration amending the Navy Ration Statute as indicated above. The following amendment was offered to the bill:[19]

> Amendment offered by Mr. [Melvin R.] Laird [of Wisconsin]: Add the following new section:
>
> Sec. 2. During any period when surplus butter stocks are available to the armed services through the Commodity Credit Corporation no oleomargarine or margarine shall be acquired for use by the armed services or any branch or department thereof. . . .

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

> MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that this is a bill to amend the Navy rations statute so as to provide for serving oleomargarine or margarine. It goes no further than to amend the Navy ration statute. The Navy ration statute does not refer to other departments of the armed services.

The Chairman,[20] relying on the rule that, "one individual proposition may not be amended by another individual proposition even though the two may belong to the same class," sustained the point of order, pointing out that:

> The amendment offered by the gentleman from Wisconsin includes the Army, Navy, and Air Force. The bill before the House deals solely with the Navy.[1]

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17. Sam Rayburn (Tex.).

18. H.R. 912 (Committee on Armed Services).

19. 104 CONG. REC. 6931, 85th Cong. 2d Sess., Apr. 22, 1958.

20. James W. Trimble (Ark.).

1. See § 32.4, infra, discussing a similar amendment which, because more narrowly worded, was held to be germane.

Senate Amendment Proposing Feasibility Study of Land Transfer in State—House Amendment Concerning Environmental Liabilities in Another State

§ 8.31 To a Senate amendment proposing a feasibility study of a certain land transfer in one state, a House amendment waiving existing law concerning certain environmental liabilities in another state was conceded to be nongermane.

The proceedings of Nov. 15, 1989, relating to H.R. 3072, Department of Defense appropriations for fiscal 1990, are discussed in § 27.39, infra.

Bill Relating to Prices of Petroleum Products—Amendment Relating to Price of Coal

§ 8.32 To a bill containing provisions with respect to prices of petroleum products and transferring certain functions of the Price Administrator with respect to such products to the Petroleum Administrator for War, an amendment seeking to transfer responsibilities with regard to coal prices to the Solid Fuels Administrator for War was held to be not germane.

In the 78th Congress, a bill[2] was under consideration which stated in part:[3]

> Be it enacted, etc., That the powers and functions conferred by the Emergency Price Control Act of 1942, as amended, upon the Price Administrator, with respect to crude petroleum and the products thereof . . . are hereby transferred to the Petroleum Administrator for War. . . . In the fixing of prices for crude petroleum and the products thereof . . . the Petroleum Administrator for War shall consider the necessity for exploring for crude petroleum. . . .

An amendment was offered, as follows:[4]

> Amendment offered by Mr. Calvin D. Johnson [of Illinois]: After the last sentence insert, "The fixing of prices of any mineral through which by hydrogenation crude petroleum and the products thereof and derivatives therefrom may be produced is hereby transferred to the Solid Fuels Administrator for War. . . ."

Mr. Johnson, in explaining the amendment, stated:[5]

> . . . This amendment would transfer [the coal-mining] industry to the Solid Fuels Administrator.

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2. H.R. 2887 (Committee on Banking and Currency).

3. See 89 CONG. REC. 10630, 78th Cong. 1st Sess., Dec. 13, 1943.

4. *Id.* at pp. 10641, 10642.

5. *Id.* at p. 10642.

Mr. Wesley E. Disney, of Oklahoma, raised the point of order that the amendment was not germane to the bill. In defense of the amendment, the proponent stated:

> . . . Coal and oil are both fuel. The component parts of coal and the component parts of oil are identical.

The Chairman,[6] in ruling on the point of order, stated:

> The Chair is of the opinion that there is no doubt that the amendment seeking to include minerals in a bill providing for petroleum certainly would bring in a proposition in addition to the one covered by the bill, and therefore, is not germane. The point of order is sustained.

Bill Providing for Disposal of Tin From National Stockpile—Amendment Providing for Disposal of Silver

§ 8.33 An individual proposition is not germane to another individual proposition, even though the two belong to the same class; thus, to a House bill providing for the disposal of tin from the national stockpile, a Senate amendment included in the conference report providing for the disposal of silver from the stockpile was conceded to be nongermane and held to be subject to a motion to reject under Rule XXVIII clause 4.

The proceedings of Dec. 12, 1979, relating to H.R. 595, authorizing the Administrator of General Services to dispose of tin from the national stockpile, are discussed in § 26.8, infra.

Bill Relating to Settlement of Railway Labor Dispute—Amendment Relating to Settlement of Another Railway Labor Dispute

§ 8.34 To a bill relating to settlement of a particular railway labor dispute, involving certain railways and unions, an amendment concerning another dispute between a different railroad company and its employees was held to be not germane.

In the 90th Congress, during consideration of a bill relating to settlement of a railway labor dispute, the following amendment was offered:[7]

> Amendment offered by Mrs. [Leonor K.] Sullivan [of Missouri]: Add at the end of the joint resolution a new section as follows:

6. Jere Cooper (Tenn.).

7. 113 Cong. Rec. 15930, 15931, 90th Cong. 1st Sess., June 15, 1967. Under consideration was H.J. Res. 559 (Committee on Interstate and Foreign Commerce).

Sec. 7. The Special Board established by the first section of this joint resolution shall also have and exercise, with respect to any labor dispute to which the Florida East Coast Railway Company is a party . . . the same powers and duties set forth in sections 2, 3, and 4 of this joint resolution. In the exercise of such powers and duties pursuant to this section the Special Board shall use in lieu of the proposals of the Special Mediation Panel, the recommendations of Emergency Board Number 157 as contained in its report of December 23, 1963, with respect to disputes covered by said report and shall extend the principles underlying said recommendations to the other disputes covered by this section. . . .

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

MR. [SAMUEL N.] FRIEDEL [of Maryland]: Mr. Chairman, I make the point of order that the amendment which has been offered by the distinguished gentlewoman from Missouri [Mrs. Sullivan] is not germane to the joint resolution now under consideration.

Mr. Chairman, the joint resolution (H.J. Res. 559) deals with a nationwide railroad dispute with the shop craft unions. However, the amendment which has been offered by the distinguished gentlewoman from Missouri [Mrs. Sullivan] deals with a single dispute involving one railroad and all of its employees, not just the shop craft union. . . .

Chairman Wilbur D. Mills, of Arkansas, in sustaining the point of order, stated:

. . . The joint resolution . . . is aimed at one specific controversy between labor and management. The amendment . . . relates to a different controversy involving different classifications of unions as pointed out by the gentleman from Maryland [Mr. Friedel].

The amendment therefore is beyond the purview of the resolution (H.J. Res. 559). . . .

Bill Relating to Design of Public Coin Currency—Amendment Providing for Issuance of Commemorative Coin

§ 8.35 To a bill relating to the design of public coin currency, an amendment providing for issuance of a commemorative coin is not germane; thus, to a bill requiring public currency coins to bear a design and date emblematic of the Bicentennial of the American Revolution, an amendment providing for the issuance or sale of Bicentennial gold commemorative coins was held to be not germane.

On Sept. 12, 1973,[8] during consideration of H.R. 8789 in the Committee of the Whole, the Chair sustained a point of order against the following amendment, thus illustrating that one individual proposition is not germane

8. 119 CONG. REC. 29376, 29377, 93d Cong. 1st Sess.

to another individual proposition, although the two may belong to the same class:

H.R. 8789

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reverse side of all dollars, half-dollars, and quarters minted for issuance on or after July 4, 1975, and until such time as the Secretary of the Treasury may determine shall bear a design determined by the Secretary to be emblematic of the Bicentennial of the American Revolution.

Sec. 2. All dollars, half-dollars, and quarters minted for issuance between July 4, 1975, and January 1, 1977, shall bear "1776–1976" in lieu of the date of coinage; and all dollars, half-dollars, and quarters minted thereafter until such time as the Secretary of the Treasury may determine shall bear a date emblematic of the Bicentennial in addition to the date of coinage.

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: Page 2, after line 4, add the following new section and redesignate the succeeding sections accordingly:

Sec. 3. Notwithstanding any other provision of law, rule, regulation, or order, the Secretary of the Treasury is authorized and directed to coin and issue or cause to be sold, between July 4, 1975, and January 1, 1977, special gold coins commemorating the Bicentennial of the American Revolution of such design, in such denomination, in such quantities (not exceeding sixty million pieces), and containing such other metals, as he determines to be appropriate. Notwithstanding any other provision of law, coins minted under this section may be sold to and held by the public, and the Secretary of the Treasury is authorized, by regulation, to limit the number of gold pieces which any one person may purchase. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I make a point of order against the language in this amendment, because under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class.

This bill merely changes the designs of our existing coins. It does not change the content of the coin or of the denomination.

Further, Mr. Chairman, we are dealing here in this bill with currency and not commemorative coins.

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

MR. CRANE: . . . It must be abundantly clear to one and all that we are not talking about coin of the realm when we talk about minting a gold coin with .13 ounces of gold that will be selling for $35. We are speaking exclusively about commemorative coins. If we were talking about minting coin of the realm and circulating that, we would have to sell the coins at a figure substantially half that figure of $35 which the Treasury ordered.

Second, with respect to the question of the action of this particular bill, it seems to me that there is something much more dramatic involved than overturning existing law on the subject of what shall be on the reverse or the obverse side of any coin, which at the present time regulations dictate cannot

be altered except once every 25 years, and that the talk of creating another commemorative coin for distribution to those who wish to memorialize the Bicentennial is not nearly so radical a departure from the intent of this legislation and, in fact, is, indeed, germane. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Chairman, I believe this amendment is not germane to the bill before us and, therefore, think that a point of order on germaneness should lie. This bill does deal with coin of the realm. The entire purpose of having half dollars, dollars, and quarters minted into Bicentennial coin is because they are coins in general circulation at the present time.

Mr. Chairman, this amendment would create a whole new coin which would be a collector's item and not be coin of the realm, as the gentleman has suggested. Therefore, I do think that it changes the subject of the bill; changes the purpose of the bill, and, therefore, is not germane.

THE CHAIRMAN:[9] The Chair is prepared to rule.

The Chair having listened to the arguments made by the gentlewoman from Missouri (Mrs. Sullivan), the gentleman from Illinois (Mr. Crane), and the gentleman from Ohio (Mr. Wylie) recalls that on October 15, 1969, the Chair, while presiding over the debate on H.R. 14127, had a similar amendment offered, and at that time the Chair ruled that to a bill relating to the minting and issuance of public currency, as is the case proposed by H.R. 8789, an amendment providing for minting any coin for a private purpose or for a commemorative purpose was held not to be germane.

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

Bill Relating to Design of Public Coin Currency—Amendment To Require Issuance of Other Coin Currency in Uncirculated Proof Form

§ 8.36 To a bill relating to the design of certain coin currency, an amendment specifying the metal content of other coin currency and requiring its issuance in uncirculated proof form was held not germane.

During consideration of H.R. 8789 in the Committee of the Whole on Sept. 12, 1973,[10] Chairman Spark M. Matsunaga, of Hawaii, sustained points of order against two amendments (relating to the metal content of another currency coin) to a bill requiring certain coins to bear a design and date emblematic of the Bicentennial of the American Revolution:

MR. [PHILLIP M.] CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Crane: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:

9. Spark M. Matsunaga (Ha.).

10. 119 CONG. REC. 29377, 29378, 93d Cong. 1st Sess.

Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:

(A) a diameter of 1.500 inches;

(B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and

(C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

(b) The Secretary of the Treasury shall mint and issue, in uncirculated proof form, the above-specified coin in quantities and prices as he shall determine to be appropriate. . . .

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Chairman, I insist on my point of order. . . .

Mr. Chairman, I repeat what I said on the previous amendment. Under the Rules of the House, one individual proposition may not be amended by another individual proposition, even though the two belong in the same class. . . .

MR. CRANE: . . . Mr. Chairman, it strikes me that the gentlewoman's objections are not consistent. In the last one we were talking about striking an altogether new coin and minting gold coins. Under the provisions of this particular act we are planning to continue to mint a dollar denomination coin. All that is proposed is changing in the present legislation the imprint on the reverse side of that coin. What this particular amendment does is give the Secretary of the Treasury further instructions with respect to the content of that coin, stipulating that approximately 40 percent of this shall be made up of silver instead of the percentage of composition of copper and nickel in the present coinage. . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: . . . I support the point of order made by the gentlewoman from Missouri. Again, the Eisenhower proof set dollar was not minted as coin of the realm. These 40-percent silver dollars were minted to be sold as collectors' items, as proof coins. As the gentleman in the well knows, they are being sold for $10 apiece. They are not in general circulation. They are not being minted for general distribution. The bill before us specifically provides for the minting of general circulation coin of the realm. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair, after listening to the arguments on both sides, is constrained to sustain the point of order for the reason that the bill now pending provides for a new coinage design that would be emblematic of the Bicentennial of the American Revolution and it applies to dollars, half-dollars, and quarters. The amendment goes to the metal content of the dollar coin, a matter not within the purview of the bill . . . and the Chair therefore is constrained to sustain the point of order.

Subsequently,[11] another amendment was offered:

11. 119 CONG. REC. 29378, 93d Cong. 1st Sess., Sept. 12, 1973.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Symms: On page 2, following line 4, insert a new section 3 as follows and renumber the succeeding section accordingly:
>
> Sec. 3. (a) Notwithstanding any other provision of law with respect to the design of coins, the Secretary of the Treasury shall mint and issue at face value through the Federal Reserve banks after July 4, 1975, and until such time as the Secretary of the Treasury may determine, one hundred and fifty million or more circulating one-dollar coins which shall bear a design determined by the Secretary of the Treasury to be emblematic of the bicentennial of the American Revolution. These one-dollar coins shall meet the following specifications:
>
> (A) a diameter of 1.500 inches;
>
> (B) a cladding of an alloy of 800 parts of silver and 200 parts of copper; and
>
> (C) a core of an alloy of silver and copper such that the whole coin weighs 24.592 grams and contains 9.837 grams of silver and 14.755 grams of copper.

MRS. SULLIVAN: Mr. Chairman, I make a point of order against this amendment. It goes to the metal content of the coin and not the design of the coin. . . .

MR. SYMMS: Mr. Chairman, I would say on the point of order, it is coin of the realm, and I would be willing to hear the ruling of the Chair.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair's previous ruling applies to the point of order against the amendment, that this amendment goes to the metal content of the coin whereas the bill pending before the committee pertains only to the design and date of the coin proposed to be minted. The Chair therefore sustains the point of order.

Provision Authorizing Law Enforcement Assistance to States for Purchase of Photographic and Fingerprint Equipment—Amendment To Provide Assistance for Purchase of Bulletproof Vests

§ 8.37 To an amendment authorizing law enforcement administration grants to states and localities for the purchase of photographic and fingerprint equipment for law enforcement purposes, an amendment including assistance for the purchase of bulletproof vests was held to be directed toward a different category of law enforcement equipment concerned with physical protection rather than information-gathering and was therefore beyond the scope of the amendment and not germane; the decision of the Chairman on the germaneness of the amendment was upheld on appeal by a voice vote.

On Oct. 12, 1979,[12] during consideration of the Justice System Improvement Act of 1979[13] in the Committee of the Whole, Chairman Mike McCormack, of Washington, held that to an amendment providing financial assistance for a certain class of law enforcement equipment (for informational purposes), the following amendment adding financial assistance for another class (for protection of law enforcement officers) was not germane:

> MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Volkmer: Page 164, lines 24 and 25, amend the bill by adding the following after the word "project," "including photographic equipment, and fingerprint equipment, for law enforcement purposes.". . .
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Volkmer: Insert after the word "including" "bullet-proof vests,". . .
>
> MR. [PETER A.] PEYSER [of New York]: . . . When we previously discussed this with the Parliamentarian the point was made that it could not be amended on the other side by having the bulletproof vest amendment amended by adding cameras and other equipment. It is not a germane fact to this issue and the type of equipment we are dealing with and discussing, and for that reason it should be ruled out of order. . . .
>
> MR. VOLKMER: . . . I would like to speak on the point of order. As to the question of germaneness, as I understand it my amendment says, "including photographic equipment, fingerprint equipment," and then the words "for law enforcement purposes."
>
> Therefore, in my opinion anything that would be in there for law enforcement purposes would be germane. In other words, if somebody would offer an amendment for pistols, or offer an amendment for bullets, or offer an amendment for police caps or cars or anything else for law enforcement purposes, it is germane. This is not restricted just to a certain type of equipment. We have photographic equipment and fingerprint equipment. They are not related at all. Bulletproof vests are for law enforcement purposes.
>
> THE CHAIRMAN: The Chair is prepared to rule.
>
> The question really comes down to how to define and segregate categories of law enforcement equipment. The Chair is persuaded that the term, "photographic equipment and fingerprint equipment" is a generic category that deals with information rather than protection of law enforcement officers.
>
> Bulletproof vests are within the different category of equipment for the protection of law enforcement officers. The Chair recognizes that this is a fine

12. 125 CONG. REC. 28121, 28123, 28124, 96th Cong. 1st Sess.

13. H.R. 2061.

line, but rules that under the precedents the amendment is not germane to the pending amendment and the point of order is sustained. . . .

MR. ASHBROOK: Mr. Chairman, I appeal the ruling of the Chair.

THE CHAIRMAN: The question is, Shall the Chair's ruling stand as the judgment of the Committee?

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

MR. ASHBROOK: Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

THE CHAIRMAN: Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device. . . .

THE CHAIRMAN: Three hundred and twelve Members have answered to their names, a quorum is present, and the Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. Ashbrook) for a recorded vote appealing the decision of the Chair.

Does the gentleman from Ohio (Mr. Ashbrook) insist upon his demand for a recorded vote?

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

Bill Providing Aid for Construction of Public School Facilities—Amendment Proposing Assistance for Teachers' Salaries

§ 8.38 To a bill providing for federal financial assistance to states to be used for constructing public school facilities, an amendment proposing financial assistance for teachers' salaries was held to be not germane.

In the 86th Congress, a bill[14] was under consideration to authorize federal financial assistance to states for school construction. An amendment was offered[15] as described above. Mr. Cleveland M. Bailey, of West Virginia, raised the point of order that the amendment was not germane.[16] The Chairman,[17] in sustaining the point of order, stated:[18]

The pending bill has to do with Federal aid to public schools construction. The amendment offered by the gentleman from Montana, in addition to dealing with school facilities construc-

14. H.R. 10128 (Committee on Education and Labor).

15. 106 CONG. REC. 11269, 11270, 86th Cong. 2d Sess., May 26, 1960.

16. *Id.* at p. 11270.

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

18. 106 CONG. REC. 11276, 86th Cong. 2d Sess., May 26, 1960.

tion also deals with the salaries of teachers, which comes in a different category altogether, and, in the opinion of the Chair, would not be germane. . . .

Bill Providing Aid for Construction of Public School Facilities—Amendment Proposing Loans To Assist in Construction of Private Schools

§ 8.39 To a bill to provide financial assistance to the states for construction of public school facilities, an amendment proposing loans to assist in the construction of private schools was held to be not germane.

In the 86th Congress, a bill[19] was under consideration to authorize federal financial assistance to states for public school construction. An amendment was offered[20] as described above. A point of order was raised against the amendment, as follows:

MR. [CLEVELAND M.] BAILEY [of West Virginia]: . . . Since the bill, H.R. 10128, is confined to one specified class of schools, under the rule of germaneness the gentleman's proposal, plainly, is not in order because it would add another specified class of schools.

The Chairman, Aime J. Forand, of Rhode Island, citing precedents and noting that the bill "has to do strictly with public schools," sustained the point of order.[1]

Bill To Aid Construction of Health Research Facilities—Amendment To Provide for Training of Research Workers

§ 8.40 To a bill providing assistance for construction of facilities for research with respect to certain diseases, an amendment to provide for training of research workers was held to be not germane.

The following proceedings took place on July 13, 1956:[2]

THE CHAIRMAN:[3] Under the rule, the Clerk will now read the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows: . . .

Sec. 2. The Public Health Service Act (42 U.S.C. ch. 6A) is amended by adding at the end thereof the following new title:

TITLE VII—HEALTH RESEARCH FACILITIES

(b) It is . . . the purpose of this title to assist in the construction of

19. H.R. 10128 (Committee on Education and Labor).

20. 106 CONG. REC. 11292, 86th Cong. 2d Sess., May 26, 1960.

1. *Id.* at p. 11293.

2. 102 CONG. REC. 12736, 84th Cong. 2d Sess. Under consideration was S. 849 (Committee on Interstate and Foreign Commerce).

3. John J. Rooney (N.Y.).

facilities for the conduct of research in the sciences related to health by providing grants-in-aid on a matching basis to public and nonprofit institutions for such purpose.

Mr. Peter F. Mack, Jr., of Illinois, offered an amendment[(6)] as described above. A point of order was raised against the amendment, as follows:

MR. [CARL] HINSHAW [of California]: Mr. Chairman, a point of order. . . .

. . . I feel that the amendment is not germane to an amendment to the act. It is not a question of the act itself. This bill is an amendment to the act and the amendment offered by the gentleman from Illinois is not germane to this amendment.

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

MR. MACK [of Illinois]: . . . Mr. Chairman, this bill amends the Public Health Act, title 44, United States Code, chapter 6(a) the National Research Institute. In this section they provide for both training and research. Therefore, I feel that my amendment is germane to the bill.

The Chairman, in sustaining the point of order raised by Mr. Hinshaw, stated:

The bill under consideration provides for construction of facilities for research. Research is an entirely different subject matter from training.

4. 102 CONG. REC. 12737, 84th Cong. 2d Sess.

Bill Authorizing Grants to Certain Private Health Care Facilities—Amendment Authorizing Grants To States for Control of Health Hazard

§ 8.41 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,[(5)] 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". . . .

5. 132 CONG. REC. 3603, 3604, 99th Cong. 2d Sess.

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—

"(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:[6] 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

6. Neal Smith (Iowa).

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.

§ 9. General Amendments to Specific or Limited Propositions; Amendments Enlarging Scope of Proposition

It is well established that a specific proposition may not be amended by a proposition general in nature.[7] It has been stated that, "A measure relating to a limited and specific matter may not be amended to include matters general in character and scope."[8] The question for the Chair frequently consists in determining what comprises a "general" or "specific" proposition. It has been held that, to a bill limited in its application to certain departments and agencies of Government, an amendment applicable to all departments and agencies is not germane.[9] And to a proposition applying to named individuals, an amendment making such proposition one of general applicability was held not to be germane.[10]

In accordance with the rule, it is not in order to amend a private bill by a proposition of general legislation.[11]

An amendment which, by striking words in the bill, broadens the scope of the bill may be held not to be germane.[12] But in one case where words of qualification were permitted to be stricken, the Chair apparently took the view that such words were unnecessary, and that the essence of the bill was not changed by deleting them.[13]

The fact that a bill requires a study to be made as to the impact of the bill upon factors or activities that are not otherwise within the scope of the subject matter of the bill, does not render germane an amendment that seeks to directly affect such factors or activities, or one that seeks to make the effectiveness of the bill conditional upon factors not otherwise related to the subject matter of the bill.[14]

7. See §§ 9.6, 9.9, infra.

8. See § 9.9, infra.

9. See § 15.17, infra.

10. See § 27.41, infra.

11. See § 9.6, infra.

12. See § 20, infra.

13. See § 9.13, infra.

14. See, for example, the proceedings of Nov. 2 and Nov. 3, 1983, relating to

Provision Effective for One Year—Amendment Proposing Permanent Change in Law

§ 9.1 To a proposition establishing a ceiling on employment for one year, an amendment proposing a hiring preference system as permanent law is not germane as going beyond the year and the issue of the number of employees covered by the measure to which offered.

The proceedings of Oct. 11, 1989, relating to H.R. 3026, District of Columbia appropriations for fiscal 1990, are discussed in § 24.5, infra.

One Year Authorization—Amendment Permanently Extending Law

§ 9.2 To a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year) an amendment to extend the appropriation or authorization to another year is not germane.

H.R. 1234, the Fair Practices and Procedures in Automotive Products Act, discussed in § 31.20, infra.

On Nov. 13, 1980,[15] during consideration of the State and Local Fiscal Assistance Act Amendments of 1980[16] in the Committee of the Whole, it was held that to an amendment in the nature of a substitute only extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for 3 years was broader in scope and was not germane. The proceedings were as follows:

> THE CHAIRMAN:[17] When the Committee rose on Wednesday, November 12, 1980, section 1 had been considered as having been read and opened for amendment.
>
> Are there any amendments to section 1?
>
> MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:
>
> SECTION 1. SHORT TITLE.
>
> > This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

15. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.
16. H.R. 7112.
17. Gerry E. Studds (Mass.).

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .

An amendment was offered:

Amendment offered by Mr. Wydler to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out section 2 and insert in lieu thereof the following:

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.". . .

"(d) Authorization of Appropriations for Allocations to State Governments.—

"(1) In general.—In the case of each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $2,300,000,000 for each such entitlement period to make allocations to State governments. . . .

"(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.". . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time. . . .

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is contained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

THE CHAIRMAN: The Chair is prepared to rule.

In the opinion of the Chair, the fundamental purpose of the amendment

offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their fundamental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Bill Extending Time Limit for Settlement of Particular Labor Dispute—Amendment To Provide Permanent Procedures for Settlement of All Emergency Labor Disputes

§ 9.3 To a bill extending the time limit for negotiation of labor disputes under the Railway Labor Act for purposes of permitting additional time for negotiation of a particular labor dispute, an amendment providing permanent procedures for the settlement of all emergency labor disputes by amendment of the Railway Labor Act was held to be not germane.

In the 90th Congress, a bill [18] was under consideration which related to settlement of a labor dispute between certain railroad companies and their union employees. An amendment was offered [19] whose purpose was explained by the proponent, Mr. William E. Brock 3d, of Tennessee, as follows: [20]

> . . . I propose to do two things: first, to put off the strike for 90 days as is proposed in the bill, and second, during this period, to take an entirely different approach, based upon the problem, not the symptom that we are treating with compulsory arbitration. I would prohibit industrywide bargaining and require as an alternative carrier-by-carrier negotiations.

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

> MR. [JOHN D.] DINGELL [of Michigan]: . . . First, the amendment goes beyond the fundamental purpose of the legislation before the committee today. As such it is not germane to the fundamental purposes of the measure.

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18. H.J. Res. 559 (Committee on Interstate and Foreign Commerce).

19. See 113 CONG. REC. 15912, 90th Cong. 1st Sess., June 15, 1967.

20. *Id.* at p. 15914.

I would cite that the amendment deals with sections of the Railway Labor Act other than those presently before us. . . .

. . . [T]he pending measure is limited to a specific labor dispute, whereas the amendment . . . deals with all labor disputes.

The legislation pending before the committee today deals with railroads in one specific instance . . . whereas the amendment . . . deals with every industry covered by the Railway Labor Act, which would also include the airlines. . . .

Mr. Chairman, in addition to this I would point out that legislation dealing with a specific subject or a specific set of circumstances under the rules may not be amended by a provision which is general in nature even when of the class or the specific subject involved.

The Chairman,[1] in ruling on the point of order, stated:

. . . The Chair will call attention to "Cannon's Precedents," volume 8, page 479, section 2912, which reads as follows:

> To a bill proposing measures to meet a declared emergency and limited in operation to a period of five years an amendment proposing permanent legislation of the same character was held not to be germane. . . .

Because the amendment offered by the gentleman from Tennessee is permanent legislation and the resolution before the committee is limited to an existing situation and is not permanent in nature, the Chair holds that the amendment is not germane.

1. Wilbur D. Mills (Ark.).

Amendment Directing Study of Subject Not in Bill

§ 9.4 To a bill mandating that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction on any person violating that requirement, and requiring diverse studies of the impact of the bill and of discriminatory practices of manufacturers affecting domestic production of automobile parts, an amendment directing the Attorney General to study the antitrust and tax implications of automobile manufacturers' sales-lease price differentials was held not germane as relating to a subject (antitrust and tax law) beyond the scope of studies and requirements contained in the bill.

During consideration of the Automotive Products Act of 1983[2] in the Committee of the Whole on Nov. 2 and 3, 1983,[3] the Chair sustained a point of order against the amendment de-

2. H.R. 1234.
3. 129 CONG. REC. 30527, 30781, 30782, 98th Cong. 1st Sess.

scribed above. The proceedings were as follows:

SEC. 9. STUDY OF DISCRIMINATORY PRACTICES AFFECTING DOMESTIC PRODUCTION OF MOTOR VEHICLE PARTS.

Within eighteen months after the date of the enactment of this Act, the Secretary and the Federal Trade Commission shall jointly undertake an investigation, and submit to Congress a written report, regarding those policies and practices of vehicle manufacturers that are used to persuade United States motor vehicle dealers, in choosing replacement parts for motor vehicles, to favor foreign-made parts rather than domestically produced parts. Such report shall include, but not be limited to, recommended administrative or legislative action that the Secretary and the Federal Trade Commission consider appropriate to assure that domestic producers of replacement parts are accorded fair access to the United States market for such parts.

SEC. 10. IMPACT STUDY REGARDING MOTOR VEHICLE DEALERSHIPS.

(a) In General.—The Secretary, in consultation with the Advisory Council, shall conduct a continuing study of the extent to which this Act has affected employment in any way at retail motor vehicle dealerships located in the United States including, but not limited to, dealerships which have either—

(1) franchises for at least one make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce and at least one make of motor vehicle imported into the United States for such sale and distribution; or

(2) franchises for one or more makes of motor vehicles imported into the United States for sale and distribution in interstate commerce but no franchises for any make of motor vehicle manufactured by domestic manufacturers for sale and distribution in interstate commerce.

The study shall identify and consider all factors affecting such employment and shall establish an employment base period for all such dealerships which the Secretary shall utilize in the conduct of the study. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Florio: On page 36, after line 4, insert the following new section:

SEC. 11. IMPACT STUDY REGARDING UNFAIR PRICE DISCRIMINATION.

(a) The Attorney General, in consultation with the Advisory Council, shall conduct a study of the antitrust and tax implications and of the impact on retail motor vehicle dealerships and consumers of the practice whereby manufacturers sell or lease, or offer to sell or lease, any passenger car, truck, or station wagon to any person (including any other automobile dealer) during any period of time at a price which is lower than the price at which the same model of passenger car, truck or station wagon, similarly equipped, is sold or leased, or offered for sale or lease, to such retail dealers during the same period. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a

point of order that the amendment offered by the gentleman from New Jersey is out of order in accordance with rule XVI, clause 7, the rule of germaneness.

The gentleman has offered as an amendment a form of a bill which is pending before the gentleman's subcommittee which deals with the question of how leasing companies buy automobiles through dealerships and under what circumstances. . . .

The findings of the bill say that there has been serious injury due to increases in imports. The purposes of the bill are declared as they are going to remedy the serious injuries by not allowing foreign-made merchandise to be sold in the United States.

Clearly, this amendment, which deals with domestic-sales arrangements of domestic companies, has nothing whatever to do with the bill and should be declared out of order. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, as salutory as the purpose of this amendment is, I certainly would support it under other circumstances. It gives responsibilities to the Attorney General that are not in the bill. It requires a study of antitrust matters which are not at all pertinent to the bill before us and it deals with pricing.

For all those reasons, I believe it is nongermane and, therefore, regrettably, I have to assert a point of order.

THE CHAIRMAN:[4] Does the gentleman from New Jersey wish to be heard on the point of order? . . .

If not, the Chair is prepared to rule.

The basic test of germaneness is the question of whether the amendment relates to the basic subject matter of the bill. The basic subject matter of the bill before the House relates to the domestic content of automobiles.

This particular amendment, in part, provides for a study of antitrust and tax implications of manufacturers sale-lease practices.

In the opinion of the Chair, that takes it beyond the subject matter covered by the bill and it is not related to that subject matter.

Therefore, under rule XVI, clause 7, the Chair finds that the amendment is not germane and sustains the point of order.

Perfecting Amendment—Substitute Striking out Larger Portion of Text

§ 9.5 For a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was held more general in scope and not germane.

On Aug. 18, 1982,[5] during consideration of H.R. 5540, the Defense Industrial Base Revitalization Act, in the Committee of the

4. Leon E. Panetta (Calif.).

5. 128 CONG. REC. 21967, 21968, 97th Cong. 2d Sess.

Whole, the Chair made the following statement:

THE CHAIRMAN:[6] All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.

The Clerk read as follows:

H.R. 5540

. . . Sec. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:

Sec. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.

"(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war. . . .

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. . . .

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

When consideration of H.R. 5540 resumed on Sept. 23, 1982,[7] an amendment was offered by Mr. Bruce F. Vento, of Minnesota, and proceedings ensued as follows:

MR. VENTO: Mr. Chairman, I offer an amendment.

6. Wyche Fowler, Jr. (Ga.).

7. 128 CONG. REC. 24963, 24964, 97th Cong. 2d Sess.

The Clerk read as follows:

> Amendment offered by Mr. Vento: Page 41, line 24, strike out ", or the installation of equipment,".
>
> Page 42, beginning on line 15, strike out ", or the installation of equipment,". . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Erlenborn as a substitute for the amendment offered by Mr. Vento: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

MR. VENTO: Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn). . . .

Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section or paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly. . . .

MR. ERLENBORN: . . . It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Min-

nesota (Mr. Vento) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. Vento) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. Erlenborn) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

Parliamentarian's Note: As the above proceedings indicate, a motion to strike out an entire subsection of a bill is not, in any event, a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment.

Bill Authorizing Deportation of Named Individual—Amendment Authorizing Deportation of Class of Aliens

§ 9.6 To a bill authorizing the deportation of a named individual, an amendment authorizing deportation of any alien who is a member of an organization specified in the amendment was held not germane.

In the 76th Congress, a bill[8] was under consideration to authorize the deportation of Harry Bridges.[9] An amendment was offered[10] as described above. A point of order was raised against the amendment, as follows:[11]

MR. [JOHN] LESINSKI [of Michigan]: Mr. Chairman, I doubt that that amendment should be voted on, as it is general legislation, and we have before us a private bill, not general legislation. The amendment is not germane to this bill.

The Chairman[12] sustained the point of order.

Bill To Abolish Specified National Monument—Amendment Relating to Monuments Generally

§ 9.7 To a bill to abolish a particular monument created by executive order, an amendment requiring, in specified circumstances, Congres-

8. H.R. 9766 (Committee on Immigration and Naturalization).
9. See 86 CONG. REC. 8203, 76th Cong. 3d Sess., June 13, 1940.
10. *Id.* at pp. 8213, 8214.
11. *Id.* at p. 8214.
12. Millard F. Caldwell (Fla.).

sional approval of proclamations relating to preservation of American antiquities was held to be not germane.

In the 78th Congress, a bill[13] was under consideration to abolish the Jackson Hole National Monument. The following amendment was offered to the bill:[14]

> Amendment offered by Mr. [Antonio M.] Fernandez [of New Mexico]: After the end of the first section add another section as follows:
>
> Sec. 2. That section 2, of the act entitled "An act for the preservation of American antiquity, approved June 8, 1906 (34 Stat. 225, U.S.C., title 16, sec. 431.)," be, and the same is hereby, amended by adding at the end of said section the following words: "*Provided however,* That any proclamation hereafter made under authority of this act shall not become effective until approved by act of Congress if the lands embraced within or reserved as a part of the national monument created thereby exceed 10,000 acres in area."

Mr. J. Hardin Peterson, of Florida, raised the point of order that the amendment was not germane to the bill.[15] The Chairman,[16] in holding that the amendment was not germane, noted that, "The bill . . . refers to a very limited subject, applying only to the Jackson Hole National Monument and not to monuments generally."

Bill Prohibiting Interstate Shipment of Specified Mechanical Gambling Devices—Amendment Expanding Prohibition To Include Racing Horses and Dogs

§ 9.8 To a bill to prohibit the transportation in interstate commerce of specific types of mechanical gambling devices, an amendment expending the prohibition to include racing horses and racing dogs was held to be not germane.

In the 81st Congress, a bill[17] was under consideration which related to transportation of gambling devices in interstate and foreign commerce. An amendment was offered[18] as described above. Mr. John W. Heselton, of Massachusetts, raised the point of order that the amendment was not germane to the bill. The Chairman,[19] noting that, "the bill as now amended is not directed at gambling in general", held the

13. H.R. 2241 (Committee on Public Lands).

14. 90 Cong. Rec. 9192, 9193, 78th Cong. 2d Sess., Dec. 11, 1944.

15. *Id.* at p. 9193.

16. Wilbur D. Mills (Ark.).

17. S. 3357 (Committee on Interstate and Foreign Commerce).

18. 96 Cong. Rec. 13651, 81st Cong. 2d Sess., Aug. 28, 1950.

19. Henry M. Jackson (Wash.).

amendment to be beyond the scope of the bill and therefore not to be germane.

Bill Providing Aid for School Construction in Federal Impact Areas— Amendment Providing Aid for School Construction Generally

§ 9.9 To a bill providing federal assistance for construction of schools in areas affected by certain federal activities, an amendment providing for federal assistance for school construction generally was held not to be germane.

In the 84th Congress, a bill[20] was under consideration providing federal assistance for school construction in specified areas. An amendment was offered[1] as described above. Mr. Noah M. Mason, of Illinois, raised the point of order that the amendment was not germane to the bill.[2] The Chairman, Charles Melvin Price, of Illinois, in ruling on the point of order, stated:[3]

> The bill under consideration . . . is one limited to financial assistance for the construction of schools in impacted areas. . . .
>
> The amendment . . . has for its purpose an authorization for school construction generally. . . . It is a well-recognized principle . . . that a measure relating to a limited and specific matter may not be amended to include matters general in character and scope.

The Chairman then sustained the point of order.

Counsel for Persons Charged Under Civil Rights Act— Counsel for Any Offense

§ 9.10 To an amendment providing for legal counsel for persons cited for alleged contempt under a civil rights act, an amendment to provide for legal counsel for persons "charged with any offense" was held to be not germane.

In the 85th Congress, during consideration of a bill[4] to protect civil rights of persons within the jurisdiction of the United States, the following amendment was offered:[5]

> Amendment offered by Mr. [Basil L.] Whitener [of North Carolina]: On page 8, immediately following line 24, in-

20. H.R. 11695 (Committee on Education and Labor).

1. 102 Cong. Rec. 12027, 12028, 84th Cong. 2d Sess., July 7, 1956.

2. *Id.* at p. 12028.

3. *Id.* at pp. 12028, 12029.

4. H.R. 6127 (Committee on the Judiciary).

5. 103 Cong. Rec. 9378, 9379, 85th Cong. 1st Sess., June 17, 1957.

sert: *Provided* That any person cited for an alleged contempt under this act shall be allowed to make his full defense by counsel (to be assigned by the Court in certain instances).

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

Amendment offered by Mr. [Clare E.] Hoffman [of Michigan] to the amendment offered by Mr. Whitener: After the word "contempt" insert "or charged with any offense."

Mr. Kenneth B. Keating, of New York, raised the point of order that the amendment was not germane to the bill. The Chairman,[7] in sustaining the point of order, stated:

[T]he amendment of the gentleman from North Carolina has to do with contempt, whereas the amendment offered by the gentleman from Michigan has to do with any offense or charge, which broadens the scope of the pending amendment to a degree where the Chair holds that it is not germane. . . .

Bill Providing Remedies for One Form of Discrimination—Amendment To Establish Community Relations Service Addressing Broad Range of Discriminatory Practices

§ 9.11 To that title of a civil rights bill authorizing the Attorney General to bring actions on account of discriminatory practices in public facilities, an amendment striking that title and inserting provisions establishing a Community Relations Service to assist in resolving a broad range of disputes relating to discriminatory practices was held to be not germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[8] the following amendment was offered:[9]

Amendment offered by Mr. [Robert T.] Ashmore [of South Carolina]: Strike out all of title III and insert in lieu the following:

TITLE III—ESTABLISHMENT OF COMMUNITY RELATIONS SERVICE

Sec. 301. There is hereby established a Community Relations Service. . . .

Sec. 302. It shall be the function of the Service to provide assistance to communities and persons therein in resolving disputes . . . relating to discriminatory practices based on race . . . or national origin which impair the rights of persons . . . under the Constitution . . . or which . . . may affect interstate commerce. The Service may offer its services in cases of such disputes . . . whenever in its judgment

6. *Id.* at p. 9382.
7. Aime J. Forand (R.I.).
8. H.R. 7152 (Committee on the Judiciary).
9. 110 Cong. Rec. 2251, 88th Cong. 2d Sess., Feb. 6, 1964.

peaceful relations among the citizens of the community involved are threatened thereby. . . .

Sec. 303. (a) The Service shall whenever possible in performing its functions under this title seek and utilize the cooperation of the appropriate State or local agencies and may seek and utilize the cooperation of any nonpublic agency which it believes may be helpful.

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

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I am constrained to make the point of order that the amendment is not germane to the title III. Title III involves litigation. Litigation is the subject of title III.

The amendment of the gentleman from South Carolina involves the establishment of a community relations service, which is a sort of informal conciliatory agency to settle disputes.

The Chairman, Eugene J. Keogh, of New York, in ruling on the point of order, stated: (10)

It is to be noted that the title in the pending bill is limited to the denial of access to or full and complete utilization of any public facility which is owned, operated or managed by or on behalf of any State or subdivision thereof.

The Community Relations Service which is sought to be set up in the amendment of the gentleman from South Carolina goes far beyond the provisions of the title in the pending bill. It is the opinion of the Chair that the amendment is, therefore, not germane to the title in the pending bill and sustains the point of order.

Subsequently, a similar amendment was offered, as follows:

Amendment offered by Mr. [William C.] Cramer [of Florida]: On page 48, strike out all of title III and insert the following section:

Sec. 301. (a) There is hereby established in the Department of Commerce a Community Relations Service. . . .

Sec. 303. (a) The Service, shall, whenever possible, in performing its functions under this title, seek and utilize the cooperation of the appropriate State or local agencies.

Mr. Cramer, explaining the amendment, stated: (11)

. . . The wording I am offering sets up a community relations service and is that reported out by the subcommittee which, I am sure the gentleman knows, is substantially different in that the community relations service is transferred to the Department of Commerce, and is limited to six employees as compared to the administration's bill.

A point of order was again raised, as follows: (12)

MR. CELLER: Mr. Chairman, I reiterate and reaffirm the point of order which I made against the amendment offered by the gentleman from South Carolina (Mr. Ashmore).

The Chairman, in sustaining the point of order, stated:

10. *Id.* at p. 2252.

11. *Id.* at pp. 2252, 2253.

12. *Id.* at p. 2253.

The text of the new title III to be inserted (by the amendment) would create a community relations service in the Department of Commerce, and it would place in that commission far broader powers than are sought to be provided under the pending bill. . . .

The Chair is of the opinion that, similar to the amendment offered by the gentleman from South Carolina, the amendment offered by the gentleman from Florida is not germane to title III of the pending bill.

Bill Imposing Penalties for Obstruction of Desegregation Orders—Amendment Making Provisions Applicable to All Court Orders

§ 9.12 To that chapter of a bill making it a federal crime to obstruct court orders relating to desegregation of public schools, an amendment to broaden the chapter by making it applicable to all court orders was held to be not germane.

In the 86th Congress, during consideration of a bill[13] to enforce certain constitutional rights, the following amendment was offered:[14]

Amendment offered by Mr. [Samuel L.] Devine [of Ohio]: On page 1, beginning at line 10, strike out all down to and through line 23 on page 2, and insert:

§ 1509. Obstruction of court orders.

Whoever . . . willfully . . . obstructs . . . the due exercise of rights or the performance of duties under any order . . . of a court of the United States, shall be fined . . . or imprisoned. . . .

Mr. Emanuel Celler, of New York, made a point of order against the amendment. The Chairman, Francis E. Walter, of Pennsylvania, in sustaining the point of order, stated:[15]

The amendment offered by the gentleman from Ohio has the effect of making the ruling applicable to all court orders. The bill under consideration applies to certain court orders. It is quite limited in scope of application.

Subsequently, an amendment was offered to strike out the language that limited the application of the provisions to desegregation rulings, thus making the section applicable to the obstruction of all court orders.[16] Mr. Celler again made a point of order against the amendment. The following exchange ensued:

MR. SMITH of Virginia: Mr. Chairman, I make the point of order that the point of order comes too late. I had been recognized.

THE CHAIRMAN: The point of order does not come too late.

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13. H.R. 8601 (Committee on the Judiciary).

14. 106 CONG. REC. 6369, 86th Cong. 2d Sess., Mar. 23, 1960.

15. *Id.* at p. 6370.

16. *Id.* at p. 6381 (amendment offered by Mr. Howard W. Smith [Va.]).

Subsequently, the Chairman, in sustaining the point of order, cited the rule that, a proposal to eliminate portions of a text thereby extending the scope of its provisions to other subjects than those originally presented is in violation of the rule requiring germaneness.

Bill Authorizing Commission To Investigate Deprivation of Voting Rights Due to Discrimination—Amendment Striking Language so as to Expand Coverage to Any Deprivation of Voting Rights

§ 9.13 To a bill establishing a commission on civil rights and authorizing such commission to investigate deprivation of voting rights due to color, race, religion, or national origin, an amendment striking out such terms so that an investigation could encompass any deprivation of voting rights, was held to be germane.

In the 85th Congress, during consideration of a bill[17] relating to civil rights, an amendment was offered[18] as described above. A point of order was raised against the amendment, as follows:

> MR. [KENNETH B.] KEATING [of New York]: The point of order is that the adoption of this amendment would completely change the character of the legislation. It would leave in the bill simply the power to investigate the right to vote. Such a commission set up in this manner would not normally be created by the Committee on the Judiciary but, rather, by the Committee on House Administration.

Mr. Martin Dies, Jr., of Texas, in response to the point of order raised against the amendment, stated in part that "the right to vote is a civil right." The Chairman,[19] in ruling on the point of order, stated:

> The gentleman from Texas offers an amendment to the bill now under consideration that would strike out the words "by reason of their color, race, religion, or national origin." The paragraph to which it is offered deals with investigations to be made by the Commission and reads "investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote." Then comes the qualification.
>
> The Chair rules that those additional qualifications are not necessary. The intent of the paragraph is still carried out by virtue of the fact that it authorizes the Commission to investigate the allegation that someone is being deprived of his political right to vote and, therefore, overrules the point of order.

17. H.R. 6127 (Committee on the Judiciary).

18. 103 CONG. REC. 9019, 85th Cong. 1st Sess., June 13, 1957.

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

Substitute Amendment More Comprehensive Than Amendment

§ 9.14 To an amendment only decreasing the fiscal year 1984 authorization for Army ammunition funds in Title I of the Defense Department authorization bill, a substitute adding language prohibiting use of any Defense Department funds for the production or procurement of binary chemical weapons was held to be not germane because addressing funds not addressed by the pending amendment.

During consideration of H.R. 2969 in the Committee of the Whole on June 15, 1983,[20] the Chair, in sustaining a point of order against the amendment described above, indicated that a substitute for an amendment must be germane to the amendment to which offered:

> MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000". . . .

MR. [ED] BETHUNE [of Arkansas]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bethune as a substitute for the amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000".
>
> Page 10, after line 12, insert the following new section:
>
> PROHIBITION ON PROCUREMENT OF BINARY CHEMICAL MUNITIONS AND RELATED PRODUCTION FACILITIES, EQUIPMENT, AND PRECURSOR CHEMICALS
>
> Sec. 109. (a) None of the funds appropriated pursuant to the authorizations of appropriations in this title may be obligated or expended for procurement of binary chemical munitions or for production facilities, equipment, or precursor chemicals for such munitions.
>
> (b) No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, under section 109 of the amendment, on line 9, it says,

> No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority.

The point of order is that this bill is a bill that would authorize funds for

20. 129 CONG. REC. 15803, 15809, 98th Cong. 1st Sess.

fiscal year 1984 exclusively, whereas the amendment deals with funds that might have been made available to the Department of Defense in other ways, prior years, or subsequent year, and, therefore, is outside of the scope of the pending legislation and is, therefore, out of order. . . .

THE CHAIRMAN PRO TEMPORE:[1] The Chair will rule.

The Zablocki amendment addresses the Army ammunition funds authorized by title I of the pending bill. The Bethune substitute addresses other funds available to the Department of Defense not authorized by the pending title I and is not germane to the Zablocki amendment.

The Chair sustains the point of order.

Provision Prohibiting Use of Specified Funds for Abortions—Motion To Strike Out Language as Broadening Scope of Prohibition to Include All Funds in Bill

§ 9.15 A motion to strike out a portion of the text of an amendment, thereby extending its scope to a more general subject, is not germane; thus, to a substitute amendment to the District of Columbia Appropriation bill prohibiting the use of annual federal payment funds therein for the performance of abortions, an amendment striking the reference to federal payment funds, thereby broadening the scope of the substitute to cover any funds contained in the bill, was held to be not germane.

During consideration of H.R. 4580[2] in the Committee of the Whole on July 17, 1979,[3] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Amendment offered by Mr. Dornan: Page 17, after line 2, add the following new section:

"Sec. 221. None of the funds appropriated under this Act shall be used to pay for abortions.". . .

MR. CHARLES WILSON of Texas: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Charles Wilson of Texas as a substitute for the amendment offered by Mr. Dornan: "None of the funds in this Act provided by the Federal payment shall be used to perform abortions.". . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman to the amendment offered

1. John P. Murtha (Pa.).

2. The District of Columbia Appropriations for fiscal 1980.

3. 125 CONG. REC. 19064, 19066, 96th Cong. 1st Sess.

by Mr. Charles Wilson of Texas as a substitute for the amendment offered by Mr. Dornan: delete from the amendment of the gentleman from Texas the following words: "provided by the Federal payment".

A point of order was made, as follows:

MR. CHARLES WILSON of Texas: . . . As I understand the amendment it in essence takes it back to the original Dornan amendment without providing for the substitute. . . .

MR. BAUMAN: Mr. Chairman, that is not a point of order, it simply is an accurate description of the amendment. . . .

MR. CHARLES WILSON of Texas: Mr. Chairman, I suppose the point of order is that it is a sham amendment in that it just repeats the intent of the original amendment.

THE CHAIRMAN:[4] In the opinion of the Chair, the gentleman from Texas is suggesting that the perfecting amendment broadens the scope of the substitute amendment, and for that reason is not germane. The point of order is sustained under the precedents that a motion to strike cannot broaden the scope of the pending proposition.

MR. BAUMAN: Mr. Chairman, I wonder if the Chair could cite a precedent for his ruling?

THE CHAIRMAN: Deschler's procedure chapter 28, section 15.3.

Amendment Relating to Funds in "This or Any Other Act"

§ 9.16 An amendment requiring the availability of funds "under this or any other Act" for certain humanitarian assistance was held to go beyond the scope of the pending bill and was ruled out as not germane, affecting funds in other provisions of law.

During consideration of the Vietnam Humanitarian and Evacuation Assistance Act[5] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings of Apr. 23, 1975,[6] were as follows:

MR. [MATTHEW F.] MCHUGH [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHugh: Page 3, immediately after line 12, add the following new section: "Sec. 8. (a) Funds made available under this Act or any other Act for humanitarian assistance shall be furnished under such international organizations, international agreements or voluntary relief agencies as the President may determine.

"(b) Within 90 days after the date of enactment of this Act and within each 90-day period thereafter, the President shall, to the fullest extent practicable, transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing fully and completely—

"(1) the amount of each type of humanitarian assistance provided under the Act;

4. Albert A. Gore, Jr. (Tenn.).

5. H.R. 6096.

6. 121 CONG. REC. 11550, 94th Cong. 1st Sess.

"(2) the actual and anticipated recipients of such assistance;". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment in that some of the changes are subject to a point of order because in line 2 it quotes, "This act or any other act."

Therefore, it affects funds made available in other acts and limits their use. . . .

MR. MCHUGH: . . . Section 6, or what was section 6, provides for funds under the Foreign Assistance Act of $177 million. That is the other act referred to in the proposed section. Therefore, I think it is in order.

THE CHAIRMAN:[7] Unfortunately, the intention of the gentleman is not represented by the language of the amendment. The amendment is overly broad in scope, and accordingly, the point of order must be sustained.

The point of order is sustained, and the amendment is not allowed.

Provision Adding New Labor Standard—Amendment To Strike Section of Bill Covering Several Standards

§ 9.17 For an amendment inserting an additional labor standard to those contained in a section of a bill, a motion to strike out the entire section was ruled out as not a proper substitute for the perfecting amendment, and not germane in that it had the effect of enlarging the scope of the perfecting amendment.

During consideration of H.R. 14747 (amending the Sugar Act of 1948) in the Committee of the Whole on June 5, 1974,[8] it was demonstrated that a motion to strike out a section is not in order as a substitute for a perfecting amendment to that section. The proceedings were as follows:

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Hara: Page 18, after line 5, insert:

(5) That the producer who compensates workers on a piece-rate basis shall have paid, at a minimum, the established minimum hourly wage.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara).

The Clerk read as follows:

Amendment offered by Mr. Symms as a substitute for the amendment offered by Mr. O'Hara: In lieu of the amendment offered by the gentleman from Michigan insert the following: "Section 11 of the bill, page 15, strike out all of line 11 through line 6 of page 17 and renumbering the '(3)' on line 7, page 17 as '(1)', and strike out line 15 on page 17 through line 5 on page 18.". . .

7. Otis G. Pike (N.Y.).

8. 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess.

MR. O'HARA: Mr. Chairman, I make a point of order against the amendment in that it is not germane to the provisions of my amendment. It deals with different parts of section 11. . . .

MR. SYMMS: . . . Mr. Chairman, this amendment is germane to the gentleman's amendment. It strikes it and all the labor provisions from the bill.

THE CHAIRMAN:[9] It is the ruling of the Chair that the amendment offered by the gentleman from Idaho (Mr. Symms) as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara) is not a proper substitute. The substitute would strike portions of section 11 not affected by the pending amendment. And, the substitute is broader in scope than the amendment to which offered and is not germane thereto. The Chair sustains the point of order.

Restriction of Funds in "This or Any Other Act"

§ 9.18 To a title of a bill primarily amending the Foreign Assistance Act reported from the Committee on Foreign Affairs to authorize assistance for Africa (containing one reference to another law, the Export-Import Bank Act, not directly amended and also within the jurisdiction of another committee), an amendment restricting the availability of funds in that bill "or any other Act" to support the activities of the African National Congress was held to be not germane.

During consideration of H.R. 3100[10] in the Committee of the Whole on Dec. 9 and 10, 1987,[11] it was held that to a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other Act is not germane. The proceedings were as follows:

TITLE VIII—AFRICA

PART A—AFRICA FAMINE RECOVERY AND DEVELOPMENT

SEC. 801. SHORT TITLE.

This part may be cited as the "Africa Famine Recovery and Development Act". . . .

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—AFRICA FAMINE RECOVERY AND DEVELOPMENT

"SEC. 476. OTHER ASSISTANCE PROGRAMS.

"To the maximum extent practicable, resources allocated for sub-Saharan Africa under chapter 4 of part II (relating to the Economic Support Fund), title IV of chapter 2 of this part (relating to the Overseas Private Investment Corporation), the Export-Import Bank Act of 1945, the Peace Corps Act, and the

9. James A. Burke (Mass.).

10. International Security and Development Cooperation Act of 1987.

11. 133 CONG. REC. 34592, 34595, 34675, 34676, 100th Cong. 1st Sess.

African Development Foundation Act shall be used to provide assistance which meets the criteria specified in section 472(b). To the maximum extent practicable, the agency primarily responsible for administering this part should use resources and authorities available under the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, and the Food for Progress Act of 1985 to complement the assistance provided under section 472. . . .

MR. [DAN] BURTON of Indiana: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 201, after line 8, insert the following:

SEC. 830. PROHIBITION ON ASSISTANCE TO THE AFRICAN NATIONAL CONGRESS.

(a) Prohibition.—None of the funds authorized to be appropriated by this or any other Act may be used to support, directly or indirectly, activities of the African National Congress.

(b) Waiver.—Subsection (a) may be waived by the President if he certifies to the Congress that—

(1) the National Executive Committee of the African National Congress has taken a stand publicly and officially opposing the practice of "necklacing", the practice of execution by fire, used against South African blacks; . . .

(3) the African National Congress no longer receives its primary financial, military, and training support from the Soviet Union or other Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961. . . .

MR. [MICKEY] LELAND [of Texas]: Mr. Chairman, I raise a point of order against the amendment. . . .

The point of order has to do with germaneness, Mr. Chairman. The gentleman's amendment goes a lot farther beyond the purview of the responsibility of the Foreign Affairs Committee, and thus also the parameters of the bill itself that we are debating here. It reaches the interest of other agencies that are not within the jurisdiction of the consideration of this legislation at this time, and therefore it is nongermane to the arguments that we pursue here today.

Also, Mr. Chairman, the amendment that the gentleman has offered goes a lot farther than any other amendment that has been offered here today. It is much broader, the scope of which is too far reaching to be relevant to the discussions we have here today under the foreign aid bill. . . .

THE CHAIRMAN:[12] The Chair is prepared to rule.

The Chair would state that according to the Procedures of the House, and quoting from section 8, chapter 28, the following:

> . . . a bill authorizing appropriations for a particular program for 10 fiscal years, an amendment restricting authorizations under any act of Congress for any fiscal year contingent upon implementation of a plan to reduce spending under the bill was held not germane as not confined to the bill under consideration.

The Chair would note in reading that amendment of the gentleman from Indiana that the gentleman provides a prohibition on funds appropriated by this or any other act, and the Chair can find in no other instance in title VIII as amended where there is any similar prohibition.

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12. Les AuCoin (Ore.).

For that reason, the Chair would rule that the gentleman's amendment goes beyond the scope of title VIII and is not germane. Therefore, the point of order is sustained.

Specific Appropriation—Conditions Not Limited to Funds in Bill

§ 9.19 To a joint resolution making supplemental appropriations for relief, an amendment prohibiting use of federal relief money for political purposes but not limiting the prohibition to funds appropriated by the pending bill, was held to be not germane.

In the 75th Congress, a bill[13] was under consideration which stated in part:[14]

> *Resolved, etc.,* That to continue to provide relief, and work relief on useful public projects, as authorized in the Emergency Relief Appropriation Act of 1937 . . . there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $250,000,000. . . .

The following amendment was offered:[15]

> Amendment offered by Mr. [Robert L.] Bacon [of New York]: Page 1, line 10, insert the following proviso: "*Provided however,* That it shall be unlawful to use Federal relief . . . funds . . . for political purposes; for anyone to . . . receive contributions for political purposes from anyone receiving . . . assistance out of Federal relief funds. . . ."

Mr. Sam Rayburn, of Texas, made the point of order that the amendment was not germane.[16] The Chairman,[17] in ruling on the point of order, stated:

> The amendment offered by the gentleman from New York [Mr. Bacon] unquestionably would apply to all relief funds heretofore appropriated. For this reason the amendment is broader than the scope of the joint resolution now under consideration and is therefore not germane.

Restriction on Funding in Bill—Amendment Restricting all Funds

§ 9.20 To a Senate amendment prohibiting the use of funds appropriated for a fiscal year for a specified purpose, a proposed House amendment prohibiting the use of funds appropriated by "this or any prior Act" for a different unrelated purpose is not germane.

The proceedings of June 30, 1987, relating to H.R. 1827, sup-

13. H.J. Res. 596 (Committee on Appropriations).

14. See 83 CONG. REC. 2069, 75th Cong. 3d Sess., Feb. 16, 1938.

15. *Id.* at p. 2070.

16. *Id.* at p. 2071.

17. Francis E. Walter (Pa.).

plemental appropriations for fiscal 1987, are discussed in section 27.4, infra.

Provision Affecting Specific Funds in Bill—Amendment Prohibiting Use of Funds in Bill or in Any Other Act for Particular Purpose

§ 9.21 To a proposition limiting the use of funds in a bill for a particular purpose, an amendment limiting the use of funds in other Acts and for a purpose more general in scope is not germane; thus, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking out a House provision prohibiting the use of funds in the bill for a designated Outer Continental Shelf lease sale in California, a House amendment prohibiting the use of funds in the bill or in any other Act for that lease sale and other California lease sales was conceded to be nongermane as more general in scope.

On Oct. 5, 1983,[18] during consideration of the Department of the Interior appropriations for fiscal 1984 (H.R. 3363) in the House, a point of order was conceded and sustained in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[19] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 95: Page 38, strike out all after line 21 over to and including line 15 on page 40.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 113. (a) No funds in this or any other act may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning Area described in (1) through (4) below. No funds may be expended for lease or sale of lands within the area described in (1) through (4) so long as adjacent State Tidelands continue to be designated as State Oil and Gas Leasing Sanctuary pursuant to Sec. 6871.1 et seq. of the California Public Resources Code . . .

(1) An area of the Department of the Interior Southern California Planning Area off the coastline of the State of California Oil and Gas Leasing Sanctuary as described by Sec. 6871.1 et seq. of the California Public Resources Code in effect September 29, 1983 . . . .

(4) An area within the boundaries of the Santa Barbara Channel Eco-

18. 129 CONG. REC. 27319, 27320, 98th Cong. 1st Sess.

19. Dale E. Kildee (Mich.).

logical Preserve and Buffer Zone, as defined by Department of the Interior, Bureau of Land Management Public Land Order 4587. . . .

(b) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands in OCS Lease Sale #80 which lie within an area located off the coastline of the State of California Oil and Gas Leasing Sanctuary as defined by Sec. 6871.1 et seq. California Public Resources Code in effect September 29, 1983 . . . .

(c) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning Area, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Santa Monica Bay, State of California, which lies within a line on the California (Lambert) Plane Coordinate System . . . .

(f) In OCS Lease Sale 80, lease or sale of lands affecting the responsibilities of the Department of Defense shall be with the concurrence of the Secretary of Defense. . . .

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Speaker, I make a point of order against Senate amendment No. 95, the point of order being that under rule XVI, clause 7, the provisions are not germane.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

Joint Resolution Continuing Appropriations for Certain Agencies—Amendment Imposing Restriction Affecting All Expenditures

§ 9.22 To a joint resolution "continuing" appropriations for one month, an amendment placing a restriction on the total administrative budget expenditures for the fiscal year and thus affecting funds not continued by the bill was held to be not germane.

In the 90th Congress, during consideration of a bill continuing appropriations through October 1967, an amendment was offered[20] as above described. A point of order was raised against the amendment, as follows:[1]

MR. [GEORGE H.] MAHON [of Texas]: . . . The amendment of the gentleman from Ohio seems clearly not to be in order because it is not germane. It limits the expenditure of money not in the bill and not covered in the resolution and it rescinds money not in the resolution and not contained in the pending measure.

In sustaining the point of order, Speaker John W. McCormack, of

20. 113 CONG. REC. 26957, 26958, 90th Cong. 1st Sess., Sept. 27, 1967. Under consideration was H.J. Res. 849 (Committee on Appropriations).

1. *Id.* at p. 26959.

Massachusetts, cited precedents "which stand for the general proposition that to a bill limited in its application to certain departments and agencies of Government, an amendment applicable to all departments and agencies is not germane."[2]

Amendment to Existing Law—Restriction on "This or Any Other Act"

§ 9.23 To a bill amending an existing law, an amendment prohibiting assistance under that Act or under any other Act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was held to be not germane.

On May 11, 1976,[3] during consideration of the Vocational Education Act amendments[4] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

> The Clerk read as follows:
>
> Amendment offered by Mr. Conlan: On page 190, between lines 3 and 4, add the following new subsection:
>
> "Sec. 302. (g) The General Education Provisions Act is amended by adding the following new section:
>
> "'Sec. ( ). No grants, contracts, or support are authorized under this or any other Act for any purpose in connection with the *Man: A Course of Study* (MACOS) curriculum program or materials, or in connection with the high school sequel to MACOS, *Exploring Human Nature*.'". . . .

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I make a point of order against the amendment because it is not germane.

THE CHAIRMAN:[5] The gentleman will state his point of order.

MR. PERKINS: It is funded by the National Science Foundation, Mr. Chairman. It affects the National Science Foundation; therefore, it is not germane. . . .

MR. [JOHN B.] CONLAN [of Arizona]: . . . Mr. Chairman, the National Institute for Education, which is a part of this bill, has the educational resource information clearing houses—18 of them—across the Nation, including the one at the University of Indiana, which is totally computerized and which disseminates information in this area. So I do think the matter is germane.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Kentucky makes a point of order against the amendment offered by the gentleman from Arizona on the basis of germaneness. The Chair in a quick examination of the amendment notes that the amendment reads:

> No grants, contracts, or support are authorized under this or any other Act . . .

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2. *Id.* at p. 26960. For more detailed discussion, see § 15.17, infra.

3. 122 CONG. REC. 13419, 13427, 94th Cong. 2d Sess.

4. H.R. 12835.

5. B.F. Sisk (Calif.).

And on that basis the Chair is going to sustain the point of order because of the fact that the amendment goes beyond the scope of this pending bill.

The Chair sustains the point of order.

Bill Pertaining to One Agency in Department—Amendment Affecting All Departmental Programs

§ 9.24 To a proposition limited in its application to a single agency within an executive department, an amendment applicable to all activities and agencies within the department is not germane; thus, to an amendment in the nature of a substitute authorizing funds for institutes within the National Institutes of Health, and granting new authority to the National Institutes of Health, an amendment restricting fetal and infant research within the entire Department of Health and Human Services (which includes the National Institutes of Health) was held to be not germane.

On Sept. 30, 1982,[6] during consideration of the Health Research Extension Act of 1982[7] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Broyhill: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. (a) This Act may be cited as the "Biomedical Research and Library Extension Act of 1982".

NATIONAL CANCER INSTITUTE

Sec. 2. (a) Section 410(a) of the Public Health Service Act (42 U.S.C. 286e(a)) is amended by striking out "and" after "1981;", and by inserting before the period a semicolon and "$925,450,490 for the fiscal year ending September 30, 1983. . . .

Sec. 5. (a) Title IV of the Public Health Service Act is amended by adding at the end the following new part: . . .

Sec. 481. (a) There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal Diseases (hereinafter in this part referred to as the "Institute"). The general purpose of the Institute is the conduct and support of research, training, health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders. . . .

Sec. 6. (a)(1) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with subsection (b) arrange for the conduct of a study of the effectiveness of the existing combinations of disease research programs within the individual national research institutes and of the standards which should be followed in establishing

6. 128 CONG. REC. 26216–19, 26225, 26226, 97th Cong. 2d Sess.

7. H.R. 6457.

new or realigning existing national research institutes. . . .

Sec. 7. (a) The Secretary of Health and Human Services shall review—

(1) the actions being taken by the Department of Health and Human Services to support research to develop research and testing methodologies which will decrease the number of live animals used in biomedical and behavioral research;

(2) the actions taken by the Department to improve oversight of the use of animals in such research by entities which receive financial support for such research through the Department. . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer to the amendment in the nature of a substitute offered by Mr. Broyhill: Page 18, after line 16, insert the following new section:

"FETAL AND INFANT RESEARCH

"Sec. 8. The Secretary of Health and Human Services shall not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant.". . .

MR. [HENRY A.] WAXMAN [of California]: Mr. Chairman, the amendment is in violation of rule XVI, clause 7, of the House of Representatives. The gentleman's amendment is not germane to the amendment for two reasons:

The subject matter of the Broyhill amendment is the reauthorization of the National Cancer and Heart, Lung, and Blood Institutes and the National Library of Medicine which is administered by NIH. The Broyhill amendment is limited specifically to the research conducted by the Cancer and Heart Institutes. The amendment proposes to limit research throughout the Department of Health and Human Services. The amendment would affect research conducted by the Alcohol, Drug Abuse, and Mental Health Administration, FDA, CDC, NIOSH, and the National Institute for Handicapped Research.

NIH is not the only research agency within the Department of Health and Human Services that conducts research involving infants. For example, the Center for Disease Control does or has done research on infants and nutrition—new strains of infectious diseases, adverse reactions to vaccines and drugs, infant mortality. . . .

Other agencies do extensive research on child health and infant mortality.

My second point is that a specific subject may not be amended by a provision general in nature, even when the same class of the specific subject. . . .

THE CHAIRMAN:[8] The Chair is ready to rule on the point of order.

Insofar as the amendment may restrict the authority of the Secretary of HHS over programs not covered in the amendment in the nature of a substitute, and also may restrict research for experimentation of other agencies not within the province of the substitute, the Chair agrees with the point of order made by the gentleman from California (Mr. Waxman).

The Chair has also found a precedent in Deschler's Procedures, chapter 28, section 8.26, where—

8. Norman E. D'Amours (N.H.).

§ 8.26 To a bill amending the Bretton Woods Agreement Act, perfected by the Committee of the Whole to only address U.S. participation in and use of a special and limited International Monetary Fund financing facility, an amendment adding a new section to the act to impose certain policy directives on the U.S. Governor of the International Monetary Fund in relation to all IMF transactions was held not germane.

The Chair sustains the point of order.

Parliamentarian's Note: Section 7 of the Broyhill amendment in the nature of a substitute arguably did broaden the scope of such amendment sufficiently to allow the Dannemeyer amendment, since the provision as to animal research was not confined to the National Institutes of Health, but was applicable to the research efforts of the entire Department of Health and Human Services.

Bill Addressing Disclosure of Medicaid and Medicare Patients' Records—Disclosure by Any Government Employee of Other Records

§ 9.25 To a bill amending existing law for limited purposes, an amendment further changing that law but affecting programs beyond the scope of the bill and the law being amended and waiving other inconsistent provisions of law is not germane.

On Sept. 23, 1977,[9] the Committee of the Whole had under consideration a bill[10] jointly reported from the Committees on Ways and Means and Interstate and Foreign Commerce to enable the Department of Health, Education and Welfare to investigate and prosecute fraud and abuse in the medicare and medicaid health programs within their respective jurisdictions. An amendment was recommended by the Committee on Ways and Means to prohibit any federal officer or employee from disclosing any identifiable medical record in the absence of patient approval. The amendment was held not germane, as exceeding the scope and subject matter of the bill. The proceedings were as follows:

THE CHAIRMAN:[11] The Clerk will report the second amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by the Committee on Ways and Means: Page 66, strike out line 22 down through and including line 5 on page 70 and insert in lieu thereof:

(l)(1) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

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9. 123 CONG. REC. 30532–34, 95th Cong. 1st Sess.

10. H.R. 3, Medicare-Medicaid Antifraud and Abuse Amendments.

11. Gerry E. Studds (Mass.).

"DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"Sec. 1125. (a)(1) Notwithstanding any other provision of this Act except paragraph (2) of this subsection, no officer, employee, or agent of the United States, or any office, agency, or department thereof, or any Professional Standards Review Organization or any person acting or purporting to act on behalf of such Organization, may inspect, acquire, or require the disclosure of, for any reason whatever, any individually identifiable medical record of a patient, unless the patient has authorized such inspection, acquisition, or disclosure in accordance with subsection (b). . . .

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records. . . .

MR. [RICHARDSON PREYER [of North Carolina]: Mr. Chairman, I raise a point of order against the amendment. . . .

[T]his amendment in its scope would apply far beyond the purpose of the bill and the jurisdiction of the committee. The jurisdiction of the committee and the purpose of the bill is to deal with the Department of Health, Education, and Welfare and increase the Department's ability to investigate and prosecute medicare and medicaid fraud and abuse.

However, the amendment covers not only the Department of Health, Education, and Welfare but all the officers, employees, and agents of the United States. The committee report specifically states, "Under the bill PSRO's and employees or agents of the Federal Government may not inspect, acquire or require the disclosure of individually identifiable medical records." The Ways and Means Committee does not have jurisdiction, for example, over the employees of the Department of Defense, the Veterans' Administration, or the Federal courts.

In addition this amendment clearly conflicts with the Deschler precedent in chapter 28, section 8.1, which states that—

> To a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane.

Finally, Mr. Chairman, I note the amendment attempts to supersede all other laws and regulations of the United States in conflict with this amendment. This violates the principle of the Deschler precedent in chapter 28, section 29.4, which states that—

To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane. . . .

MR. [PHILIP M.] CRANE [of Illinois]: . . . Mr. Chairman, I rise in opposition to the point of order. The Ways and Means amendment, set forth as section 5(1) of H.R. 3 as reported by that committee, is clearly germane to the original bill and the bill in its current form.

In the first place, Mr. Chairman, H.R. 3 ostensibly has as its purpose the prevention of fraud and abuse in the medicare and medicaid programs. To achieve that objective, a very complex set of provisions were put into the original bill, including provisions in section 5, that greatly strengthen the investigatory and enforcement roles of professional standards review organizations (PSRO's).

These organizations do not simply acquire and inspect records only of medicare and medicaid patients, or of doctors and other health professionals who treat only those patients. Quite the contrary is true. PSRO's are required to compile statistically valid "profiles" of patients and providers, in order to identify, among other things, patterns of suspected unnecessary services and treatment that does not conform to "appropriate" medical standards. In so doing, they not only may—they must—inspect, acquire, and require the disclosure of the records of private patients and their doctors. . . .

Mr. Chairman, I am well aware of the precedents of this body—and I am certain that my colleagues on the Ways and Means Committee are as well—that would not allow section 5(l) of H.R. 3 to be broader in scope than the original bill. The fact is, however, that section 5(h) of the bill now before us clearly extends the specter of unauthorized violations of patients' rights to confidentiality to all patients, by all Federal agencies and departments. There is no way for Congress to know, in advance, precisely who will seek to inspect, acquire or require the disclosure of the data and records gathered by a PSRO and mandated to be shared with others by the original language of H.R. 3. Furthermore, a private patient's medical record can be transformed into a medicare or medicaid patient's record simply by a change in the status of the patient—his becoming eligible, for example, through disability, age, or poverty. The medicare and medicaid programs have much to fear if the kinds of safeguards provided for in the Crane-Stark amendment are not extended to all records of patients and all Federal officials.

The Crane-Stark amendment most certainly relates to the fundamental purpose of H.R. 3, and applies only to those individuals, agencies and departments that are within the scope of the original bill. To decide otherwise would, I respectfully submit, significantly and adversely affect the very patients who are the intended beneficiaries of this important legislation. It would create potential barriers between patient and doctor by inhibiting free communication, since there would be no guarantees that their jobs would be secure or their friends and families would be free from interrogation and investigation by the Federal Government. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from North Carolina makes the point of order against the

amendment recommended by the Committee on Ways and Means printed on page 66, line 22, through page 70, line 5, on the grounds that it is not germane to the bill H.R. 3.

The bill amends several titles of the Social Security Act to correct fraudulent activities under the medicare and medicaid programs by strengthening penalty sanctions, increasing disclosure of information requirements, improving the professional standards review program, and by proposing certain administrative reforms.

The amendment recommended by the Committee on Ways and Means, while addressing the role of professional standards review organizations in permitting disclosure of confidential medical records of patients under medicare and medicaid programs, goes beyond that issue and encompasses a prohibition against any officer or employee of the Federal Government from disclosing any identifiable medical record absent specific authorization from the patient. As drafted, the amendment would supersede any other provision of law which would otherwise permit Federal officials to disclose medical records, and would appear to affect health programs which are not medicare or medicaid related which do not involve PSRO participation and which are not established under the Social Security Act.

For this reason, the Chair holds that the amendment recommended by the Committee on Ways and Means is not germane to H.R. 3 and sustains the point of order.

Bill To Collect Medical Information for Study—Amendment Broadly Restricting Access of Government Employees to Medical Information

§ 9.26 To a bill providing for the collection of certain information, an amendment restricting access to a category of information which might be needed to conduct that study is not germane if it can be interpreted to more broadly deny access for any purpose to any information within that category; thus, to a bill authorizing a federal agency through grants or contracts to conduct a study of a child health assurance program, an amendment denying access to medical records to government employees and agents or to an organization conducting medical reviews for purposes of that study was conceded by the sponsor to deny access to medical records which were not necessarily to be utilized to conduct the study, and was held not germane as applying to medical records not otherwise covered by the bill.

On Dec. 11, 1979,[12] during consideration of the Child Health Assurance Act of 1979[13] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Sec. 14. (a)(1) The Secretary shall conduct or arrange (through grants or contracts) for the conduct of an ongoing study of the effectiveness of the child health assurance program under section 1913 of the Social Security Act. Not later than two years after the effective date prescribed by section 16(a)(1) and each two years thereafter, the Secretary shall report to Congress the results of the study and include in the report (1) the effect of preventive and primary care services on the health status of individuals under the age of 21 assessed under such program, (2) the incidence of the various disorders identified in assessments conducted under the program, and (3) the costs of identifying, in such program, such disorders. . . .

MR. PHILIP M. CRANE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Philip M. Crane: On page 38, following line 15, insert the following new subsection:

(2)(a) No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in subsection (a)(1) of this section shall inspect (or have access to) any part of an individually identifiable medical record (as described in subsection (c)) of a patient which relates to medical care not provided directly by the Federal Government or paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance, unless the patient has authorized such disclosure and inspection in accordance with subsection (b).

(b) A patient authorizes disclosure and inspection of a medical record for purposes of subsection (a) only if, in a signed and dated statement, he—

(1) authorizes the disclosure and inspection for a specific period of time;

(2) identifies the medical record authorized to be disclosed and inspected; and

(3) specifies the agencies which may inspect the record and to which the record may be disclosed.

(c) For purposes of this section:

(1) The term "individually identifiable medical record" means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public. . . .

MR. [HENRY A.] WAXMAN [of California]: Mr. Chairman, I reserve a point of order on the amendment. . . .

I would like to make an inquiry of the gentleman from Illinois (Mr. Philip M. Crane) who has offered the amendment, if I might. The section (2)(a) on page 38 following line 15 as it would be inserted by this amendment says:

No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out

12. 125 CONG. REC. 35425, 35438, 35439, 96th Cong. 1st Sess.

13. H.R. 4962.

the study provided for in subsection (a)(1) of this section shall inspect (or have access to). . . .

Is this a parenthetical clause: "Or of an organization conducting medical reviews for purposes of carrying out the study provided for," or are we also referring only to the officers, employees, or agents of the Federal Government who are conducting medical reviews for purposes of carrying out the study?

MR. PHILIP M. CRANE: If the gentleman will yield, the reason for the seeming redundancy of language was to guarantee that there would not be any commission or what I would classify as an agent, but which might be open to some debate, or group of private individuals performing a function under the auspices of the Federal Government. I would define that as an agent and, therefore, that language would be, then, redundant to that extent. My concern is quibbling over fine points of definitions, and to the extent that there is a potential here for some private group with the full authority of the Federal Government to conduct these kinds of studies, I want to make sure that those do not in any way have the possibility of falling into the hands of Government officials without the written consent of the patient involved.

MR. WAXMAN: If I might further inquire, is it fair to say that the limitation, "No officer, employee, or agent of the Federal Government" pertains specifically to the carrying out of the study provided for in subsection (a)(1)? Is it specifically addressed to carrying out that study? . . . I am trying to ascertain whether it is limited to carrying out the study provided for in subsection (a)(1) and the medical records are viewed only for the purpose of carrying out that study.

MR. PHILIP M. CRANE: Does the gentleman mean is it confined to that?

MR. WAXMAN: Yes.

MR. PHILIP M. CRANE: No, it is not. That would not be my understanding of the amendment. . . .

MR. WAXMAN: Mr. Chairman, as I read this section without the limitation that I tried to determine was included there, I believe it is overly broad and, therefore, not germane, and I make a point of order of the fact that it is not germane to the bill before us. . . .

MR. PHILIP M. CRANE: . . . I think it is, indeed, germane because, Mr. Chairman, the language of the amendment, I think, addresses the specific narrow concern that the Chairman has upon which he bases his point of order, but, on the other hand, there are implications in the language of the bill that I think this additional language in this paragraph addresses, and that is the potential to go beyond those narrow constraints that I think the gentleman, the Chairman, would presume exist within this legislation.

I am less sure and less confident that those restraints are there. I would argue that the specificity of the first part of this sentence that "No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in" that subsection indicated is language narrow enough to be germane to the intent of the bill.

THE CHAIRMAN:[14] . . . [T]he Chair is prepared to rule.

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14. Bruce F. Vento (Minn.).

The Chair, in listening to and weighing the arguments, finds that the point of order is well taken. The argument seems to establish that the amendment offered by the gentleman from Illinois (Mr. Philip M. Crane) could go to confidentiality of other medical records that would not otherwise be covered by the pending legislation and as such represents, then, too broad an amendment. The records could deal with additional information that would usually be under the confidentiality of physician-and-patient relationship, that would be outside the services rendered through this program if the conduct of Federal officers is not to be confined to the carrying out of the study in section 14. Therefore, the Chair states that the point of order is well taken. . . .

The point of order is sustained. The amendment is ruled out of order.

Bill Authorizing Loans to Livestock Producers—Amendment To Expand Coverage of Bill to All "Agricultural" Producers

§ 9.27 To a bill authorizing emergency loans to livestock producers, an amendment changing the word "livestock" to "agricultural" was held to broaden the class of producers covered by the bill and was held to be not germane.

During consideration of H.R. 15560 (emergency loans to livestock producers) in the Committee of the Whole, it was demonstrated that a specific proposition may not be amended by a proposition more general in scope. The proceedings of July 16, 1974,[15] were as follows:

MR. [BENJAMIN A.] GILMAN [of New York]: Mr. Chairman, I have an amendment to section 1 of the bill now before us, as well as conforming amendments to sections 2, 3, and 8. . . .

The Clerk read as follows:

Amendments offered by Mr. Gilman: Page 5, line 24, strike the word "Livestock" and insert the word "Agricultural". . . .

Page 7, line 17, strike the word "livestock" and insert the word "agricultural", and at the end of line 23, strike the word "livestock" and insert the word "agricultural". . . .

MR. [BOB] BERGLAND [of Minnesota]: Mr. Chairman, I make the point of order against the amendment offered by the gentleman from New York (Mr. Gilman) on the ground that the amendment is nongermane. The amendment takes a number of specific subjects, beef, cattle, dairy cattle, swine, sheep, goats, chickens, and turkeys, and broadens the class by a general provision to include all other commodities such as beekeepers, catfish farmers, and others.

It is well settled in the precedents that a specific subject may not be amended by a provision general in nature. Under clause 7 of rule XVI, the amendment is not germane to the bill. . . .

MR. GILMAN: . . . The intent of the amendments refers to agricultural

15. 120 CONG. REC. 23333, 93d Cong. 2d Sess.

loans, and complies with the intent of the main bill.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from Minnesota (Mr. Bergland) makes the point of order that the amendment violates clause 7, rule XVI. The general rule is that a general proposition is not in order as an amendment to a specific proposition, Cannon's VIII, 2998.

Specifically in point, however, is Cannon's Precedents, volume 8, section 3235:

> To a proposition authorizing loans to farmers in certain areas, an amendment authorizing loans without geographical restriction was held not germane.

The Chair would observe that the language of the bill is confined in scope to "livestock" producers, and contains definition of "livestock." The purpose of the amendment offered by the gentleman from New York (Mr. Gilman) would be to broaden the bill to all agriculture, including many products not livestock, and therefore the Chair sustains the point of order.

Provision Relating to Taxes on Specified Livestock Products—Amendment Relating to Taxes on Agricultural Products Generally

§ 9.28 To an amendment relating to taxes on certain livestock products, including pork, bacon, and ham, an amendment relating to taxes on "agricultural products" was held not germane.

In the 75th Congress, during consideration of the Revenue Bill of 1938,[17] an amendment was offered[18] to impose an excise tax upon the importation of pork and pork products. As a substitute for such amendment, an amendment was offered[19] as described above. Mr. Jere Cooper, of Tennessee, raised a point of order against the amendment.[20] The Chairman,[1] in sustaining the point of order, stated:

> The amendment offered by the gentleman from Illinois refers to particular products of livestock. The amendment of the gentleman from Wisconsin to the amendment of the gentleman from Illinois undertakes to bring in all agricultural products and is clearly subject to the point of order that it is not germane.

Bill Affecting Wheat Sold as Feed—Amendment Affecting all Feed Crops

§ 9.29 To a joint resolution increasing the quantity of wheat which may be sold for

16. Lloyd Meeds (Wash.).

17. H.R. 9682 (Committee on Ways and Means).

18. 83 CONG. REC. 3198, 75th Cong. 3d Sess., Mar. 10, 1938.

19. *Id.* at p. 3199.

20. *Id.* at p. 3200.

1. Clifton A. Woodrum (Va.).

feed by the Commodity Credit Corporation, an amendment providing that "any producer of any feed crop may feed such crop to his own stock without . . . penalty" was held not germane.

In the 78th Congress, a bill[2] was under consideration which sought to permit additional sales of wheat for feed and which stated:[3]

> *Resolved, etc.,* That the limitation contained in the Department of Agriculture Appropriation Act, fiscal year 1943, on the quantity of wheat which Commodity Credit Corporation can sell for feed is hereby increased from 125,000,000 to 225,000,000 bushels.

An amendment was offered[4] as described above. Mr. Hampton P. Fulmer, of South Carolina, having raised a point of order against the amendment, the Chairman, Robert E. Thomason, of Texas, ruled as follows:[5]

> The joint resolution applies to wheat and the amendment applies to any and all crops, and therefore is not germane. The point of order is sustained.

2. H.J. Res. 83 (Committee on Agriculture).
3. See 89 CONG. REC. 2014, 78th Cong. 1st Sess., Mar. 15, 1943.
4. *Id.* at p. 2015.
5. *Id.* at p. 2016.

Annual Appropriation—Amendment Permanently Changing Authorizing Law

§ 9.30 To a proposition appropriating funds for a program for one fiscal year, an amendment permanently amending the authorizing law relating to eligibility for funding in any fiscal year is more general in scope and is not germane.

On Oct. 5, 1983,[6] during consideration of H.R. 3363[7] in the House, the Chair held that, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking funds for a certain fisheries program, a House amendment permanently amending the authorizing law to provide authority for funding for a state ineligible under existing law was not germane; the point of order was conceded and sustained. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[8] The Clerk will designate the next amendment in disagreement.
>
> The amendment reads as follows:
>
> Senate amendment No. 16: Page 10, lines 10 and 11, strike out "; and

6. 129 CONG. REC. 27313, 27314, 98th Cong. 1st Sess.
7. The Department of the Interior Appropriations for fiscal 1984.
8. Dale E. Kildee (Mich.).

for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f)".

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "; $4,000,000, to remain available until expended, for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f), of which $500,000 shall be made available to the State of Idaho without regard to the limitation as stated in 16 U.S.C. 757e and without regard to the Federal cost sharing provisions in 16 U.S.C. 757a–757f: *Provided,* That 16 U.S.C. 757e is amended by adding the following new sentence: 'The State of Idaho shall be eligible on an equal standing with other states for Federal funding for purposes authorized by sections 757a to 757f of this title.' ". . .

MR. [JOHN B.] BREAUX [of Louisiana]: . . . My point of order is pursuant to clause 7 of rule XVI, the provisions of which indicate that [the amendment] is not germane.

Mr. Speaker, I make this point of order for two reasons, if the Speaker would want me to be heard at this time.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

Amendment Broadening a Specific Limitation on Appropriations That Had Been Struck by Senate Amendment

§ 9.31 A specific proposition may not be amended by a proposition more general in scope; thus, to a Senate amendment striking a provision in a general appropriation bill which precluded the use of funds therein by the Environmental Protection Agency to control air pollution by regulating parking facilities, a motion in the House to recede and concur in the Senate amendment with an amendment which temporarily prohibited the use of such funds to implement any plan requiring the review of any indirect sources of air pollution was held more comprehensive in scope and was held to be not germane.

On Dec. 12, 1974,[9] during consideration in the House of the conference report on H.R. 16901,[10] it was demonstrated that where a Senate amendment proposed to strike out language in a House

9. 120 CONG. REC. 39272, 39273, 93d Cong. 2d Sess.

10. Agriculture, Environment and Consumer Appropriations, fiscal 1975.

bill, the test of the germaneness of a motion to recede and concur with an amendment was the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment. The proceedings were as follows:

THE SPEAKER:[11] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 52, line 20, strike: "Sec. 510. No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax, limit, or otherwise regulate parking facilities."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows:

"Sec. 510. No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to implement or enforce any provision of a state implementation plan promulgated or approved pursuant to Section 110 of the Clean Air Act that requires the review of indirect sources, as defined in 40 CFR 52.22(b)(1), pending completion of judicial review, pursuant to Section 307(b) of the Clean Air Act, of the indirect source regulations set forth in 40 CFR 52.22, or any other such regulation relating to indirect sources.". . .

MR. [PAUL G.] ROGERS [of Florida]: Mr. Speaker, I raise a point of order on the ground of nongermaneness.

The House provision provided only for parking, and the Senate struck completely the House provision.

This language is not germane in that it goes far beyond parking. The amendment would cover airports, it would cover highways, it would cover shopping centers, and it would cover sports arenas, regardless of whether any parking facilities are attached or associated.

There is no question but what this is not germane. It is far beyond what the House had stated, and I think it is not appropriate to be in an appropriation bill at all. Therefore I ask that it be stricken in accordance with the arguments used against the amendment. . . .

MR. WHITTEN: . . . Mr. Speaker, the legislation to which the gentleman from Florida has referred has had the effect of stopping employment in the cities of this country. It has done this because they have to have a permit from the Environmental Protection Agency for parking. It has prevented new buildings in universities, hospitals, shopping centers—and this at a time of great unemployment in the United States.

It was felt when the bill passed in the House that in order to prevent that effect upon our economy and upon the growth of our cities, and in order to protect the inner cities so that efforts could be made to live there, that we, in

11. Carl Albert (Okla.).

12. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess.

turn, should keep this one item from being used to effect this legislation.

In the Senate it was felt that since there are lawsuits pending throughout the United States, I think in at least four instances, that this legislation covering parking was the key, that that part which had parking in it should be included in the conference and the conferees felt that in the interest of the Nation that those related matters which are a part and parcel of the provisions to which we were trying to direct our attention, should be accepted, and it was accepted by the conferees.

So, Mr. Speaker, on that basis I respectfully submit that while we touched on only one part of this provision, that the other parts thereby came before the conference, and on that basis we have gone along with delaying this, not to prohibit, but to restrict EPA from causing such delays or work stoppages in this area until such time as the courts determine the issue. And, as I said, the question is now pending before the Federal courts in at least four cases. Of course neither of these provisions, either the House or the conference provision, affects the rights of the cities, towns or of a State from taking such action as they wish. . . .

THE SPEAKER: The Chair is ready to rule.

There is only one issue involved here and that is whether the amendment included in the motion of the gentleman from Mississippi is germane. It obviously is far more comprehensive than the House provision, and is not germane thereto. The Chair, therefore, sustains the point of order.

General Appropriation Bill—Amendment Delaying Availability of All Funds in Bill Pending Unrelated Contingency

§ 9.32 While it may be in order on a general appropriation bill to delay the availability of certain funds therein until a nonfederal recipient meets certain qualifications so long as the contingency does not impose new duties on federal officials or directly change existing law, the contingency must be related to the funds being withheld and cannot affect other funds in the bill which are not related to that factual situation; thus, to a general appropriation bill containing funds not only for certain allowances for former President Nixon, but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until Nixon has made restitution of a designated amount to the United States government was held to be not germane where that contingency was not related to the availability of other funds in the bill.

In the proceedings of Oct. 2, 1974,[12] relating to supplemental appropriations for fiscal 1975,[13] the points of order made against the amendment in question were largely based on the contention that the amendment constituted legislation on an appropriation bill. Most points of order against amendments delaying the availability of funds pending an unrelated contingency are based on the issue of germaneness, and in the Chair's ruling it appeared that the defect in the amendment was that its scope was so broad as to affect funds in the bill other than those to which the limitation was directly related—in other words, that the amendment was not germane.

MR. JAMES V. STANTON [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. James V. Stanton: On page 14, line 5 after the period insert:

"Sec. 203. No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution to the United States Government in the amount of $92,298.03 as previously determined by the Joint Committee on Internal Revenue Taxation on page 201 of its report dated April 3, 1974.". . .

MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

This amendment would impose some duty upon an agency of Government in this bill. The Internal Revenue Service is the only agency that can collect taxes. This obviously would require duties not now required by law. It is obviously legislation in an appropriation bill, and therefore it is subject to a point of order. . . .

THE CHAIRMAN:[14] The Chair is prepared to rule.

The Chair has examined the amendment. . . . It merely delays the availability of certain funds here appropriated until a certain state of facts exist.

It does not impose any duty upon a Federal official, in the opinion of the Chair. The only duty it imposes by its terms, would be upon President Nixon, who is no longer a Federal official. . . .

Under the precedents and under the rules that the Chair has been able to examine, the Chair is of the opinion that this amendment might be in order.

If the gentleman from Texas (Mr. Eckhardt) wants to be heard on the point of order, the Chair will withhold his final ruling. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . The Chair is undoubtedly correct, that this does not impose additional duties under the standards set out in various cases. However, the objection of the gentleman from Texas (Mr. Mahon), as I understand it, is that this does not impose additional duties but creates substantive law. It establishes a liability in effect on the President of the United States, which liability does not

13. 13. H.R. 16900.

14. James C. Wright, Jr. (Tex.).

15. Supplemental Appropriations, fiscal

13. 13. H.R. 16900.

exist by any judicial determination unless this action is taken by this body.

Mr. Chairman, what we are in effect doing is passing a special bill with respect to liability of the President of the United States for an amount of money that has only been determined by a committee of this House and not by a court. If we pass this, we are in effect saying that until he pays a certain amount of money, which we say he owes by virtue of passing a law today, he will not receive money that he would otherwise receive.

I find this a very, very extensive legislative determination, one which I would have doubts about on constitutional grounds, even if it were brought up as a separate piece of legislation.

I understand that the question of constitutionality is not before the Chair with respect to a point of order, but I merely point that out in emphasizing the great substantive effect of this amendment. . . .

MR. [CHARLES S.] GUBSER [of California]: . . . [T]he word "restitution," if I understand the English language correctly . . . would imply that the funds were held by Richard Nixon illegally. Therefore if . . . we allow this amendment to stand, we are clearly creating what should be a judicial decision, and we are giving it legislative sanction, and it is therefore legislation on an appropriation bill. Therefore I think the point of order should be sustained. . . .

MR. STEED: Mr. Chairman, this amendment says "no funds in this act", and that means if this amendment is adopted unless former President Nixon paid this amount of money the whole bill is dead. If that does not constitute legislation on an appropriation bill I do not know what does.

THE CHAIRMAN: The Chair must observe that the Chair is not in a position to rule as suggested by the gentleman from Texas (Mr. Eckhardt) on a question of constitutionality. The gentleman's point may quite well be valid, but the Chair is not in a position to rule on constitutionality, nor is the Chair in a position to rule upon the validity of the commentary offered as to whether or not the Joint Committee on Internal Revenue Taxation may or may not have established this precise figure as being owed. . . .

The Chair is . . . impressed by the most recent comment made by the gentleman from Oklahoma (Mr. Steed) wherein the gentleman from Oklahoma points out that by the terms of the amendment itself funds under the entire act and not just funds for the former President, would be inhibited. Let the Chair read the amendment.

> No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution.

The Chair is persuaded that the availability of some of the funds in the act for other purposes will be based upon an unrelated contingency, and the Chair is prepared to state on the basis of the additional argument made since his preliminary determination that he has changed his opinion regarding the scope and effect of the amendment and sustains the point of order.

Rescinding Agency's Funds for One Purpose—Amendment Conditioning Availability of All Agency Funds on State Compliance With Federal Standards for Seat Belt Use

§ 9.33 To a proposition rescinding an agency's funds for research and education on the subject of motor vehicle seat belts and passive restraints, an amendment conditioning the availability of all of that agency's funds on certain findings with respect to state compliance with federal standards for mandatory seat belt use was conceded to be not germane, in that it affected regulatory operations and was not confined to research and education funds.

During consideration of H.R. 2577[15] in the House on July 31, 1985,[16] a point of order against a motion to recede and concur with an amendment to the pending proposition was conceded and therefore sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[17] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 262: Page 75, lines 14 and 15, strike out "$7,500,000 or so much thereof as may be available on May 2, 1985" and insert "$2,000,000". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 262 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "no funds shall be obligated until the Secretary has made a complete, definitive and binding ruling on the compliance of each state mandatory safety belt use law that has been enacted as of the date of this act with the minimum criteria set forth in Federal Motor Vehicle Safety Standard 208. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I make a point of order regarding amendment No. 262. The point of order is that that amendment is nongermane to the Senate amendment and so is violative of the rules of the House relative to this point.

MR. WHITTEN: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Mississippi concedes the point of order. The point of order, therefore, is sustained.

Restricting Programs Not in Bill

§ 9.34 While an amendment may be germane which limits for certain purposes the au-

15. Supplemental Appropriations, fiscal 1985.
16. 131 CONG. REC. 21832–34, 99th Cong. 1st Sess.
17. Philip R. Sharp (Ind.).

thorities granted in a bill, the amendment must be confined to the agencies, authority and funds addressed by the bill and may not be more comprehensive in scope; thus, to a bill amending the Bretton Woods Agreement Act to ratify proposed amendments to the International Monetary Fund Articles of Agreement, to approve an increase in the United States quota in the Fund and to authorize dealing in gold in connection with the Fund, an amendment prohibiting the alienation of gold to any IMF trust fund, to any other international organization or its agents, or to any person or organization acting as purchaser for any central bank or governmental institution was held not germane, being more general in scope.

On July 27, 1976,[18] the Committee of the Whole had under consideration H.R. 13955 (amending the Bretton Woods Agreement Act), when a point of order against the amendment described above was sustained.

Committee amendments: page 2, line 23, strike out "Sec. 3" and insert "Sec. 5".

Page 3, line 11, strike out "Sec. 4" and insert "Sec. 6".

Page 3, after line 12, insert the following:

Sec. 7. Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended to read as follows:

"Sec. 10. (a) The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to and consistent with the United States obligations in the International Monetary Fund. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress.". . .

MR. [RONALD E.] PAUL [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Paul: On page 5, add the following new section:
>
> "Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States alienate any gold to any trust fund established by the Board of Governors of the International Monetary Fund, or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution.". . .

MR. [THOMAS M.] REES [of California]: . . . The legislation before us is to provide for amendment of the

18. 122 CONG. REC. 24040, 24041, 94th Cong. 2d Sess.

Bretton Woods Agreements Act and only the Bretton Woods Agreements Act, and only those things in the U.S. statute that are directly thereto attached to the purpose of the Bretton Woods Agreements Act. This amendment is not limited to the International Monetary Fund because there is the language at about page 5 of the amendment, "or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution."

It goes about 5 miles beyond the Bretton Woods Agreements Act.

Mr. Chairman, I submit that the amendment is not germane. . . .

MR. [JOHN H.] ROUSSELOT [of California]: . . . Mr. Chairman, on page 18, Article 5, Section 12, of the Jamaican Agreements, which is something which we are partially ratifying with this legislation, it does refer to this special trust fund.

On page 18 of the communication sent to us from the Secretary of State it refers to this special trust fund and the conditions under which our governor and others will be expected to abide, and it is very much a part of what we are ratifying.

So I believe that it can be shown, because we are ratifying the Jamaica Agreements with this legislation, that in fact we are speaking and the gentleman from Texas is speaking to this issue and he wishes to put conditions on our Governor in this International Monetary Fund. . . .

THE CHAIRMAN:[19] The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Texas (Mr. Paul) is not germane to the bill H.R. 13955.

The bill has as its major purpose the ratification of proposed amendments to the International Monetary Fund Articles of Agreement, and to consent to an increase in the quota of the United States in the International Monetary Fund.

The amendment would prohibit the President or the Secretary of the Treasury from alienating or selling any gold to any trust fund established by the IMF or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution, unless Congress authorizes such action by law.

While the Chair is not completely aware of the impact which the gentleman's amendment would have on international organizations other than the International Monetary Fund, it is apparent from the text of the amendment that it is far more comprehensive in scope than the bill to which offered. Since the amendment is not limited by its terms as a restriction upon U.S. authority to alienate gold to the IMF, the Chair holds that the amendment is not germane to H.R. 13955 and sustains the point of order.

Bill Amending One Law on Economic Development—Amendment To Require Study of Impact of All Laws on Employment Opportunities

§ 9.35 To a bill reported from the Committees on Public

19. Charles H. Wilson (Calif.).

Works and Transportation and on Banking, Finance and Urban Affairs amending an existing law to promote economic development through financial assistance to local communities, an amendment requiring the study of the impact of all federal, state and local laws and regulations (not merely the law being amended by the bill) on employment opportunities was held more general in scope and held to be not germane.

During consideration of the National Development Investment Act[20] in the Committee of the Whole on July 12, 1983,[1] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

Amendment offered by Mr. Walker: On page 44, after line 23, add the following new section:

Sec. 103. The Secretary of Commerce shall, in conjunction with the appropriate state and local authorities, conduct a study of the impact on employment opportunities of Federal, State, and local laws and regulations.

(a) Such study shall identify those laws and regulations which have an adverse impact on employment opportunities and shall identify to what extent such regulations and laws cause or result in a reduction of permanent employment opportunities.

(b) The Secretary shall, not later than December 30, 1983, submit a report to Congress on the results of the study under subsection (a), together with its recommendations on methods to reduce or eliminate such adverse impact. . . .

MR. [JAMES L.] OBERSTAR [of Minnesota]: Mr. Chairman, the amendment offered by the gentleman from Pennsylvania is so broadly written as to be nongermane to this legislation. It directs the Secretary of Commerce to conduct a study of State and local laws, State and local regulations, in addition to Federal laws and regulations, in conjunction with employment opportunities, so broadly written as to have nothing to do with the legislation at hand.

I make the point of order that the amendment is not germane. . . .

MR. [ROBERT S.] WALKER [of Pennsylvania]: . . . This simply authorizes the Secretary of Commerce to take action in exactly the same areas that this bill covers. This bill covers a very broad range of economic activity in the country. It authorizes the Secretary of Commerce to take steps to assure employment opportunities. The amendment that I have offered here to title I is simply saying that there should be a study by the Federal Government in the same areas that this bill addresses; so I would ask the Chair to reject the point of order against the amendment.

THE CHAIRMAN:[2] The Chair is prepared to rule.

20. H.R. 10.

1. 129 CONG. REC. 18712, 18713, 98th Cong. 1st Sess.

2. Charlie Rose (N.C.).

The amendment of the gentleman from Pennsylvania requires a study of the impact of all Federal, State, and local laws, on employment. The bill under consideration only amends several laws within the jurisdiction of the Public Works and Transportation Committee and the Banking, Finance and Urban Affairs Committee dealing with economic development. An amendment bringing into issue all Federal, State and local laws as to their impact on employment is more general in scope and is not germane.

Therefore, the Chair sustains the point of order.

Bill Directed to One Function of Agency—Amendment Pertaining to All Agency Actions

§ 9.36 To a bill amending the Bretton Woods Agreements Act, perfected by the Committee of the Whole only to address United States participation in and use of a special and limited International Monetary Fund financing facility, an amendment adding a new section to the Act to impose certain policy directives on the United States Governor of the IMF in relation to all IMF transactions was held not germane.

On Feb. 23, 1978,[3] during consideration of H.R. 9214, it was demonstrated that an amendment adding a new section to the end of a bill must be germane to the bill as amended. The proceedings in the Committee of the Whole wherein the Chair sustained a point of order against such amendment were as follows:

The Clerk read as follows:

H.R. 9214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Bretton Woods Agreements Act (22 U.S.C. 286–286k–2), as amended, is further amended by adding at the end thereof the following new section:

"Sec. 27. (a) For the purpose of participation of the United States in the Supplementary Financing Facility (hereinafter referred to as the 'facility') established by the decision numbered 5508–(77/127) of the Executive Directors of the Fund, the Secretary of the Treasury is authorized to make resources available as provided in the decision numbered 5509–(77/127) of the Fund, in an amount not to exceed the equivalent of 1,450 million Special Drawing Rights.

"(b) The Secretary of the Treasury shall account, through the Fund established by section 10 of the Gold Reserve Act of 1934, as amended (31 U.S.C. 882a), for any adjustment in the value of monetary assets held by the United States in respect of United States participation in the facility.". . . .

THE CHAIRMAN:[4] The Clerk will report the next committee amendment.

The Clerk read as follows:

3. 124 CONG. REC. 4421, 4426, 4427, 4451, 4452, 95th Cong. 2d Sess.

4. Lucien N. Nedzi (Mich.).

Committee amendment: On page 2, after line 15, insert:

Sec. 2. Section 3(c) of the Bretton Woods Agreements Act (22 U.S.C. 286a(c)) is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following:

(2) The United States executive director to the Fund shall not be compensated by the Fund at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code. . . .

(3) The Secretary of the Treasury shall instruct the United States executive director to the Fund to present to the Fund's Executive Board a comprehensive set of proposals, consistent with maintaining high levels of competence of Fund personnel and consistent with the Articles of Agreements with the objective of assuring that salaries of Fund employees are consistent with levels of similar responsibility within national government service or private industry. The Secretary shall report these proposals together with any measures adopted by the Fund's Executive Board to the relevant committees of the Congress prior to July 1, 1978.

MR. [STEPHEN L.] NEAL [of North Carolina]: Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. Neal to the committee amendment:

Page 2, strike out line 20 and insert in lieu thereof "The individual who represents the United States in matters concerning the Supplementary Financing Facility".

Page 2, lines 24 and 25, strike out "The United States alternate executive director to the Fund" and insert in lieu thereof "The alternate to the individual who represents the United States in matters concerning the Supplementary Financing Facility". . . .

Page 3, line 5, strike "United States executive director to the Fund" and insert in lieu thereof "individual who represents the United States in matters concerning the Supplementary Financing Facility". . . .

[The committee amendment was agreed to and the committee amendment, as amended, was agreed to.]

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cavanaugh: At the end of the bill add the following:

The Bretton Woods Agreements Act (22 U.S.C. 286–286k–2), as amended, is further amended by adding at the end thereof the following new section:

Sec. 29. The Secretary of the Treasury shall instruct the United States Executive Director to seek to assure that no decision by the International Monetary Fund on use of the Facility undermines or departs from United States policy regarding the comparability of treatment of public and private creditors in cases of debt rescheduling where official United States credits are involved. . . .

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Nebraska (Mr. Cavanaugh).

The amendment was agreed to.

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin: Page 3, immediately after line 14, insert the following:

Sec. 3. The Bretton Woods Agreements Act (22 USC 286–286k–2), as amended, is further amended by adding at the end thereof the following new section:

"Sec. 29. (a) The Secretary of the Treasury shall instruct the United States Executive Director on the Executive Board of the International Monetary Fund to initiate a wide consultation with the Managing Director of the Fund and other member country Executive Directors with regard to encouraging the IMF staff to formulate stabilization programs which, to the maximum feasible extent, foster a broader base of productive investment and employment, especially in those productive activities which are designed to meet basic human needs.

"(b) In accordance with the unique character of the International Monetary Fund, the Secretary of the Treasury shall direct the U.S. Executive Director to take all possible steps to the end that all Fund transactions, including economic programs developed in connection with the utilization of Fund resources, do not contribute to the deprivation of basic human needs, nor to the violation of basic human rights, such as torture, cruel or inhumane treatment or degrading punishment, prolonged detention without charge, or other flagrant denials of life, liberty and the security of person; and to oppose all such transactions which would contribute to such deprivations or violations. . . .

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

Mr. Chairman, we have just established that we are only considering the so-called Witteveen Facility of the International Monetary Fund, and this amendment goes far beyond that. . . .

MR. HARKIN: . . . I would respond to that argument by saying that my amendment is entirely in order because, if we look at the different sections, the first section of my amendment goes toward instructing the U.S. Executive Director of the IMF to do certain positive things about initiating wide consultations, and so forth, which would help to promote those kinds of programs that would help meet the basic human needs in other countries. This is a directive to our Director on the Board of the International Monetary Fund.

The last part of my amendment, subparagraph (c) also mandates that the Executive Director do other positive things by submitting a report to the Congress not later than 180 days after the close of each calendar year outlining the effects of the policies that were followed on the Fund which were designed to meet these basic human needs of people in other countries.

As far as the Fund or the Witteveen Facility itself is concerned, my subparagraph (b), which is the human rights section, speaks directly to the Witteveen Facility and directs the U.S. Executive Director to make sure that the basic human rights of people are not violated. . . .

MR. [M. DAWSON] MATHIS [of Georgia]: . . . The gentleman from North Carolina (Mr. Neal) is attempting now to say that the legislation before us has been narrowed in scope to the point where it only deals with the Witteveen Facility, and that has been the thrust of the previous committee amendments that I have argued against, because I knew we were going to arrive at a point where the gentleman was going to raise this point of order.

Mr. Chairman, the clumsy attempt to do that has obviously failed in this

fashion because subsection (3) of section 2 of the bill still deals with the question of the Secretary of the Treasury instructing the Executive Director of the Fund to present a comprehensive set of proposals that do not deal with that issue. So the committee amendment, which has already been adopted, very clearly deals with the original Bretton Woods Act, and it is not restrictive in its scope. . . .

MR. HARKIN: Mr. Chairman, I think the gentleman from Georgia (Mr. Mathis) has raised an interesting point. In the bill, under paragraph (3) on page 3, it does in fact provide that the U.S. Executive Director to the Fund has to do a certain positive thing. He has to present to the Fund's Executive Board a comprehensive set of proposals, et cetera. So it does not speak simply about the Witteveen Facility.

I think that my amendment, which mandates that the Executive Director do other positive things, fits in very nicely with subparagraph (3). . . .

MR. NEAL: Mr. Chairman, I would say that the amendment before us is not germane because it is not germane to the fundamental purpose of the bill nor does it relate exclusively to the subject matter under consideration.

Under the Rules of the House, no motion or proposition on a subject different from that under consideration shall be admitted under disguise of an amendment. . . .

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

The gentleman from North Carolina (Mr. Neal) made a point of order that the amendment offered by the gentleman from Iowa (Mr. Harkin) is not germane to the bill H.R. 9214 in its perfected form. In its perfected form the bill, while amending the Bretton Woods Agreement Act, relates only to the authority of the United States to participate in the supplementary financing facility of the International Monetary Fund and to the salaries of the IMF employees who are employees who administer that supplemental financing facility, the so-called Witteveen Facility, but it does not deal with the other operations of the International Monetary Fund.

The precedents indicate:

> To a bill amending one section of existing law to accomplish a particular purpose, an amendment proposing changes in another section of that law in a [manner] not within the terms of the bill is not germane. (Deschler's Procedure, chapter 28, section 32.1, section 32.14.)
>
> In passing on the germaneness of an amendment, the Chairman considers the relationship of the amendment to the bill as modified by the Committee of the Whole. (Deschler's Procedure, chapter 28, section 2.4.)

The bill as modified by the Committee of the Whole is not sufficiently broad, in the opinion of the Chair, to permit amendments affecting operations of the IMF which are not directly and solely related to the Witteveen Facility. As indicated throughout the report on the bill, that special function of the IMF is separate and distinct from other operations of the IMF, both from the standpoint of qualification for participation in the facility and from the point of view of disposition of assets and the liabilities of participating nations.

Let the Chair just add that the Cavanaugh amendment to H.R. 9214

reserved itself to decisions by the IMF on the use of the facility, referring to the Witteveen Facility, thereby confining itself to that narrow aspect of the bill and not amending the entire act.

Accordingly, the Chair sustains the point of order.

Amendment Changing One Budget Category—Substitute Changing Several

§ 9.37 To a substitute amendment to a concurrent resolution on the budget changing one functional category only, an amendment changing not only that category but several other categories of budget authority and outlays and covering an additional fiscal year was held to be more general in scope and therefore was ruled out as not germane.

On May 2, 1979,[5] during consideration of House Concurrent Resolution 107 (first concurrent resolution on the budget, fiscal 1980), the Chair sustained a point of order against the amendment described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope.

The amendment and proceedings were as follows:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by $8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by $2,705 million;

In the matter relating to the amount of the deficit decrease the amount by $2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by $2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by $3,351 million; and decrease the amount for outlays by $1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by $102 million; and decrease the amount for outlays by $34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by $75 million; and decrease the amount for outlays by $25 million. . . .

MR. CHARLES H. WILSON of California: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Charles H. Wilson of California as a substitute for the amendment offered by Ms. Holtzman: In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for new budget authority and insert in lieu thereof "$137,808,000,000".

5. 125 CONG. REC. 9556, 9562–64, 96th Cong. 1st Sess.

In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for outlays and insert in lieu thereof "$125,070,000,000".

Increase the aggregate amounts in the first section (other than the amount of the recommended level of Federal revenues and the amount by which the aggregate level of Federal revenues should be decreased) accordingly. . . .

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

THE CHAIRMAN: The Clerk will report the amendment to the amendment offered as a substitute. . . .

MR. JOHN L. BURTON: My amendment is an amendment to the amendment offered by the gentleman from California (Mr. Charles H. Wilson) as a substitute for the amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Charles H. Wilson of California as a substitute for the amendment offered by Ms. Holtzman; Strike all after line 1 and insert:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero;

(2) the appropriate level of total new budget authority is $586,255,609,000.

(3) the appropriate level of total budget outlays is $510,567,609,000.

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is zero and . . .

Sec. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $112,974,000,000;

(B) Outlays, $101,686,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,932,000,000;

(B) Outlays, $8,223,000,000. . . .

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows:

(a)—

(1) the recommended level of Federal revenues is $458,485,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,000,000;

(2) the appropriate level of total new budget authority is $555,659,000,000;

(3) the appropriate level of total budget outlays is $492,820,000,000. . . .

MR. [ROBERT N.] GIAIMO [of Connecticut]: . . . I raise the point of order against the amendment on the ground that it is not germane to the Wilson amendment, which addresses itself to one function, national defense, and this

addresses itself far beyond that; and, therefore, it is not germane. . . .

MR. JOHN L. BURTON: . . . It is my understanding that the Charles H. Wilson amendment although it only addressed itself to defense, it, by the language, inferred all that was in the amendment of the gentlewoman from New York, by striking that. It struck every section of the Holtzman amendment.

If I am not germane here, certainly I am germane to the Holtzman amendment and will offer my amendment to the Holtzman amendment in the nature of an amendment to the Holtzman amendment, if that be the necessary case.

THE CHAIRMAN:[6] The Chair is ready to rule upon the point of order of the gentleman from Connecticut (Mr. Giaimo).

The substitute offered by the gentleman from California (Mr. Charles H. Wilson) deals only with the national defense functional category for fiscal 1980. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with defense but with several other functional categories and is more general in scope.

Therefore, the amendment of the gentleman from California (Mr. John L. Burton) is not germane and the point of order is sustained.

6. William H. Natcher (Ky.).

Budget Resolution: Perfecting Amendment Changing Certain Figures for One Year—Amendment Rewriting Resolution and Effecting Changes for Two Years

§ 9.38 An amendment (in effect in the nature of a substitute) rewriting an entire concurrent resolution on the budget covering two fiscal years is not germane to a perfecting amendment proposing certain changes in figures for one of the years covered by the resolution.

On May 2, 1979,[7] during consideration of the first concurrent resolution on the Budget, fiscal year 1980 (House Concurrent Resolution 107), the Chair sustained a point of order against an amendment, thus holding that to a perfecting amendment to a concurrent resolution on the budget changing amounts in functional categories and aggregates only for one fiscal year, an amendment which addresses the budget for another fiscal year as well and which contains other unrelated matter, as a redraft of the entire resolution, is not germane. The proceedings were as follows:

Ms. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

7. 125 CONG. REC. 9556, 9564–66, 96th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by $8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by $2,705 million;

In the matter relating to the amount of the deficit decrease the amount by $2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by $2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by $3,351 million; and decrease the amount for outlays by $1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by $102 million; and decrease the amount for outlays by $34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by $75 million; and decrease the amount for outlays by $25 million. . . .

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton to the amendment offered by Ms. Holtzman: Strike all after line 1 and insert:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero; . . .

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows: . . .

MR. [ROBERT N.] GIAIMO [of Connecticut]: The gentleman's amendment is a substitute for the entire resolution; the Holtzman amendment is not. It touches on matters not dealt with in the Holtzman amendment, namely, changes for fiscal year 1979. It is, therefore, not germane to the amendment of the gentlewoman from New York (Ms. Holtzman). . . .

THE CHAIRMAN:[8] The Chair is ready to rule on the point of order made by the gentleman from Connecticut (Mr. Giaimo).

The amendment offered by the gentlewoman from New York (Ms. Holtzman) deals only with fiscal year 1980 targets. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with 1980 but with fiscal 1979 revisions and contains other language. The amendment is not germane to the Holtzman amendment. The Chair so rules and sustains the point of order.

Bill Amending Law With Respect to Certain Authority—Amendment Repealing Authority Under Any Provision of Law

§ 9.39 An amendment repealing authority under any pro-

8. William H. Natcher (Ky.).

vision of law is not germane to a bill amending only one law with respect to that authority; thus, to a bill amending the Defense Production Act to promote the development of synthetic fuels for defense purposes, and authorizing loans and contracts to assist such development, an amendment repealing authority under the Defense Production Act or under any other law to impose allocation and price controls on petroleum and natural gas was held not germane.

During consideration of H.R. 3930[9] in the Committee of the Whole on June 26, 1979,[10] it was demonstrated that a specific proposition may not be amended by a proposition more general in scope when the Chair sustained a point of order against the following amendment:

> Amendment offered by Mr. Dannemeyer: Page 11, after line 6, insert the following new section:
>
> REMOVAL OF CERTAIN CONTROLS IMPEDING PRODUCTION OF PETROLEUM AND NATURAL GAS
>
> Sec. 5. Title VII of the Defense Production Act of 1950 is amended by adding at the end thereof the following new section:
>
> "Sec. 721. Effective beginning 30 days after the date of the enactment of this section, allocation and maximum lawful price restrictions imposed on crude oil, natural gas, and refined petroleum products, by the provisions of this Act or any other law, and the authority to impose such restrictions under such provisions, is terminated.". . . .
>
> MR. [WILLIAM S.] MOORHEAD of Pennsylvania: I make a point of order against the amendment, Mr. Chairman. . . .
>
> The bill before us is a narrowly drawn bill dealing with the production of synthetic fuel. This amendment talks about lawful price restriction by the provision of this act or any other law. It far exceeds the scope of the legislation before the Committee and the amendment is not in order. . . .
>
> MR. [WILLIAM E.] DANNEMEYER [of California]: . . . Title 3 of the bill before the House deals with the expansion of productive capacity and supply. The amendment which I have tendered will remove certain controls impeding production of petroleum and natural gas. I submit on that basis it is germane, it is appropriate for us to consider to remove what really is the cause of the shortage of oil in this country; namely, the law that this Congress has enacted. It is not the oil companies or the OPEC nations, it is this place right here.
>
> If we want to have more oil, take the price off and that is the way to do it.
>
> THE CHAIRMAN:[11] The Chair is prepared to rule.

9. The Defense Production Act Amendments of 1979.

10. 125 CONG. REC. 16701, 96th Cong. 1st Sess.

11. Gerry E. Studds (Mass.).

The provisions of the act before the Committee relate solely to production of fuels for the national defense. The amendment offered by the gentleman from California effectively modifies the Petroleum Allocation Act and other laws not amended by the bill before us and the Chair sustains the point of order.

Joint Resolution Appropriating Funds for Emergency Fuel Assistance—Amendment To Prohibit Windfall Profits Taxes To Be Used for Other Purposes Except as Specified

§ 9.40 To a joint resolution appropriating funds to the Community Services Administration for emergency fuel assistance, an amendment providing that notwithstanding any other provision of law, no portion of any oil windfall profit taxes imposed by law may be transferred to any other use except to the extent that the amount of such taxes exceeded the amount appropriated by the joint resolution, was conceded to be subject to the point of order that it was not germane.

During consideration of House Joint Resolution 430 in the House on Oct. 25, 1979,[12] a point of order against the following amendment was conceded and sustained:

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "Notwithstanding any other provision of law (whether enacted before, on, or after the date of the enactment of this Act), no portion of any windfall profit taxes imposed by Federal law on producers of domestic crude oil may be tranferred to any other use except to the extent that the amount of such taxes exceeds the amount appropriated by this Act."

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. Giaimo).

MR. GIAIMO: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE:[13] The gentleman from Connecticut (Mr. Giaimo) concedes the point of order and the Chair sustains the point of order.

Bill Relating to Information in One Agency—Amendment Relating to Information Throughout Government

§ 9.41 To a section of a bill requiring the Administrator of

12. 125 CONG. REC. 29639, 96th Cong. 1st Sess.
13. Dan Rostenkowski (Ill.).

the Energy Research and Development Administration to maintain a central source of information on energy resources and technology, and making such information maintained by ERDA available under provisions of the Freedom of Information Act for public inspection, an amendment to prohibit the disclosure of proprietary information obtained by compulsory process by any federal agency and maintained by ERDA was subject to the interpretation that such information, wherever situated, would not be subject to disclosure—thereby affecting the confidentiality of information held by other agencies, and was held to be not germane.

On June 20, 1975,[14] during consideration of the Energy Research and Development Administration authorization bill for fiscal 1976[15] in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The section of the bill and the amendment offered thereto were as follows:

Sec. 307. The Federal Nonnuclear Energy Research and Development Act of 1974 (88 Stat. 1878; 42 U.S.C. 5901) is amended by adding at the end thereof the following new section:

"Sec. 17. The Administrator shall establish, develop, acquire, and maintain a central source of information on all energy resources and technology, including proved and other reserves, for research and development purposes. This responsibility shall include the acquisition of proprietary information, by purchase, donation, or from another Federal agency, when such information will carry out the purposes of this Act. In addition the Administrator shall undertake to correlate, review, and utilize any information available to any other Government agency to further carry out the purposes of this Act. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, and to other Government agencies in a manner that will facilitate its dissemination.". . .

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: Page 43, line 6, before the period, insert the following ": *Provided* That any such proprietary information obtained by compulsory process by any Federal agency shall not be subject to the mandatory disclosure provisions of 5 U.S.C. 552 and further, where the Administrator so finds, any proprietary information

14. 121 CONG. REC. 19934, 19966, 19967, 94th Cong. 1st Sess.

15. H.R. 3474.

obtained by other means shall be deemed to qualify for exemption from mandatory disclosure under 5 U.S.C. 552(b)(4)". . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order against the amendment. . . .

The point of order is that the amendment is not germane. The amendment appears to relate to the language of the bill at page 43, line 6. In point of fact, the amendment seeks to amend the Freedom of Information Act, 5 United States Code 552, which is cited therein. It might appear that the amendment is subject to a number of different meanings. I can think of at least two at the moment, and perhaps three or four others. The first instance is that any proprietary information received by compulsory process by any Federal agency shall not be subject to the mandatory disclosure provisions of 5 United States Code 552—and I am literally quoting from the language of the amendment—and that being so, the amendment is defective as seeking to amend legislation not presently before the House and not within the jurisdiction of the particular committee that is presenting the legislation before us, and relating to entirely different matters.

It is possible that it refers to earlier legislation or, rather, refers to earlier clauses and sentences of the legislation before us. It is also possible that the legislation that the amendment would have the law amended is that once proprietary information had fallen into the hands of the Federal Government by compulsory process and had, through any methodology whatsoever, arrived in the hands of ERDA, that the original Federal agency which had ownership or custody of that information would thereupon be sterilized in making that information available pursuant to the provisions of 5 United States Code 552, the Freedom of Information Act.

In either the first instance or in the second instance the amendment seeks to amend legislation not properly before us at this time, the Freedom of Information Act, which is not under the jurisdiction of the committee or which, by notice, has not properly been available to the Members as to the offering of this amendment.

The amendment is, therefore, in my view, on at least two of the three interpretations violative of the Rules of the House, and violative of the rules of germaneness, and is subject to a point of order. . . .

MR. GOLDWATER: . . . Mr. Chairman, I would point out to the gentleman from Michigan that if the gentleman will read the amendment it refers to not all proprietary information, but any such proprietary information, specifically narrowing it to ERDA as this particular bill addresses itself.

This amendment does not seek to amend the Freedom of Information Act, but merely to apply the Freedom of Information Act. It is, in essence, a limitation upon ERDA and as specifically authorized by the Freedom of Information Act under subsection (d), subsection (3). That this section, in other words, the Freedom of Information Act, does not apply to matters that are specifically exempted from disclosure by statute. The other statute is what, in essence, I am speaking. It is not an amendment to the Freedom of Information Act, but in essence is a

limitation on the activities of ERDA, and merely applies the regulations of the Freedom of Information Act. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . The amendment states that any such proprietary information obtained by a compulsory process by a Federal agency shall not be subject to mandatory disclosure under the Freedom of Information Act. Such information refers back to the sentence immediately preceding the amendment in the bill on page 43, beginning in line 2:

> This responsibility shall include the acquisition of proprietary information, by purchase, donation, or from another Federal agency.

So if information is obtained from another Federal agency, and that Federal agency has obtained such by compulsory process, such purports to say that such information, wherever it may appear, is excluded from the effect of the Freedom of Information Act. The Freedom of Information Act provides that each agency in accordance with published rules shall make available for public inspection and copying any information of the type described here which appears in a final opinion or statement of policy on administrative staff manual or instructions to staff, et cetera. If that information has ultimately found its way to ERDA, it becomes such information, and under the terms of the amendment would, thus, be insulated from the Freedom of Information Act wherever it might appear. That, I think, clearly alters the Freedom of Information Act which specifically states in its last clause that the exceptions to the Freedom of Information Act do not authorize withholding of information or limit the availability of records to the public except as specifically stated in this section.

This adds another exception, and that is the exception of information that has passed into the hands of ERDA.

If the language is ambiguous, or if it is reasonably subject to more than one construction, and if a reasonable construction of the language alters another act, then it is the burden of the person offering the amendment to clarify the amendment to make absolutely certain that the amendment does not affect the other act.

The gentleman has not done so. The language is, therefore, subject reasonably to the construction of changing processes of other agencies and is, therefore, not germane.

THE CHAIRMAN:[16] The Chair is prepared to rule on this rather difficult question which confronts the committee at this time.

The burden of sustaining the germaneness of the amendment lies with the author. In the opinion of the Chair, the author of the amendment has not sustained that burden, and it does appear to the Chair that the amendment as presently offered would possibly mean that this restriction on the information would apply wherever the information might reside not just within ERDA. The amendment is, therefore, ambiguous and could be construed to go beyond the scope of the bill before the committee at this time.

The point of order is sustained.

Parliamentarian's Note: Although the language of the

16. J. Edward Roush (Ind.).

amendment, "any such proprietary information" in one interpretation, applied only to information held by ERDA, the Chair felt that an equally logical interpretation of the language substantially broadened its impact and rendered it not germane.

Crude Oil Pricing—Substitute Limiting Price of All Petroleum Products

§ 9.42 An individual proposition may not be amended by a proposition more general in scope, and a substitute for an amendment must be confined in scope to the subject of the amendment; thus, for an amendment prohibiting the Administrator from setting ceiling prices for domestic crude oil above a certain level in the exercise of the authority transferred to him in a bill creating a new Federal Energy Administration, a substitute directing the Administrator to set ceiling prices on crude oil and on petroleum products at designated levels was held to go beyond the scope of the pending amendment and was ruled out as not germane.

During consideration of the Federal Energy Administration Act (H.R. 11793) in the Committee of the Whole on Mar. 6, 1974,[17] the following amendment was ruled out as not being germane:

> MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I offer an amendment in the nature of a substitute to the amendment.
>
> The Clerk read as follows:
>
> Amendment in the nature of a substitute offered by Mr. Eckhardt to the amendment offered by Mr. Dingell: On page 20, after line 2, add the following: "In exercising the functions provided in item (5), above, the Administration shall take the following action:
>
> "(A) Immediately upon the enactment of this Act, the Administrator shall issue an order to establish a ceiling on prices of crude oil and petroleum products at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the fourteen-day period ending January 19, 1974, for like or similar commodities, or if no transactions occurred during such period, then the highest applicable level in the nearest preceding fourteen-day period.
>
> "(B) The ceiling on prices required under subsection (a) shall be applicable to all retail prices and to wholesale prices for unfinished, or processed goods.
>
> "(C) As soon as practicable, but not later than thirty days after the date of enactment of this section, the Administrator shall by written order stating in full the considerations for his actions, roll back prices for crude oil and petroleum products to levels no higher than those prevailing in the seven-day period ending Novem-

17. 120 CONG. REC. 5448, 5449, 93d Cong. 2d Sess.

ber 1, 1973, in order to reduce inflation. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment and offer that the amendment is nongermane to this bill under rule XVI, clause 7.

The amendment deals with subjects not included in this bill and also affecting policy which is not the subject of section 5 but, rather, other matters like petroleum products. . . .

MR. ECKHARDT: . . . Realizing, of course, that germaneness, like beauty, is in the eyes of the beholder, nevertheless, it seems to me to be clear that, when an amendment is before this body which amendment would have the effect of rolling back the price of crude oil, all of it, without any attention as to whether or not that oil is new oil produced at high prices or older oil produced at relatively low prices, it simply must be germane to the original amendment to put in a limitation with respect to that amendment to provide that there be reason respecting the rollback and that the rollback should not be applicable in such a way as to prohibit the production of new discoveries. . . .

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

The gentleman from Texas (Mr. Eckhardt) has offered a substitute for the amendment offered by the gentleman from Michigan (Mr. Dingell). The opening lines of the substitute for the amendment read as follows:

> In exercising the functions so provided in item 5 above, the Administrator shall take the following action:
>
> (a) immediately upon the enactment of this act the Administrator shall issue an order to establish a ceiling on prices of crude oil and petroleum products at levels not greater than the highest levels pertaining to substantial volume of actual transactions.

The gentleman from New York (Mr. Horton) has made a point of order against the substitute amendment on the ground that it is not germane to the amendment offered by the gentleman from Michigan (Mr. Dingell).

The Chair rules that in order to qualify as a substitute for an amendment such substitute must treat in equal manner the same subject matter carried by the amendment for which proposed. The pending amendment offered by the gentleman from Michigan (Mr. Dingell), and the Chair reads from the language of that amendment, pertains only to the price for domestic crude oil. The substitute for the amendment goes beyond the scope of the amendment offered by the gentleman from Michigan (Mr. Dingell) and goes beyond the subject matter contained in the amendment.

For the reasons given by the gentleman from New York (Mr. Horton) in support of his point of order and for the reasons stated, the Chair sustains the point of order to the substitute for the amendment.

Provisions Relating to Production Goals for Synthetic Fuels To Meet Defense Needs—Amendment Requiring That Any Fuel Sold in Commerce Contain Specified Percentage of Synthetic Fuel

§ 9.43 Where a bill pending before the Committee of the

18. John J. Flynt, Jr. (Ga.).

Whole amended the Defense Production Act to direct the President to achieve a national production goal of synthetic fuels to meet defense purposes, and there was pending an amendment only to increase the amount of that goal and to provide funding to meet that goal, a substitute for the amendment requiring that any fuel sold in commerce contain a certain percentage of synthetic fuel, and requiring the Secretary of Energy to promulgate regulations setting such percentage, was held not germane as going beyond the scope of the amendment and containing matter not within the jurisdiction of the reporting committee (Banking, Finance and Urban Affairs).

During consideration of the Defense Production Act Amendments of 1979 (H.R. 3930) in the Committee of the Whole on June 26, 1979,[19] amendments offered as a substitute for pending amendments were ruled out as going beyond the scope of the pending amendment and therefore not germane. The proceedings were as follows:

The Clerk read as follows:

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

Sec. 3. (a) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091). . . .

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 305. (a) The President, utilizing the provisions of this Act and any other applicable provision of law, shall attempt to achieve a national production goal of at least 500,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than five years after the effective date of this section. The President is authorized and directed to require fuel and chemical feedstock suppliers to provide synthetic fuels and synthetic chemical feedstocks in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. . . .

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Wright: Page 5, line 2, strike out the period after "section" and insert in lieu thereof "and at least 2,000,000 barrels per day crude oil equivalent of synthetic fuels and synthetic chemical feedstocks not later than ten years after the effective date of this section.". . .

Page 10, line 23, strike "appropriated $2,000,000,000" and insert in

19. 125 CONG. REC. 16663, 16668, 16673, 16674, 96th Cong. 1st Sess.

20. Gerry E. Studds (Mass.).

lieu thereof "appropriated from general funds of the Treasury not otherwise appropriated or from any fund hereafter established by Congress after the date of enactment of this sentence not to exceed $3,000,000,000." . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer amendments as a substitute for the amendments.

The Clerk read as follows:

Amendments offered by Mr. Jeffords as a substitute for the amendments offered by Mr. Wright: Page 5, line 8, add new subsections "b" through "(f)".

"(b) Of the total quantity of gasoline and diesel fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel shall constitute the minimum percentage determined in accordance with the following table: . . .

1987, 1988, and 1989–10 percent. . . .

(c) Not later than July 1, 1981, the Secretary shall prescribe, by rule, the minimum percentage replacement fuel, by volume, required to be contained in the total quantity of gasoline and diesel fuel sold each year in commerce in the United States in calendar years 1982 through 1986 by any refiner for use as a motor fuel. Such percentage shall apply to each refiner, and shall be set for each such calendar year at a level which the Secretary determines—

(1) is technically and economically feasible, and

(2) will result in steady progress toward meeting the requirements under this section for calendar year 1987. . . .

MR. [WILLIAM S.] MOORHEAD of Pennsylvania: Mr. Chairman, as much as I support the concept of the substitute of the gentleman from Vermont—I believe I am a cosponsor of his bill—I do not believe it is a proper part of this legislation in that it is not germane.

First, it is not germane to the Wright amendment which is a production amendment and a defense production amendment.

This amendment is a regulatory amendment dealing with "replacement fuels sold in commerce." It is not a production bill.

The same language is contained further down. It regulates the amount of synthetic fuel and diesel fuel sold each year in commerce in the United States and the guts of the bill are regulatory, rather than production aimed. Therefore, this amendment is not germane to the Wright amendment or to the bill. . . .

MR. JEFFORDS: Mr. Chairman, it seems to me that once the Wright amendment has been agreed to as being part of the bill, then a substitute which goes well beyond the original concept of the bill is also germane and in order.

I would point out that the Wright amendment, as I have said before, takes us totally out of just the needs for the Federal Government and goes out into the area of sales in commerce. I think because the Wright amendment is being considered as germane, the substitute should also.

THE CHAIRMAN:[20] The Chair is prepared to rule.

The amendment offered by the gentleman from Texas goes to goals for defense production of synthetic fuels and

20. Gerry E. Studds (Mass.).

to the funds to achieve those goals. The amendment offered by the gentleman from Vermont, for reasons stated by the gentleman from Pennsylvania, is not solely related to defense production but rather goes to all diesel fuel and gasoline sold in commerce whether defense related or not and does not speak solely to the production of synthetic fuels for defense purposes. It is therefore beyond the scope of the Wright amendment and is not germane, and the Chair is also constrained to point out the subject matter of the amendment offered by the gentleman from Vermont does not lie within the jurisdiction of the Committee on Banking, Finance and Urban Affairs.

For the foregoing reasons the Chair sustains the point of order.

Suspension of One Environmental Law—Suspension of All Other Environmental Requirements in Certain Instances

§ 9.44 To a section of an amendment in the nature of a substitute authorizing the Federal Energy Administrator to temporarily suspend stationary source fuel or emission limitations under the Clean Air Act where compliance with the limitations would be impossible due to unavailability of certain fuels, an amendment authorizing temporary suspension of those limitations "or other environmental protection requirements" if energy-producing facilities are unable to construct anti-pollution systems due to unavailability of materials was held to go beyond the scope of that section and was held to be not germane.

On Dec. 14, 1973,[1] during consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole, the Chair ruled that to a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was not germane:

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"TEMPORARY AUTHORITY TO SUSPEND CERTAIN STATIONARY SOURCE EMISSION AND FUEL LIMITATIONS

"Sec. 119. (a)(1) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before May 15, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person

1. 119 CONG. REC. 41751, 41752, 93d Cong. 1st Sess.

will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under subsection (b) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) of this Act. . . .

MR. [JACK] EDWARDS of Alabama: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Edwards of Alabama to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 46, line 16, delete the word "paragraph" and insert the word "section."

On page 47, line 1, add a new section 119(a)(2) as follows:

"The Administrator shall, for any period beginning on or after the date of enactment of this section, temporarily suspend any stationary source fuel or emission limitation or other environmental protection requirement as it applies to any energy producing facility or refinery, if the Administrator finds that such facility or refinery will be unable to comply with such limitation during such period because of the unavailability of plant equipment or materials needed to construct an emission reduction system or other antipollution system and that such facility or refinery has entered into a contractual obligation to obtain the plant equipment or materials needed for such a system. . . .

On page 52, line 7, delete subsection (e) of section 119 and add a new subparagraph (e) as follows: "No State or political subdivision may require any person, energy producing facility or refinery, to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension or to meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other antipollution system. . . .

MR. [PAUL G.] ROGERS [of Florida]: Mr. Chairman, I must be constrained to make a point of order against this amendment. In checking the amendment, if one examines it carefully, it would amend the Federal Water Pollution Control Act, the Occupational Health and Safety Act, the Ocean Dumping Act; the Public Works Committee would be infringed upon; the Committee on Education and Labor would be infringed upon; the Committee on Merchant Marine and Fisheries would be infringed upon.

It is not germane. It also would amend the Solid Waste Disposal Act and the Coal Mine Health and Safety Act. It is not limited in time, nor constrained by any relationship to fuel shortage.

For all these reasons, a careful examination, I would think, would show that it is not germane and, furthermore, these matters have been already handled in the bill.

THE CHAIRMAN:[2] Will the gentleman from Florida cite the specific

2. Richard Bolling (Mo.).

language? The Chair is concerned, because he has reference to page 46 of the committee amendment in the nature of a substitute, title II, and the language appearing on that page and thereafter.

MR. ROGERS: Mr. Chairman, I think if the Chair would direct its attention to about the sixth line of the amendment, where it says, "Or other environmental protection requirement," which violates all of these other laws that this does not apply to at all, "To any energy producing facility or refinery."

The Chair can also direct its attention on the bottom, about four lines up, where it begins, "To meet any requirement the compliance with which is prevented by the unavailability of plant equipment or materials needed to construct an emission reduction or other antipollution system," so the language here is so broad it goes far beyond this act. It is an infringement on all of these other laws and on all the jurisdiction of these other committees. . . .

MR. EDWARDS OF ALABAMA: . . . This comes under the section called Suspension Authority, and in that section the Administrator is empowered to suspend the type of fuel an industry is required to use if it is not available.

By the same token, my amendment is limited to energy producing facilities or refineries which we desperately need now. And all it simply says is that if, in an effort to comply with EPA requirements, the Administrator finds that the material is not available, the Administrator has the right to suspend the requirement until the material is available if, in fact, the industry has made a good faith effort and a contract to obtain this equipment.

Mr. Chairman, to me this is a vital part of this particular legislation, trying to find ways to conserve fuel under the Emergency Energy Act. I think it is right on all fours with what this section is designed to do.

THE CHAIRMAN: The Chair is prepared to rule.

While the language in the bill is broad, suspending certain procedural requirements of law, the Chair, in the absence of specific knowledge as to all of the other environmental protection requirements that are involved in the language of the amendment, feels constrained to sustain the point of order.

The Chair believes he will sustain the point of order on the ground that this language is simply so broad as to suspend virtually every requirement of law, and the Chair out of caution sustains it for fear of further broadening a bill which is already very broad.

Precise Change in One Subsection of Existing Law—Comprehensive Amendment Affecting Provisions and Classes of Persons Not Within Scope

§ 9.45 A bill narrowly amending one subsection of existing law for a single purpose does not necessarily open the entire section of the law to amendment; thus, to a bill narrowly amending one subsection of existing law relating to one specific criminal activity, an amendment postponing the effective date of

the entire section, affecting other criminal provisions as well as the one amended by the bill, and affecting other classes of persons, was held not germane.

During consideration of S. 869[3] in the Committee of the Whole on May 16, 1979,[4] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 207 of title 18, United States Code, as amended by the Act of October 26, 1978 (Public Law 95-521, section 501(a); 92 Stat. 1864) is amended as follows: In clause (ii), strike "concerning" and insert "by personal presence at"; and in subparagraph (3), before "which was" insert ", as to (i)," and after "responsibility, or" insert ", as to (ii),". . . .

MR. [ROBERT] MCCLORY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 2, following line 2, add the following new section:

"Sec. 2. Section 503 of Public Law 95–521 is amended by striking "July 1, 1979" and inserting "January 1, 1980" in lieu thereof.". . .

MR. [GEORGE] DANIELSON [of California]: Mr. Chairman, I will make the point of order now.

Mr. Chairman, the gentleman's amendment would add a section 2 to amend section 503 of Public Law 95–521 by striking "July 1, 1979" and inserting "July 1, 1980" in lieu thereof. I respectfully point out that the bill before us does not deal with section 503 of Public Law 95–521. It does not deal with that section and, therefore, the gentleman's amendment would not be germane to the bill before us. . . .

MR. MCCLORY: Mr. Chairman, the amendment which I have offered relates to Public Law 95–521, which is the law which is referred to in the legislation which we have under consideration at the present time. The amendment which I have offered would delay the effective date of the entire legislation, including the section to which the gentleman from California (Mr. Danielson) has made reference, and which is referred to specifically in the measure, and would keep that part and the rest of the legislation from becoming effective until January 1, 1979.

It is, in my view, entirely germane. It is precisely relevant to the subject about which we are giving consideration now. Instead of papering over something with a so-called technical amendment, what we are doing is to delay the effective date of the entire act in order that we can handle the subject not only technically but substantively as well. I urge that the Chairman overrule the point of order.

THE CHAIRMAN:[5] . . . This act applies to subsection (b) of section 207 of

3. A bill relating to clarification of conflict of interest restrictions on former government employees.

4. 125 CONG. REC. 11466, 11467, 11470, 96th Cong. 1st Sess.

5. E de la Garza (Tex.).

5. E de la Garza (Tex.).

title 18, and it is a very narrowly drafted and defined bill as amended at this point. The amendment which the gentleman has offered seeks to extend the time for the entire act covering categories of persons other than those under subsection (b) of section 207, and under the precedents that the Chair has examined, the Chair will sustain the point of order accordingly.

Broadcasting to Cuba—To All Dictatorships in Caribbean

§ 9.46 A specific proposition may not be amended by a proposition more general in scope; thus, to a bill authorizing funds for radio broadcasting to Cuba, an amendment broadening the bill to include broadcasting to all dictatorships in the Caribbean Basin was held to be not germane.

During consideration of H.R. 5427 in the Committee of the Whole on Aug. 10, 1982,[6] Chairman William R. Ratchford, of Connecticut, sustained a point of order against an amendment as indicated below:

THE CHAIRMAN: The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Harkin: Page 2, beginning in line 4, strike out "Radio Broadcasting in Cuba Act" and insert in lieu thereof "Radio Broadcasting to Dictatorships in the Caribbean Basin". . . .

MR. [DANTE B.] FASCELL [of Florida]: . . . Mr. Chairman, let me make a point of order against this amendment under clause 7, rule XVI, because this is an amendment which is obviously an attempt to broaden the subject matter of this bill to include dictatorships in the Caribbean basin and to set other parameters that are just not in this bill and, therefore, it is not germane.

THE CHAIRMAN: Does the gentleman from Iowa wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair is prepared to sustain the point of order on the basis that the amendment, as proposed, is more general in scope and is not germane to the relatively narrow purpose of the bill.

Economic Sanctions Against One Country—Sanctions Against Any Other Country Violating Human Rights

§ 9.47 To a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment permitting the President to suspend all economic relations and communications between the United States and any other country, on the basis of human rights violations as determined by the President, was held to be not germane.

6. 128 CONG. REC. 20263, 97th Cong. 2d Sess.

On Mar. 14, 1977,[7] the Committee of the Whole had under consideration H.R. 1746, amending the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome. The bill permitted the President to enforce United States compliance with United Nations Security Council sanctions against trade with Rhodesia particularly with reference to the importation of Rhodesian chrome. The proceedings were as follows:

Be it amended by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "Any Executive order which is issued under this subsection and which applies measures against Southern Rhodesia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law; and

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

"(c)(1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

"(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

"(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin. . . .

The Clerk read as follows:

Amendment offered by Mr. [Elliott] Levitas [of Georgia]: Strike out all after the enacting clause and insert in lieu thereof the following:

That section 5(a) of the United Nations Participation Act of 1945 is amended—

(1) by inserting "(1)" immediately after "(a)"; and

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

"(2)(A) Subject to the conditions prescribed in subparagraph (B), if the President determines that the government of a foreign country is engaged in a consistent pattern of gross violations of internationally recognized human rights (including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person), the President may, through any agency which he may designate and under such orders, rules, and regulations as may be prescribed by him, suspend (in whole or in part) economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between that foreign country or any national thereof or any person therein and

7. 123 CONG. REC. 7432, 7446, 7447, 95th Cong. 1st Sess.

the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I make the point of order the amendment is not germane.

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

The bill deals only with United Nations sanctions against importation of chrome, while the amendment offered by the gentleman from Georgia deals with embargoes and other economic sanctions on any material or commercial transaction. Also, the bill deals only with sanctions against Rhodesia, both in the title and in the body of the bill. The amendment offered by the gentleman from Georgia permits U.S. rather than U.N. sanctions to be imposed on products or communications from any foreign country. It is the opinion of the Chair that the amendment is not germane, and the Chair sustains the point of order.

There being no further amendments, under the rule, the Committee rises.

Restricting Aid to One Nation—Restricting Aid to Others

§ 9.48 To an amendment restricting the use of funds for military operations in South Vietnam, an amendment extending that restriction to other countries in Indochina was held to be more general in scope and was ruled out as not germane.

On Apr. 23, 1975,[9] during consideration of the Vietnam Humanitarian Assistance and Evacuation Act,[10] 10 in the Committee of the Whole, it was held that to a proposition dealing with a specific issue, an amendment more general in scope was not germane. The proceedings were as follows:

MR. [STEPHEN J.] SOLARZ [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solarz: Page 1, line 5, insert "(a)" immediately after "Sec. 2.", and page 2, immediately after line 2, add the following new subsection:

(b) Notwithstanding any other provision of this Act, no funds authorized or made available under this Act may be used to finance, directly or indirectly, any combat activity, any involvement in hostilities, or any military or paramilitary operation, by the Armed Forces of the United States in, over, or off the shores of South Vietnam after the end of the 30-day period beginning on the first date after the date of enactment of this Act on which any American ground combat forces are introduced into South Vietnam in conjunction with any program of evacuation as defined by Section 4 of this Act. . . .

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

8. Neal Smith (Iowa).

9. 121 CONG. REC. 11514, 11521, 94th Cong. 1st Sess.

10. H.R. 6096.

Amendment offered by Mr. Harkin to the amendment offered by Mr. Solarz:

Amend the Solarz amendment as follows: After the word "Vietnam" used for the first time, insert the following: ", Cambodia, Laos, and North Vietnam".

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It seems to me it goes much farther geographically than anything in the bill. . . .

MR. HARKIN: . . . I think the amendment is well in order because it is speaking directly to this section about involvement in a military or paramilitary operation and we are talking about limiting those uses to a 30-day period. I think the amendment is in order because it does meet the limitations imposed on the bill by the amendment offered by the gentleman from New York (Mr. Solarz).

THE CHAIRMAN:[11] The Chair is prepared to rule.

The amendment offered by the gentleman from Iowa (Mr. Harkin) does go in scope beyond the amendment offered by the gentleman from New York (Mr. Solarz), whose amendment is limited to the area of Vietnam. The amendment offered by the gentleman from Iowa goes beyond that by inserting Cambodia and Laos and North Vietnam.

The Chair sustains the point of order.

11. Otis G. Pike (N.Y.).

Provision Relating to Official Conduct of Federal Employees—Amendment Relating to All Conduct

§ 9.49 To a proposition relating only to official conduct of federal employees, an amendment concerned with any criminal conduct of those officials, whether or not related to the performance of official duties, was held nongermane as addressing a broader category of conduct.

On Oct. 12, 1978,[12] during consideration in the House of S. 555, the Ethics in Government Act of 1978, a point of order was sustained against a provision contained in the conference report. The proceedings were as follows:

MR. [CHARLES E.] WIGGINS [of California]: Mr. Speaker, I make a point of order against title VI of the conference report. That, for the Speaker's information, is the title dealing with the special prosecutor language in the conference report. . . .

Mr. Speaker, my point of order is based upon rule XXVIII, which is the germaneness section. It is my position, Mr. Speaker, that title VI is a nongermane Senate amendment and it violates that section of the House rules which I have cited. . . .

[T]he language in the special prosecutor amendment added by the Sen-

12. 124 CONG. REC. 36459–61, 95th Cong. 2d Sess.

ate is so broad and sweeping that it covers in several respects private individuals, that is to say, new classes of people who are not covered under the sweep of the ethics bill. . . .

The special prosecutor bill, which is tacked on to the ethics bill, is a complicated and important piece of legislation. It was considered in detail by a different subcommittee in the Committee on the Judiciary which did not consider the ethics bill. It is true that the Committee on the Judiciary reported out a special prosecutor bill but it was never brought to the floor of the House and, indeed, has never been debated nor subject to amendment by Members of this House.

It is a far-reaching piece of legislation, it is complicated, different in form, different in purpose, different in all respects from the ethics bill which we did consider several days ago.

I hope that the Speaker, when the Speaker is prepared to rule, will recognize that germaneness, if it is to have any meaning at all, is offended in a fundamental way by allowing the Senate to tack on an issue which is so basically different and unrelated to the ethics bill which we considered earlier. . . .

MR. [JAMES R.] MANN [of South Carolina]: . . . The House amendment to S. 555 is actually the text of H.R. 1 as passed by the House. The text of H.R. 1, as finally approved, was actually the text of an amendment in the nature of a substitute, as amended. Thus, the issue, as I understand it, is whether the provisions of title VI of the conference report would have been germane to the amendment in the nature of a substitute which eventually became the text of House bill, H.R. 1, had the provisions of title VI been offered as an amendment to the amendment in the nature of a substitute. I believe that the provisions of title VI would have been germane to the amendment in the nature of a substitute and that the chair should therefore overrule the point of order. . . .

The basic test for determining germaneness is whether the fundamental purpose of the amendment is germane to the fundamental purpose of the bill. The question here, then, is whether the fundamental purpose of title VI is germane to the fundamental purpose of the amendment in the nature of a substitute. I submit that it is. The purpose of the amendment in the nature of a substitute, which is subtitled the "Ethics in Government Act," is to promote ethical conduct by Federal Government officials and certain other private citizens. The purpose of title VI of the conference report is also to promote ethical conduct.

A second test for germaneness is whether the subject matter of the amendment relates to the subject matter of the bill. The question here is whether the subject matter of title VI of the conference report relates to the subject matter of the amendment in the nature of a substitute. I submit that it does.

The subject matter of the amendment in the nature of a substitute was broad. It encompassed ethical standards and conduct involving officials in all three branches of the Federal Government—legislative, executive, and judicial—as well as certain private citizens.

With regard to Federal Government employees and officials, it required de-

tailed financial disclosure statements to be filed by people in all three branches of Government. It established an Office of Government Ethics with broad authority, including the power to promulgate regulations pertaining to "conflicts of interest and ethics in the executive branch." It amended our Federal criminal law in the area of conflicts of interest. . . .

The gentleman from California concedes that the amendment in the nature of a substitute encompasses private citizens. He argues, however, that those private citizens are connected in some way with the Government.

Mr. Speaker, I submit that the private citizens covered in title VI of the conference report encompass only one narrow group. The President's campaign manager is connected to the Government just as much as the partner of some Government employee who may be violating some law in appearing before some Government agency. He is connected in the same way as the business partner of a Government employee would be connected. . . .

THE SPEAKER PRO TEMPORE:[13] . . . In looking at the gentleman's point of order in this instance the gentleman from California makes two points, one as title VI relates to new classes of persons not covered by the House-passed bill, and the other in terms of the breadth of the types of conduct subject to investigation by the special prosecutor.

It seems that under what is being considered here, the breadth of the investigation which the special prosecutor may undertake, goes far beyond the scope of the activity regulated by the House-passed bill. In looking at title VI, it authorizes the special prosecutor to investigate any violation of any Federal criminal law other than a violation constituting a petty offense—conduct which may or may not directly relate to the official duties of the persons covered. For that reason . . . the Chair does sustain the point of order.

Bill Governing Rights and Obligations Under Federal Employment System of Employees Engaging in Political Activities—Amendment To Prohibit Compensation From Any Employment Public or Private

§ 9.50 To a bill reported from the Committee on Post Office and Civil Service governing the political activities of federal employees and containing certain restrictions on federal employment relative to such activities, language in an amendment requiring federal employees who wish to become candidates for elective office to obtain leaves of absence, and also prohibiting them from receiving compensation from employment public or private during the period of their candidacy, was held to be beyond the scope of the bill and to be not germane.

13. Norman Y. Mineta (Calif.).

On June 7, 1977,[14] during consideration of H.R. 10[15] in the Committee of the Whole, Chairman James R. Mann, of South Carolina, sustained a point of order against the following amendment:

MR. [CLIFFORD R.] ALLEN [of Tennessee]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Allen: Delete from section 7326 subsections (b) and (c) thereof, substituting therefor a new subsection (b), below and change the designation of subsection (d) to "(c)":

"(b) An employee who desires to become a candidate for any elective office must first obtain a leave of absence and shall not work and/or earn compensation or other privileges of employment for a period beginning with the last workday preceding the day said employee shall either qualify as a candidate or announce his or her candidacy for such elective office, and ending with the day after said election, or the day after said employee withdraws as a candidate for elective office, whichever is sooner; and no such employee shall be entitled to use, during this period, any entitlement to sick leave or any other form of leave, except that said employee may be entitled to be paid during the foregoing period of absence from his employment for any period of accrued annual leave or compensatory time to which he was entitled on the day the foregoing period of absence commences, at the election of said employee.". . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, pursuant to my reservation of a point of order, I would like to ask the gentleman in the well, the gentleman from Tennessee (Mr. Allen), if he could explain to us the meaning of the words beginning on lines 2 and 3 of paragraph (b) of his amendment which read "shall not work and/or earn compensation or other privileges of employment for a period beginning with the last workday preceding the day said employee shall either qualify as a candidate."

What does the gentleman mean that "an employee who desires to become a candidate—shall not work and/or earn compensation" during his leave of absence?

MR. ALLEN: It means if he is on a leave of absence without pay in order to make a political campaign for office, that he shall not work in the agency nor shall he withdraw pay or be entitled to any other emoluments or compensation during that period until the campaign is over or until he has withdrawn as a candidate. . . .

MR. FORD of Michigan: Mr. Chairman, I raise the point of order on the ground that the amendment offered by the gentleman from Tennessee is in violation of clause 7 of House Rule XVI which provides: "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

Mr. Chairman, the amendment under consideration is far broader than the Act which it attempts to amend and would not only affect the rights of the proposed candidate as an employee of the Federal Government but it also places a restriction on his ability to

14. 123 CONG. REC. 17711, 17712, 95th Cong. 1st Sess.

15. The Federal Employees' Political Activities Act of 1977.

otherwise provide support for himself and his family, particularly that language that talks about not working or earning any compensation or seeking any privileges of employment, and for that reason I believe the amendment is subject to a point of order as not germane to the bill before us. . . .

MR. ALLEN: . . . The present language of the bill is that:

> (b) An employee who is a candidate for elective office shall, upon the request of such employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.
>
> (c) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

The language is certainly germane. It simply says that instead of him having to apply for the leave of absence—I mean, instead of being permitted to, he shall be required to ask for a leave of absence and during that period the Federal Government will pay him no money other than what he has already earned, or any other emoluments.

I understand the gentleman making the point of order is undertaking to read into the amendment what is not there and that is that it would prevent him from working outside. We are talking about working for the Federal Government and drawing pay from an agency of the Federal Government in which he is a civil service employee.

MR. FORD of Michigan: Mr. Chairman, in response to the gentleman, that is in effect the way the amendment reads; but, in addition to that, the gentleman has now further explained the amendment making it clear that the gentleman intends that the obtaining of a leave of absence from one's supervisory employer, I assume, is a condition precedent to seeking any elective public office, whether partisan or nonpartisan. I think that goes beyond the scope of this bill. That would amount to a restriction on the ability of an employee to participate in a right or privilege that he has contingent upon receiving permission from another employee and there is no such restriction now or ever before in the Hatch Act, nor in the Hatch Act amendment now before us, as amended, and it is still not germane for that reason.

THE CHAIRMAN: The Chair is prepared to rule. The gentleman from Michigan makes a point of order [against]) the language contained in the amendment, which is actually "shall not work and/or earn compensation or other privileges of employment for a period beginning with the last work day preceding the day said employee shall either qualify as a candidate or announce his or her candidacy for such elective office,".

The amendment goes beyond the scope and purpose of H.R. 10, in that it is not limited to compensation from or privileges incremental to Federal employment.

A plain reading of the language indicates that such limitation is not implicit in that language. The amendment would prevent Federal employees from obtaining any compensation, pub-

lic or private, and thus inhibit conduct of an employee that is not political—the earning of compensation, and that is not necessarily connected to Federal employment.

The Chair does not find it necessary to rule on the point concerning leave of absence as a prerequisite. Because of the language with reference to employment, which the Chair might also state could easily be corrected, the pending amendment provides language and regulates conduct beyond the scope of the committee bill and is not germane.

The Chair sustains the point of order.

Provision Waiving Laws Governing Removal of Government Employees—Amendment Proposing Removal of Noncitizens from Government

§ 9.51 To that section of a bill permitting, upon approval by the Secretary of War, waiver of certain provisions of law regarding removal of government employees, an amendment proposing that all government employees who are not American citizens shall be discharged was held to be not germane.

In the 76th Congress, a bill[16] to strengthen national defense was under consideration which stated in part:[17]

. . . Provided further, That in connection with the defense program of the United States the provisions of section 6 of the act of August 24, 1912 (U.S.C., 1934 ed., title 5, sec. 652), may be waived in any case when approved by the Secretary of War. . . .

An amendment was offered[18] which stated in part:

. . . [E]very officer, official, and employee of the United States Government and of each and every department, bureau, and agency thereof, regardless of position, class, grade, rating, or duties, who is not an American citizen, shall be discharged and removed from the Government service within 60 days after the passage of this act.

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

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it deals with agencies that do not come within the scope of this bill. Therefore it is not germane.

In defense of the amendment, the proponent said:

MR. [STEPHEN] PACE [of Georgia]: . . . Section 6 is the section dealing with the removal for cause of a person engaged in the classified civil service. It applies only, Mr. Chairman, to one branch of the Government service, that is, to the War Department. . . .

[T]his amendment simply provides that instead of merely the Secretary of

16. H.R. 9850 (Committee on Military Affairs).

17. See 86 CONG. REC. 6852, 76th Cong. 3d Sess., May 24, 1940.

18. *Id.* at p. 6854.

War having the right to waive the provisions of section 6, the fact that a person in the Government service or in the classified civil service is not an American citizen, is declared to be cause for his removal for cause.

The Chairman,[19] in ruling on the point of order, stated:

The Chair is . . . of the opinion that the amendment offered by the gentleman from Georgia goes entirely beyond the scope of the bill under consideration, and therefore sustains the point of order.

Bill Affecting Federal Employees' Retirement Benefits—Amendment Affecting State and Local Retirement Benefits

§ 9.52 To a bill which related to retirement benefits of federal employees and which sought to exempt annuity payments from taxation, an amendment affecting recipients of state and local retirement benefits was held not germane.

In the 79th Congress, a bill[20] was under consideration to amend the Civil Service Retirement Act to exempt annuity payments under such act from taxation. The bill stated:[1]

Be it enacted, etc., That section 18 of the Civil Service Retirement Act approved May 29, 1930, as amended, is amended to read as follows:

Sec. 18. None of the moneys mentioned in this act shall be assignable, either in law or equity, or be subject to execution, levy, or attachment, garnishment, taxation, or other legal process: *Provided however,* That the exemption from taxation as provided herein shall apply only to so much of any annuity as does not exceed $1,440 in any calendar year.

The following amendment was offered:[2]

Amendment offered by Mr. [Reid F.] Murray [of Wisconsin]: Page 1, line 6, after the word "act", insert "or moneys received by recipients of State, county, city, or village retirement payments."

Mr. Robert Ramspeck, of Georgia, raised the point of order that the amendment was not germane to the bill. The Chairman,[3] in sustaining the point of order, stated:

The bill under consideration deals strictly with civil-service retirement benefits to Federal employees. The gentleman's amendment would include all recipients of State, county, city, and village retirement benefits. It is very clearly outside of the scope of the bill.

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19. John W. Boehne, Jr. (Ind.).

20. H.R. 2948 (Committee on Civil Service).

1. 91 CONG. REC. 9093, 79th Cong. 1st Sess., Sept. 27, 1945.

2. *Id.* at p. 9095.

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

Provision Improving Research Facilities of Library of Congress—Amendment To Create Office of Technology Assessment

§ 9.53 To a provision designed to improve the research facilities of Congress and concerned primarily with restructuring the appropriate department in the Library of Congress, an amendment creating a new Office of Technology Assessment comprised partly of personnel outside the legislative branch was held to be not germane.

The following exchange, in which the proponent of the amendment, Mr. Emilio Q. Daddario, of Connecticut, explained the purposes of the amendment, took place on Sept. 16, 1970: [4]

> MR. DADDARIO: Mr. Chairman, I offered this amendment as a proper part of the reorganization bill. It really is an extension of something that the Reorganization Act attempts to do and that is to change the Legislative Reference Service into the Congressional Research Service. . . . It adds to the ability of a Congress to have research done for it through the Congressional Research Service. . . .
>
> It appears to me that while we are talking about the reorganization of the Congress, that is an all-encompassing term. . . . This amendment, because it is a part of the reorganization, does give to the Congress strengths and abilities it does not have. . . .

The Chairman, [5] in ruling that the amendment was not germane, stated: [6]

> The amendment proposes the establishment of an Office of Technology Assessment, in the legislative branch of Government, responsible to the Congress.
>
> The Office is to consist of a Technology Assessment Board and a Director. The Board is broadly constituted, drawing its membership from the Congress and including in addition . . . the Comptroller General, the Director of the Congressional Research Service, and six public members. . . .
>
> All . . . agencies of the executive branch . . . are directed to furnish the Office, upon the request of the Director, such information as the Office deems necessary. The Office is directed to maintain a continuing liaison with the National Science Foundation and to report to the President and the Congress annually on its findings and recommendations. It would also provide the Board with subpena powers, authority to hire consultants, and to contract for studies and research. . . .

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4. 116 CONG. REC. 32210, 91st Cong. 2d Sess. Under consideration was H.R. 17654, the Legislative Reorganization Act of 1970 (Committee on Rules).

5. William H. Natcher (Ky.).

6. 116 CONG. REC. 32210, 91st Cong. 2d Sess., Sept. 16, 1970.

The Chair feels that the creation of this new Office, with the broad authority conferred on it by this amendment, goes beyond the scope of the bill before the committee and is not germane.

Bill Extending Subsidy of Certain Nonprofit Mail—Amendment To Establish New Class of Mail and Postal Rate

§ 9.54 A bill extending the phased subsidization of certain categories of nonprofit mail was held insufficiently broad in scope to admit as germane an amendment establishing a new class of mail and postal rate therefor.

During consideration of S. 411 in the Committee of the Whole on June 19, 1974,[7] it was held that, to a bill extending the phasing period during which nonprofit mailers in certain categories may absorb increased postal rates, and providing that all Postal Service appropriations requests be submitted directly to Congress without revision by the President, an amendment adding a new section to provide a one-cent postage rate for post cards was ruled out as not germane.

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 3, immediately after line 8, add the following new section:

Sec. 4. (a) Subchapter V of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"Sec. 3686. One cent postage rate for postal and post cards

"Notwithstanding any other provision of this title or of any other law, the rate of postage for the use (other than any use which is related to a trade or business) of each single postal card and for each portion of a double postal card, including the cost of manufacture, and for each post card and the initial portion of each double post card is 1 cent until otherwise provided by law. . . .

MR. [THADDEUS J.] DULSKI [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that the amendment is not germane to the bill. . . .

[T]he question is whether the matter contained in the amendment is in violation of House rule XVI, clause 7, which provides, in part, that—

No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The bill under consideration, S. 411, relates to the following subject matters.

The first section amends section 3626 of title 39, United States Code, to extend the rate phasing for certain classes of mail, namely:

First, from 10 to 16 years for nonprofit and preferred rate second-class mail, nonprofit third-class, and the special library fourth-class rate, and

Second, from 5 to 8 years for regular second and third-class mail, controlled

7. 120 CONG. REC. 19817, 93d Cong. 2d Sess.

circulation mail, and special commercial books and records fourth-class mail. . . .

The instant amendment proposes to add a new section to chapter 36 of title 39 relating to the establishment of a new class of mail and thus attempts to establish postal rates.

In my opinion, the subject matter of the amendment is not similar to any of the subject matters involved in S. 411 which I have just outlined and is not germane. . . .

MR. GONZALEZ: . . . This whole transaction is concerned with the matter of postal rates. The whole thrust of this legislation before the House is that point, a decision made by the Postal Rate Commission.

My amendment goes to the heart of germaneness . . . It merely says, as my predecessor attempted to do in his amendment in this particular category, as it has been known as a post card, that we shall stimulate for private use, family use, noncommercial use, the penny postcard. . . .

THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order.

The Chair has listened to the point of order and has studied the bill and the report. In the opinion of the Chair, the gentleman from New York (Mr. Dulski) has properly characterized the bill. It is very narrow in scope and relates only to a period of phasing of certain classifications of mail and of budget submission.

It certainly is not broad enough to open the whole subject of postal rate adjustments. The amendment would establish a 1-cent post card, a subject not within the scope of the bill.

The Chair is not against the amendment of the gentleman from Texas, but the Chair must hold that the amendment is not germane, and sustains the point of order.

Bill Authorizing President To Reactivate Reserve and Retired Military—Amendment Restricting Authority Under Bill or Any Other Law

§ 9.55 To a bill authorizing the President to order reservists and retired army personnel into active service, an amendment providing that nothing in the bill "or in any Federal statute or rule or regulation of any Federal department" shall authorize the President to interfere in any manner with the duties of any federal, state or municipal election official was held to be not germane.

In the 76th Congress, during consideration of a bill[9] relating to compulsory military training, an amendment was offered[10] as described above. Mr. Andrew J. May, of Kentucky, raised the point of order that the amendment was not germane. In defense

8. Joseph P. Addabbo (N.Y.).

9. H.R. 10132 (Committee on Military Affairs).

10. 86 CONG. REC. 11723, 76th Cong. 3d Sess., Sept. 7, 1940.

of the amendment, the proponent stated as follows:

> MR. [CLARE E.] HOFFMAN [of Michigan]: [The amendment] is a limitation upon authority. . . .
>
> . . . (I)t takes out of the class over which the President is given authority, certain officials, State and Federal, which are referred to in the first part of the paragraph.

The Chairman,[11] stating that the amendment "goes far beyond the purview of the pending bill," sustained the point of order.

Bill To Stimulate Volunteer Enlistments in Regular Military and Naval Establishments—Amendment Relating Generally to Discharge of Military Personnel

§ 9.56 The Chair ruled that, to a bill proposing to stimulate volunteer enlistments in the Regular Military and Naval Establishments, an amendment dealing generally with the discharge of United States military personnel was not germane.

In the 79th Congress, a bill[12] was under consideration which stated in part:[13]

> Be it enacted, etc., That this act may be cited as the "Armed Forces Voluntary Recruitment Act of 1945."
>
> Sec. 2. The Secretary of War and the Secretary of the Navy are authorized and directed to initiate and carry forward intensive recruiting campaigns to obtain volunteer enlistments and reenlistments in the Regular Military and Naval Establishments.

The following amendment was offered to the bill:

> Amendment offered by Mr. [Daniel A.] Reed of New York: Page 1, after line 9, insert a new section to read as follows:
>
> "That there shall be discharged from, or released from active duty in, the military and naval forces of the United States, as rapidly as discharge facilities will permit, all members of such forces whose active duty therein has been of a duration of 18 or more months since September 16, 1940, except that no commissioned officer of the Regular Military or Naval Establishment shall be discharged or released under this act, and no member of the military or naval forces who is serving therein under an enlistment need be discharged or released from such forces under this act prior to the expiration of the contract period of enlistment."
>
> MR. [ANDREW J.] MAY [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

The Chairman[14] ruled as follows:

> The gentleman from Kentucky makes the point of order against the

11. Jere Cooper (Tenn.).

12. H.R. 3951 (Committee on Military Affairs), Armed Forces Voluntary Recruitment Act of 1945.

13. See 91 CONG. REC. 8646, 8647, 79th Cong. 1st Sess., Sept. 17, 1945.

14. Wilbur D. Mills (Ark.).

amendment offered by the gentleman from New York that it is not germane. The amendment offered by the gentleman from New York applies to and affects the Army of the United States, whereas the bill before the Committee is more limited in scope and applies only to volunteer enlistments in the Regular Army. Therefore the amendment is not germane, and the Chair sustains the point of order.

Bill Authorizing Reactivation of Reservists and Retired Army Personnel—Amendment Authorizing Prohibition on Liquor Sale to all Armed Forces

§ 9.57 To a bill authorizing the President to order reservists and retired army personnel into active service, an amendment authorizing the President to prohibit the sale of liquor to all men of the land and naval forces of the United States was held not germane.

In the 76th Congress, during consideration of a bill[15] relating to compulsory military training, an amendment was offered[16] as described above. Mr. Andrew J. May, of Kentucky, raised the point of order that the amendment was not germane.[17] The Chairman,[18] in ruling on the point of order, stated:

> If the gentleman from Kansas had confined his amendment to affect only those covered by the pending bill, it would have undoubtedly been germane. . . . However, the amendment is all-inclusive and covers the officers and enlisted men of the land and naval forces of the United States. It goes far beyond the scope of this bill. Therefore, the Chair sustains the point of order.

Provision Funding Training Vessel for One State Maritime Academy—Amendment Affecting All Maritime Academies' Use of Training Vessels

§ 9.58 To a Senate amendment providing for a training vessel for one state maritime academy, a proposed House amendment relating to training vessels for all state maritime academies was held not germane as more general in scope.

During consideration of H.R. 1827 (supplemental appropriations for fiscal 1987) in the House on June 30, 1987,[19] it was demonstrated that a specific proposition may not be amended by a

15. H.R. 10132 (Committee on Military Affairs).

16. 86 Cong. Rec. 11740, 11741, 76th Cong. 3d Sess., Sept. 7, 1940.

17. *Id.* at p. 11741.

18. Lindsay C. Warren (N.C.).

19. 133 Cong. Rec. 18297, 100th Cong. 1st Sess.

proposition more general in scope, when a point of order against the following motion was conceded and sustained:

The text of the amendment is as follows:

Senate amendment No. 33: Page 8, after line 21, insert:

OPERATIONS AND TRAINING

Funds appropriated under this head in Public Law 98–396 for a training vessel for the State University of New York Maritime College shall be available for acquisition, preconversion and conversion costs of such vessel.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Speaker Pro Tempore:[20] The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

Funds appropriated under this head in Public Law 98–396 for a training vessel for the State University of New York Maritime College shall be available for acquisition, preconversion and conversion costs of such vessel: *Provided,* That prior to the obligation of such funds and prior to the obligation of unobligated funds appropriated under this head for state maritime academies in Public Law 99–500 and Public Law 99–591, except for obligations necessary to complete current shipyard work and voyages in progress, all state maritime academies furnished a training vessel shall agree to such sharing of training vessels as shall be arranged by the Maritime Administration: *Provided further,* That the Maritime Administration shall submit its final plans for such a ship-sharing arrangement to the state maritime academies by October 1, 1987. . . .

MR. [GERRY E.] STUDDS [of Massachusetts]: Mr. Speaker, I make a point of order against the motion on the ground that the amendment that it purports to add to the Senate amendment is not germane to said amendment. The Senate amendment deals solely with the New York State Maritime Academy. The amendment proposed on the part of the House to the Senate amendment deals with the full range of all the state maritime academies and as such is beyond the scope of the Senate amendment and is not germane thereto. . . .

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman concedes the point of order.

The point of order is sustained.

Bill Authorizing President To Requisition Materials and Provide Compensation Therefor—Amendment Providing That Compensation to Certain Foreign Governments Be in Form of Credit on Indebtedness

§ 9.59 To a bill authorizing the President to requisition materials for the use of the United States, and con-

20. Dan Glickman (Kan.).

taining a provision for compensation of the owners of such materials, an amendment was held to be not germane which provided that when such material is obtained from a foreign government that is in default of its obligations to the United States, a receipt for partial payment of the obligations shall be given as compensation.

In the 76th Congress, a bill[1] was under consideration which stated in part:[2]

> Sec. 2. Whenever the President shall requisition and take over any article or material pursuant to the provisions of this act, the owner thereof shall be paid as compensation therefor such sum as the President shall determine to be fair and just.

An amendment was offered prohibiting payments to any foreign government that is in default in its obligations to the United States, and providing instead for credits as described above. Mr. Andrew J. May, of Kentucky, raised the point of order that the amendment was not germane to the bill. The Chairman,[3] in sustaining the point of order, stated:

> . . . I think the provisions of the amendment are entirely too broad and beyond the scope entirely of this bill, because it says that no payment shall be made to any government, which would cover the entire field of governmental debts. . . .

Provision Making Teachers in Peace Corps Eligible for Partial Cancellation of Education Loans—Amendment To Permit Loan Recipients To Choose Repayment Plan Based on Income

§ 9.60 To an amendment adding teachers in the Peace Corps to those eligible for partial cancellation of certain education loans, an amendment permitting loan recipients to choose an alternative repayment plan based on a percentage of their net taxable incomes was held to be not germane.

In the 88th Congress, a bill[4] was under consideration comprising the National Defense Education Act Amendments of 1964. The bill stated in part:[5]

> (3) not to exceed 50 per centum of any such loan (plus interest) shall be cancelled for service as a full-time (A)

1. H.R. 10339 (Committee on Military Affairs).
2. 86 Cong. Rec. 10767, 76th Cong. 3d Sess., Aug. 22, 1940.
3. Clyde Williams (Mo.).
4. H.R. 12363 (Committee on Education and Labor).
5. See 110 Cong. Rec. 19678, 88th Cong. 2d Sess., Aug. 14, 1964.

teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States. . . .

Mr. James G. O'Hara, of Michigan, offered an amendment.[6]

Amendment offered by Mr. O'Hara of Michigan: Page 6, line 21, after education, strike out "or"; and on line 23 after the word "States" insert "or in a Peace Corps project as a Peace Corps volunteer".

The following amendment was then offered as a substitute for the O'Hara amendment:[7]

Amendment offered by Mr. [Neal] Smith of Iowa as a substitute for the amendment offered by Mr. O'Hara of Michigan: On page 8 between lines 7 and 8 add a new subsection as follows:

(D) In lieu of other provisions in this Act relative to the rate of repayment of such a loan, the recipient shall be given an alternative of entering into a written agreement providing that each year beginning with the second taxable year that a scholar who received a loan under this Act is no longer a full-time student . . . the recipient shall pay to the Commission a sum equal to 5 percentum of his personal net taxable income. . . .

Mr. Peter H. B. Frelinghuysen, Jr., of New Jersey, raised the point of order that the amendment was not germane to the bill. The Chairman,[8] noting that the O'Hara amendment "deals with the problem of forgiveness," sustained the point of order.

Specific Aircraft Flight Restrictions—General Amendment to Federal Aviation Act

§ 9.61 To a bill providing for a study of minimum altitude by aircraft flying over units of the national park system and regulating air traffic over a specific national park, an amendment to a law not amended by the bill establishing standards for aircraft collision avoidance not confined to overflights in the national parks was held to be not germane.

On Sept. 18, 1986,[9] during consideration of H.R. 4430 in the Committee of the Whole, the Chair sustained a point of order against the amendment described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope. The proceedings were as follows:

(a) Yosemite National Park.—During the applicable study and review period it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. . . .

6. *Id.* at p. 19685.

7. *Id.* at p. 19686.

8. Richard Bolling (Mo.).

9. 132 CONG. REC. 24082–84, 99th Cong. 2d Sess.

SEC. 3. GRAND CANYON NATIONAL PARK.

(a) Noise associated with aircraft overflight at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the Park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users. . . .

MR. [ROBERT K.] DORNAN of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

At the end of the bill add the following:

SEC. 4. COLLISION AVOIDANCE SYSTEM.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)), which relates to research and development, is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraph:

"(2) In carrying out his functions, powers, and duties under this section pertaining to aviation safety, the Secretary of Transportation shall coordinate and take whatever steps necessary (including research and development) to promulgate standards for an airborne collision avoidance system for all United States aircraft, civil and military, to improve aviation safety. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, under the rule of germaneness, rule XVI, clause 7, no subject different from that under consideration shall be admitted under the color of an amendment. The amendment of the gentleman from California [Mr. Dornan] violates that rule and I must reluctantly insist on my point of order, Mr. Chairman. . . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The gentleman from California [Mr. Dornan] has offered an amendment adding a section 4 pertaining to the collision avoidance system.

The Chair has had an opportunity to examine the amendment and it is the opinion of the Chair that the amendment is not germane. The bill before us, H.R. 4430, is a narrow one addressing only overflights over certain national park areas.

The amendment goes to an unrelated subject amending an act not amended by the bill.

Therefore, the Chair sustains the point of order.

Bill Exempting Certain Instances of Joint Operation of Newspapers From Antitrust Laws—Amendment To Prevent Publication of More Than One Newspaper Using Subsidized Class of Mail

§ 9.62 To a bill exempting certain instances of joint operation of newspapers from the antitrust laws, an amendment was held to be not germane which sought in part to prevent single owners from publishing more than one newspaper within a normal circulation area if the newspaper "utilizes any subsidized class of U.S. mail" for delivery.

10. J. J. Pickle (Tex.).

In the 91st Congress, during consideration of the Newspaper Preservation Act,[11] the following amendment was offered:[12]

> (d) It shall be unlawful for any one owner to publish or offer for sale more than one daily or weekly newspaper in any one normal circulation area if the newspaper utilizes any subsidized class of U.S. mail for delivery of any of its papers anywhere or if the sale of any of the papers affect interstate commerce.

Mr. Robert W. Kastenmeier, of Wisconsin, made the point of order that the amendment was not germane. The Chairman,[13] sustaining the point of order, stated:

> The bill deals with a very narrow area of joint operation of newspapers in relation to the antitrust law. The gentleman's amendment obviously goes far beyond the matter covered in the bill and brings into consideration matters of the ownership of newspapers, which is not concerned in the bill. It also brings in the involvement of subsidized mail.

§ 10. Specific Amendments to General Propositions; Amendments as Within Scope

A general subject may be amended by specific propositions of the same class.[14] Thus, where a bill has a broad objective, an amendment prescribing a specific endeavor may be germane;[15] and where a bill seeks to accomplish a general purpose, by diverse methods, an amendment providing a specific method has been held germane.[16] Similarly, to a proposition conferring a broad authority to accomplish a particular result, an amendment authorizing and directing a specific approach to be taken in the exercise of such authority is germane.[17] The precedents included in this section are those in which the issue of germaneness was raised following the introduction of an amendment, relatively narrow in its terms, during consideration of a proposition of a more comprehensive nature. The question to be decided in such cases, of course, is whether the amendment falls within the scope of the broader subject or subjects addressed in the proposition sought to be amended. The section includes several examples of amendments which can be seen to comprise subtopics of the broader topic covered in the bill to which offered.[18]

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11. H.R. 279 (Committee on the Judiciary).

12. 116 CONG. REC. 23174, 91st Cong. 2d Sess., July 8, 1970.

13. Thomas J. Steed (Okla.).

14. Compare the principles stated in § 9, supra.

15. See § 10.10, infra.

16. See § 10.12, infra.

17. See § 10.10, infra.

18. See, for example, § 10.14, infra.

Defining a Term in Bill

§ 10.1 An amendment defining a term in a bill may be germane so long as it relates to the bill and not to portions of laws being amended which are not the subject of the bill; thus, to a bill amending several laws only to clarify the definition of a recipient of federal financial assistance who by practicing discrimination becomes subject to the penalties of those laws, an amendment to expand the definition of recipient persons to include unborn children from the moment of conception, but not expanding the definition of persons who are the objects of discrimination, was held germane as merely defining a term in the bill and not relating to terms of the law not amended by the bill.

During consideration of the Civil Rights Act of 1984[19] in the Committee of the Whole on June 26, 1984, the Chair held the following amendment to be germane:

MR. [MARK] SILJANDER [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander: Page 10, after line 22, insert the following:

Sec. 6. For the purposes of this act, the term "person" shall include unborn children from the moment of conception.

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I make a point of order against the amendment.

This is different in wording from the previous amendment[1] but the same point of order rests against this amendment.

It is an attempt to expand with a new definition beyond the scope of this act. It is not germane as the previous amendment was not germane. . . .

MR. SILJANDER: Chapter 28 of the procedures of the House, section 9.12, says ". . . to a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane."

On page 3, on page 6 and page 8 and page 10 the word "person" is used, which is substantially different from the former amendment.

I yield to the chairman.

THE CHAIRMAN:[2] The Chair is prepared to rule.

On page 8, line 24, the bill uses the term "person."

In the gentleman's amendment he says for the purposes of this bill the term "person" shall, and defines the term "person" and, therefore, the amendment is germane.

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19. H.R. 5490.

20. 130 CONG. REC. 18865, 18866, 98th Cong. 2d Sess.

1. The previous amendment was ruled

Bill Admitting Displaced Persons as Permanent Residents—Amendment Defining "Displaced Persons"

§ 10.2 To a bill to authorize the admission of displaced persons into the United States for permanent residence, an amendment providing that the term "displaced person" include persons of German ethnic origin, who prior to Apr. 21, 1947, were transferred or fled to Germany or Austria from Poland or certain other countries was held germane.

In the 80th Congress, a bill[3] was under consideration to authorize admission into the United States of displaced persons. The following amendment was offered to the bill:[4]

> Amendment offered by Mr. [Charles J.] Kersten of Wisconsin:
>
> Amend H.R. 6396 on page 2 by inserting after the semicolon in line 14, the following: . . . [T]he term "displaced person" shall also include a person of German ethnic origin, who prior to April 21, 1947, was transferred or fled to Germany or Austria from Poland, Czechoslovakia, Hungary, Rumania, or Yugoslavia, provided that such person is otherwise qualified as a displaced person under the provisions of this act.
>
> And further amend H.R. 6396 by [providing that] for the purposes of this subsection persons of German ethnic origin who are referred to in paragraph 4 of part II of annex I of the constitution of the International Refugee Organization shall be included as one of such elements or groups; and (that) the number of such persons to whom visas may be issued shall not exceed 100,000.

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill. In a word, it provides that those of German ethnic origin, regardless of their place of birth, shall be admissible under our quota laws. Our quota laws are based upon the theory of national origin, and that the place of birth governs the quota. This amendment would change the theory of our immigration laws and provide that ethnic blood would determine the quota rather than place of birth.
>
> For that reason the amendment is not germane to this bill which has for its purpose the solving of the displaced-persons problem regardless of quotas.

In defending the amendment, the proponent, Mr. Kersten, stated:

> Mr. Chairman, there is no reference whatsoever in my amendment to

3. H.R. 6396 (Committee on the Judiciary).

4. 94 CONG. REC. 7871, 80th Cong. 2d Sess., June 11, 1948.

quotas. There is merely a reference to the definition as contained in the Fellows bill of the International Refugee Organization. It merely pertains to the description of displaced persons. There is no attempt to alter the immigration laws whatsoever. It merely pertains to the definition of displaced persons.

The Chair will note that in the bill as it is presented to the House the description of a displaced person refers to the definition contained in the IRO. My amendment merely affects that section of the bill and is not an attempt to alter the immigration laws.

The Chairman,[5] in ruling on the point of order, stated:

The Chair is of the opinion that the language of the gentleman's amendment does apply to displaced persons.

The point of order is overruled.

Armed Services: More Precise Definition or Description of Terms in Bill

§ 10.3 To that paragraph of the Selective Service Act of 1948 declaring that the obligation of military service should be shared generally in accordance with a fair and just system of selection, an amendment proposing to add the words, "and without discrimination in selection or service, or segregation on account of race, creed, color, or national origin" was held to be germane.

In the 80th Congress, a bill[6] was under consideration which stated in part:[7]

(e) The Congress further declares that in a free society the obligations and privileges of (military) service should be shared generally in accordance with a fair and just system of selection as hereinafter provided.

An amendment was offered[8] as described above.

Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane. In defense of the amendment, the proponent stated as follows:

MR. [JACOB K.] JAVITS [of New York]: . . . (T)he bill itself provides that service should be shared in accordance with a fair and just system of selection. I respectfully submit that the amendment I have offered stated in more specific terms what is a fair and just system of selection.

The Chairman,[9] in ruling on the point of order, stated:

The Chair is of the opinion that the language proposed by the amendment clearly follows the suggestion of a fair and just system in the declaration of policy. The Chair therefore overrules the point of order.

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5. George A. Dondero (Mich.).

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

7. See 94 CONG. REC. 8388, 80th Cong. 2d Sess., June 15, 1948.

8. *Id.* at p. 8389.

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

Adding Another Finding to Bill Containing Diverse Findings and Purposes

§ 10.4 To that portion of a bill containing diverse findings and purposes related to a general subject, an amendment adding another finding or purpose related to that subject is germane; thus, to a title of a bill establishing a new Department of Education, stating a wide range of findings and educational purposes for the creation of the Department, including a finding that there is a need to insure equal access to educational opportunities, an amendment adding the finding that no individual should be denied such opportunities by regulations which utilize quotas or other numerical formulas based on race, creed, color, national origin or sex, was held germane as adding a related finding to the diverse class of educational policies stated in the title.

On June 12, 1979,[10] during consideration of the Department of Education Organization Act of 1979[11] in the Committee of the Whole, the Chair overruled a point of order and held the following amendment to be germane:

> MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Walker: On page 54, in line 21, strike out the ";", and insert the following: "and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex.". . .
>
> MR. [FRANK] HORTON [of New York]: Mr. Chairman, I raise a point of order against this amendment, since it is on a subject that is different from that which is under consideration and, thus, it fails to meet the test that is imposed by rule 16, clause 7.
>
> We are considering a reorganization statute, that is H.R. 2444, within the jurisdiction of the Committee on Government Operations. That committee has reported this bill.
>
> The gentleman is introducing a new subject by way of his amendment which affects education programs. If such an amendment were introduced as a bill, it would not even be referred to the Committee on Government Operations.
>
> In order to be germane, an amendment must have the same fundamental purpose as the bill under consideration. The purpose of H.R. 2444 deals only with the organizational structure of a new Department of Education.

10. 125 CONG. REC. 14460, 96th Cong. 1st Sess.

11. H.R. 2444.

The amendment raises a controversial subject of public policy and gets into substantive issues. Thus, the fundamental purpose of the amendment is not germane to the fundamental purpose of the bill. . . .

This amendment goes into substantive issues which are not involved in this committee. We have had no hearings on this subject; we have had no opportunity to discuss it; we have had no testimony on it. Whether I agree with the position of the gentleman is something else. I tend to agree with the gentleman's personal views. However, it is not something that is involved in the bill in the creation of a new Department. Somewhere we must draw the line as to what is germane in this bill. This in my judgment is not germane, it is not involved with the organization of this Department and therefore I urge that the amendment be ruled out of order. . . .

MR. WALKER: . . . I would say that [the amendment] is germane in its own right. What I am simply doing in this particular amendment is further defining findings which are already stated under the findings and purposes section of this bill.

The present findings says:

> There is a continuous need to insure equal access for all Americans to educational opportunities of high quality.

All this language does is expand upon that particular phraseology by saying that no individual should be denied such educational opportunities by rules, regulations, standards, guidelines, or orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex.

It simply defines material which is already stated in the bill. . . .

THE CHAIRMAN:[12] The Chair is prepared to rule.

The Chair would like to remind the Member that title I of H.R. 2444 in section 102 contains a diverse statement of purposes and findings applicable to the newly created Department of Education. These findings, while not affecting or creating new authorities which are to be transferred to the Department, are extremely diverse in character and emphasize several aspects of the question of the extent of Federal Government involvement in educational programs. Since it is difficult to group into one class all of the stated purposes and findings for the new Department, and since the pending amendment does not directly address new substantive authorities to be conferred upon or withheld from the Department, the Chair will rule that the amendment stating an additional finding relative to Federal educational policy is germane to title I of the bill.

The Chair would cite a relevant precedent contained in Cannon's precedents, volume VIII, section 3011, where, to a section embodying a declaration of policy and including a number of purposes, an amendment proposing to incorporate an additional purpose was held germane. There, the Chair emphasized that the declaration of policy section did not have any particular effect upon the bill, and that the section contained several diverse proposals.

Accordingly, the Chair overrules the point of order, and the gentleman from

12. Lucien N. Nedzi (Mich.).

Pennsylvania is recognized for 5 minutes in support of his amendment.

Military Procurement, Including Food—Establishment of Department of Defense Grain Reserve

§ 10.5 To an amendment in the nature of a substitute authorizing appropriations for diverse military procurement programs for one fiscal year, including provisions relating to purchase of food supplies, an amendment authorizing establishment in that fiscal year of a military preparedness grain reserve was held germane as confined to military procurement and as a more specific authorization within the general authorization contained in the substitute.

During consideration of H.R. 6030 (13) in the Committee of the Whole on July 20, 1982,(14) the Chair, in overruling a point of order against an amendment, demonstrated that a general proposition may be amended by a proposition more specific in scope if within the same class:

MR. [RONALD V.] DELLUMS [of California]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Dellums. Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Department of Defense Authorization Act, 1983".

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

Sec. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the military functions of the Department of Defense for operation and maintenance in the amount of $62,267,000,000. . . .

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Weaver to the amendment in the nature of a substitute offered by Mr. Dellums: On page 14, after line 21, insert a new section 902:

The Secretary is hereby authorized to establish a military preparedness grain reserve. The sum of $2,000,000,000 is hereby authorized to be appropriated in fiscal year 1983 to purchase corn, wheat, and soybeans and to construct storage facilities. The Secretary may use for guidance in such purchases the amounts of corn, wheat, and soybeans purchased by the Union of Soviet Socialist Republics in calendar year 1982. . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: I make the point of order, Mr.

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13. The Military Procurement Authorization, fiscal 1983.

14. 128 CONG. REC. 17073, 17074, 17092, 17093, 97th Cong. 2d Sess.

Chairman, that the amendment is not germane to the authorization bill now under discussion.

Mr. Chairman, I can hardly add to that. This authorizes the Secretary to establish a grain reserve of some $2 billion for the purchase of grain. As a matter of fact, if the soybeans are bought from the Second District of Alabama, it might improve our economy, but I think this is not germane to the authorization matters under discussion, and I make a point of order against it. . . .

MR. WEAVER: Mr. Chairman, I simply say that the amendment in the nature of a substitute contains, as does the bill before us, authorization to purchase food supplies for the military. This is just an additional procurement, a reserve of food supplies for the military.

THE CHAIRMAN PRO TEMPORE:[15] The Chair is prepared to rule on the gentleman's point of order.

The Chair views the amendment as described by its author as an additional fiscal year 1983 military procurement amendment which does not affect any law or program within another committee's jurisdiction. The amendment is germane, the point of order is overruled and the gentleman from Oregon is recognized for 5 minutes in support of his amendment.

Bill Mandating Diverse Studies—Amendment Directing Specific Investigations

§ 10.6 To a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction on any person violating that requirement, and including diverse studies of the impact of the bill and of factors that affect domestic production of automobile products, an amendment directing the study of the impact of currency exchange rates on vehicle manufacturers and on domestic production of automotive products was held germane as a further study requirement within the more general class of study already contained in the bill.

An example of the principle that a specific proposition may be germane to a proposition of the same class which is more general in scope may be found in the proceedings of Nov. 3, 1983,[16] during consideration of the Fair Practices and Procedures in Automotive Products Act of 1983.[17] The proceedings, wherein the Chair overruled a point of order against the amendment described above, were as follows:

MR. [JAMES J.] FLORIO [of New Jersey]: Mr. Chairman, I offer an amendment.

15. Les AuCoin (Ore.).

16. 129 CONG. REC. 30782, 30783, 98th Cong. 1st Sess.

17. H.R. 1234.

The Clerk read as follows:

Amendment offered by Mr. Florio: Page 36, after line 4 insert the following:

SEC. 11. STUDY OF IMPACT OF CURRENCY EXCHANGE RATES ON COMPETITIVENESS AMONG VEHICLE MANUFACTURERS.

The Secretary shall promptly appoint a task force consisting of the chief officers of the appropriate Federal agencies to study the impact of unbalanced and fluctuating rates of currency exchange on vehicle manufacturers and on the extent to which such rates affect domestic production of automotive products for sale and distribution in interstate commerce. The Secretary shall report to the Congress, within one year after the date of the enactment of this Act, on findings of the task force. The report shall include such recommendations as the task force deems appropriate for promoting fair competition among vehicle manufacturers. . . .

MR. [BILL] FRENZEL [of Minnesota]: . . . Mr. Chairman, I believe this amendment is subject to a point of order. Again, I cite rule XVI, clause 7, the germaneness rule.

Under the amendment offered by the gentleman from New Jersey (Mr. Florio), we have a Secretary of Transportation appointing a task force of the chief officers of the appropriate Federal agencies to study the impact of fluctuating rates of currency on vehicle manufacturers, and on the extent to which rates affect competition.

This business of the rates of currency and the fluctuation thereof is a matter that has been studied by competent agencies: The Department of the Treasury, the Federal Reserve and others.

It is not within the competence of the Secretary of Transportation, nor is it within this committee's jurisdiction.

As a matter of fact, the exchange rate is something that is a shared jurisdiction among a number of committees, probably Banking, undoubtedly Foreign Affairs, and certainly the gentleman's own committee and probably Ways and Means as well.

In any case, it does not direct itself toward the bill which again is talking about domestic content, not about the yen-dollar rate.

As a matter of fact, the bill solves the yen-dollar problem by simply not admitting Japanese automobiles. . . .

[The amendment] is not germane to the item in question which is the domestic content of automobiles sold in the United States.

The purpose of this bill is to keep any yen values out of the United States, and, therefore, this amendment can have no relationship to the main bill. . . .

MR. FLORIO: . . . Mr. Chairman, it seems to me that section 4 provides for an advisory council to undertake an analysis for the factors impacting on the domestic production of the automobile products for sale and distribution in interstate commerce. That language is tracked in this amendment and accordingly, it is within the scope of the bill and is germane. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: . . . Mr. Chairman, the issues concerning currencies are not within the purview of this bill as presently contained in this bill, and the studies that are requested by this amendment are not consistent with the studies that are requested by the bill.

As has been pointed out already, the bill deals with the production of the automobiles and deals with the percentage of domestic content of those automobiles that are produced in the United States, and has nothing to do with any determination of the value of the dollar versus foreign currencies.

THE CHAIRMAN: [18] . . . [T]he test of germaneness is whether the amendment relates to the basic subject matter covered by the bill. The bill on page 20, section 4, calls for a domestic automotive product strategy study. In part, the strategy that is to be developed by the Secretary is to consider on a regular basis, and I quote section (B) of section 4:

> Those factors that significantly affect domestic production of automotive products for sale and distribution in interstate commerce.

The amendment that has been presented by the gentleman from New Jersey (Mr. Florio) refers to a study on currency rates that, and again, I quote from the amendment: ". . . affect domestic production of automotive products for sale and distribution in interstate commerce," and, therefore, tracks the same language that is included within the bill itself.

Therefore, it is the finding of the Chair that the amendment is germane, and the point of order is not sustained.

Bill Funding Diverse Studies—Amendment Authorizing Specific Inquiry

§ 10.7 Where existing law requires a Department to study and recommend changes in all laws on an annual basis to encourage energy conservation, an amendment to an annual authorization bill for that Department directing it to study and recommend changes in one category of laws with funds covered by the bill was held germane as confined to the fiscal year covered by the bill and as a specific direction within the general category of duties required by existing law.

On Oct. 18, 1979,[19] the Committee of the Whole had under consideration a bill[20] authorizing appropriations for the Department of Energy for one fiscal year, including funds for conservation programs of the Department. An amendment was offered to the bill, adding a new title authorizing appropriations for the same fiscal year for a study of legislative proposals for energy tax credits introduced in the 96th Congress, including an assessment of the costs to the United States and the savings in energy through such proposals. The amendment was held to be germane since confined to the use of funds for the

18. Leon E. Panetta (Calif.).

19. 125 CONG. REC. 28763, 28764, 96th Cong. 1st Sess.

20. H.R. 3000.

appropriate fiscal year, and since the Department of Energy had the responsibility under existing law, in carrying out its conservation programs, to annually study and recommend changes in all laws to encourage energy conservation. The amendment stated:

> Amendment offered by Mr. Clinger: Page 41, after line 24, insert a new title IV as follows and renumber the following titles accordingly.
>
> TITLE IV
>
> TAX CREDIT STUDY
>
> Sec. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $38,500 to conduct the study under subsection (b).
>
> (b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane.

Mr. Chairman, the legislation before us, H.R. 4839, is a 1-year authorization bill for the Department of Energy. It is an authorization bill which relates to the energy activities of the Department of Energy, as opposed to taxable matters and taxes.

The amendment is not germane for several reasons. The first is that it relates to matters other than energy, in that it directs a study with regard to tax credits. Nowhere in the proposal before us, Mr. Chairman, do we find anything relating to tax credits in the legislation. . . .

I would point out that the Secretary of Energy, according to the language of the amendment in paragraph (b) is directed to conduct a study to assess various proposals for Federal tax credits for residential coal heating equipment as contained in the legislation in the Congress. I now quote: "During the 96th session."

Now, I assume that refers to the 96th Congress. The 96th Congress will be for this fiscal year, plus portions of the succeeding fiscal year.

I would observe that if the study includes matters which were introduced during the 96th Congress, it will include matters which were introduced after the conclusion of the fiscal year in which we find ourselves and after the conclusion of the period covered by the authorization proposal.

The amendment further in its last three lines says as follows:

> Not later than one year after the date of the enactment of this Act, . . .

That mandates actions by the Secretary of Energy 1 year after the date of enactment of this statute, which

would be whatever date it might be, but it would be 1 year after at least probably the conclusion of the fiscal year in question. Again I recall to the Chair the fact that the proposal before us is a 1-year authorization bill and that this mandates actions by the Secretary well after the conclusion of the period covered in the 1-year authorization bill which is before the committee.

For that reason, I believe that the amendment is nongermane. I would urge that position on the Chair. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, I would . . . urge upon the Chair the fact that this proposal is very vague and indefinite, in that the study shall be based on all legislation which may be introduced in the 96th Congress, which is an impossibility for the Secretary to undertake, since all of the proposals in the 96th Congress have not yet been introduced and there is no limit to when they can be introduced before the end of the 96th Congress and the impossibility of meeting this 1-year deadline is within the ambiguity of this amendment.

Therefore, for that reason, Mr. Chairman, I urge that the point of order be sustained. . . .

THE CHAIRMAN PRO TEMPORE:[1] The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania directs the Secretary of Energy with funds separately authorized by the amendment for fiscal year 1980 to conduct a study to assess legislative proposals introduced in the 96th Congress which provides Federal tax credits for residential coat heating equipment in order to evaluate the costs of those proposals and possible savings in the consumption of heating oil and natural gas that would result therefrom.

The Secretary shall report his findings not later than 1 year after enactment.

The possibility that the study might not be completed within the fiscal year 1980 does not seem to the Chair to be crucial in this case, since the study is only to be funded by fiscal year 1980 funds and since other activities of the Department of Energy funded by the bill for fiscal year 1980 are ongoing in nature and could also involve continued participation beyond September 30, 1980.

A more central question is the issue of the tax study. While ordinarily revenue matters are within the jurisdiction of the Committee on Ways and Means and would not be germane to a bill reported by another committee, in the present case the Department of Energy is mandated by its organic statute (Public Law 95–91) to annually study and recommend changes in all laws and regulations needed to encourage more conservation of energy.

The Chair would also observe that title III, which the committee has already dealt with, does address the issue of energy conservation programs in the Department.

As a new title, the amendment imposes upon the Secretary of Energy for fiscal year 1980 a more specific responsibility to study energy conservation consequences of certain tax proposals than those currently required by law, but nevertheless a responsibility within the ambit of the Secretary's existing authority and confined to the fiscal year covered by the titles of the bill read to this point.

1. Gerry E. Studds (Mass.).

The Chair would further observe that the observation made by the gentleman from Texas (Mr. Kazen) are addressed to the merits and the substance of the amendment rather than to its germaneness.

The Chair, therefore, overrules the point of order.

Bill Relating to Conversion From Oil and Gas to Coal—Amendment Providing for Assistance to Industry for Construction of Coal Liquefaction Facilities

§ 10.8 To a bill designed to increase supplies of fossil fuels, and increase the use of domestic energy supplies other than petroleum through conversion to coal, and containing an entire title dealing with industrial conversion from oil and gas to coal, an amendment adding a new title providing government loans and other assistance to private industry for the construction and operation of facilities for the liquefaction and gasification of coal was held germane as within the scope of the bill.

On Sept. 18, 1975,[2] the Committee of the Whole having under consideration the Energy Conservation and Oil Policy Act of 1975 (H.R. 7014), an amendment was offered to add a new title to the bill to which a point of order was raised and overruled. The proceedings were as follows:

MR. [TIM LEE] CARTER [of Kentucky]: Mr. Chairman, I offer an amendment in the form of a new title to title VIII.

The Clerk read as follows:

Amendment offered by Mr. Carter: On page 356, line 6, insert the following new Title and renumber subsequent Titles accordingly:

TITLE VIII—COAL GASIFICATION AND LIQUEFACTION DEVELOPMENT

Sec. 801. (a) The Administrator shall establish a program of assistance to private industry for the construction and operation of one or more facilities for the liquefaction and gasification of coal. In order to effectuate such program, the Administrator may make loans and issue guarantees to any person for the purpose of engaging in the commercial operation of facilities designed for the liquefaction or gasification of coal.

(b)(1) For the purpose of making loans or issuing guarantees under this section, the Administrator shall consider (A) the technology to be used by the person to whom the loan or guarantee is made or issued, (B) the production expected, (C) reasonable prospect for repayment of the loans. . . .

Sec. 802. (a) The Administrator is authorized . . .

(3) Each lease shall further provide that the lessee shall have options to purchase the facilities at any time within ten years after the date of the respective lease at a price to be agreed upon by the parties. Each

2. 121 CONG. REC. 29338–41, 94th Cong. 1st Sess.

> option shall be conditioned, however, upon the right of the Administrator within the ten-year term to offer the facilities for sale at public auction and the lessee shall be entitled to purchase the facilities if he meets the highest bona fide offer in excess of the agreed option price. In order that an offer may be considered bona fide, it shall be offered by a bidder who shall have been determined by the Administrator to be financially and technically qualified to purchase and operate the facilities. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I raise a point of order that the amendment is not germane. . . .

The point of order is as follows: A reading of the amendment will show that under subsection 801(a), it would authorize a very large program of loans and grants for the construction and operation of facilities for the liquefaction and gasification of coal.

Nowhere else in the bill are there loans and grants, and nowhere else in the bill are there provisions for that kind of stimulus for the construction of facilities for the liquefaction or gasification of coal.

In addition to these loans and guarantees, the Administrator is vested with authority to guarantee performance of contracts of persons receiving loans from the administration for the purchase, construction, and acquisition of equipment and supplies necessary to construct and operate such a facility. This again, Mr. Chairman, is not within the purview of the bill.

In addition to this, construction plans and construction of facilities, further down under (d)(2), could be financed in whole or in part, including exploration and development.

In addition to this, the possibility of exemptions and exceptions from the air and water pollution laws are included under (c)(2)(d), or, rather, under paragraph (d).

To go along further, by no stretch of the imagination could my colleagues be anticipated to anticipate an amendment of this kind and character coming to this bill and relating to the air and water pollution laws. Indeed the language is sufficiently broad to make this exempt from State statutes, as well as from Federal statutes, and that is a matter clearly not before the committee at this particular time. Then we have the question of compliance with Federal and State air pollution laws. . . .

In addition to this, under section 802(a)(3), the amendment provides for acquisition of private interests in all such facilities as may have heretofore been constructed or acquired relating to gasification of coal and other types of energy uses. Again this goes far beyond the scope and sweep of the bill before the committee.

Again, under section 802(b)(1), these facilities could then be leased or rented under conditions and terms as agreed on by and between the parties, apparently without regard to existing Federal statutes relating to the sale, leasing, or disposal of real estate, and that is a matter which is under the jurisdiction of other committees and which is the subject of control under other statutes not presently before the House and not mentioned or alluded to in the provisions of H.R. 7014 now before the committee. . . .

MR. [CLARENCE J.] BROWN of Ohio: As much as I am reluctant to do so, I

would have to suggest to the chairman of the subcommittee that I think that the gentleman's amendment is germane.

I would like to cite the provisions of the purposes of the act, section 102. Item (3) in that section says, "to increase the supply of fossil fuels in the United States, through price incentives and production requirements."

The gentleman's amendment squares, it seems to me, specifically with that. As the gentleman from Kentucky (Mr. Carter) has pointed out, item (6) says "to increase the use of domestic energy supplies other than petroleum products and natural gas through conversion to the use of coal."

This would certainly encourage the use of coal.

Section 606 in the bill provides similar incentives to those provided by the amendment of the gentleman from Kentucky (Mr. Carter) for coal mines. Pollution requirements would not be overridden by the legislation or the legislative modification of the gentleman from Kentucky unless specified, that is, those existing pollution requirements would not be overridden unless they were specified in the amendment, and they are not specified in the amendment. They would, therefore, continue to apply.

It seems to me that the amendment of the gentleman from Kentucky specifically does encourage the development and use of additional fossil fuels by the various provisions in his amendment and that those provisions are in the bill and have been added by other amendments, and, therefore, would be germane to this legislation.

THE CHAIRMAN:[3] The Chair is ready to rule.

For substantially the reasons just outlined by the gentleman from Ohio (Mr. Brown), and in view of the fact that title III has several provisions going to the general issue of maximizing availability of energy supplies, including coal, and, as pointed out, title VI encourages industrial conversion from oil and gas to coal, for example, by a similar loan guarantee mechanism as proposed in the amendment, the Chair finds that the amendment inserting a new title is germane to the bill under consideration and overrules the point of order.

Bill Authorizing Broad Program of Energy Research and Development—Amendment Directing Specific Emphasis

§ 10.9 To a bill authorizing a broad program of research and development, an amendment directing specific emphasis during the administration of that program is germane; thus, to a portion of a bill directing the Administrator of Energy Research and Development to undertake research and development of the uses of energy from several enumerated or other energy sources, an amendment directing a fully funded program of research and development in "unconventional energy sources and technologies" and further delineating those energy

3. Richard Bolling (Mo.).

sources to be emphasized was held germane.

During consideration of H.R. 11510[4] in the Committee of the Whole on Dec. 19, 1973,[5] Chairman Dan Rostenkowski, of Illinois, overruled a point of order against the following amendment:

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Udall: Page 33, lines 11–15, strike subsection (3) and insert in lieu thereof a new subsection (3) as follows:

(3) conducting an aggressive and fully funded program of energy research and development, including demonstration projects, in unconventional energy sources and technologies including but not limited to solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low head hydroelectric power, use of agricultural products for energy, tidal power and thermal gradient power, wind power, automated mining methods, in situ conversion of fuels, cryogenic transmission of electric power, electric energy storage methods, alternatives to the internal combustion engine, solvent refined coal, shale oil, coal gasification and liquefaction, utilization of waste products for fuel, hydrogen gas systems, advanced power cycles including gas turbines, and stack gas cleanup. . . .

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, I make a point of order against the amendment on the ground it is not germane, and seeks to invade the province of another committee, to wit, the Committee on Appropriations and an authorizing committee, in that it requires that such programs as are listed be fully funded, and full funding is the province of another committee, or partial funding or no funding. . . .

THE CHAIRMAN: The Chair will rule the amendment goes to the sources of energy and to the types of research and development that are in the bill and delineates further sources and programs. In view of the broad scope of the legislation, the amendment is germane.

The Chair, therefore, overrules the point of order.

Provision Conferring Broad Authority—Amendment Directing Specific Approach

§ 10.10 To a proposition conferring a broad authority to accomplish a particular result, an amendment authorizing and directing a specific approach to be taken in the exercise of such authority is germane; thus, to a section of an amendment in the nature of a substitute directing the president to minimize any adverse impact upon employment because of actions taken under that Act to conserve energy resources, an amendment authorizing grants to states for assistance to individuals unem-

4. The Energy Reorganization Act of 1973.

5. 119 CONG. REC. 42607, 93d Cong. 1st Sess.

ployed as the result of administration of that Act and not eligible for assistance under other unemployment compensation programs was held to be germane.

On Dec. 14, 1973,[6] during consideration of H.R. 11450[7] in the Committee of the Whole, it was demonstrated that a specific proposition is germane to a proposition more general in scope, Chairman Richard Bolling, of Missouri, holding an amendment to an amendment in the nature of a substitute to be germane, as indicated below:

SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

MR. [RONALD A.] SARASIN [of Connecticut]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Sarasin to the amendment in the nature of a substitute offered by Mr. Staggers: Page 44, after line 12, insert the following:

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of

6. 119 CONG. REC. 41732, 93d Cong. 1st Sess.

7. The Energy Emergency Act.

order against the amendment, that the amendment is not germane to the bill.

I make a point of order that the amendment is not germane to the section. . . .

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, my point in supporting the point of order raised by the gentleman from Michigan is that the Unemployment Compensation Act is not being amended in any place in this act. The gentleman in the well is attempting to amend the Unemployment Compensation Act.

I happen to be rather familiar with it; it is one of the acts that is within the jurisdiction of the Committee on Ways and Means, and I am sure it is not within the scope of this act at all. . . .

MR. DINGELL: . . . As the Chair will note, the bill in subsection (a) of section 122, which is amended, provides for the President taking certain actions to minimize the impact of the adverse effect of the act. In the second part, the President is directed to perform a study.

As the Chair will note, the amendment offered by my good friend from Connecticut—and I commend him for offering it; it is an amendment that appears to have a great deal of merit—but I would point out it is not an amendment which is germane, because the amendment directs the President and the States to provide for individual unemployed and to make payments for unemployment.

It relates to the eligibility of unemployed for compensation and Federal grants which in turn support the unemployment compensation, and also authorizes appropriations, which is not authorized in the act before us.

It is for those reasons, since some of the provisions are carried elsewhere in the bill or in the section before us, it is obvious the amendment is not germane. . . .

MR. SARASIN: . . . On line 7, page 44, the first section of paragraph A, it says:

> Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment.

It is the responsibility of various agencies. I do not see that this amendment I have offered to authorize the President to make grants to States providing assistance to any individual unemployed, if such unemployment is resulting from the administration and enforcement of this act, is nongermane.

It would seem to me that it certainly is a logical extension of what is in here within section 122 as it now stands.

THE CHAIRMAN: The Chair is ready to rule.

The Chair will state that the section sought to be amended by the amendment offered by the gentleman from Connecticut (Mr. Sarasin), as he has just read it, directs the President, in carrying out his responsibilities under this act, that he shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon unemployment.

The amendment does not amend another act. It seeks to provide an authorization for a specific approach for the carrying out of the broad authority bestowed upon the President to "minimize" adverse impact of actions taken under the act.

Therefore, the Chair overrules the point of order, and, under clause 6 of rule XXIII, recognizes the gentleman for 5 minutes.

Mandate for Restrictive Policy in Purchase of Government Vehicles—Amendment Imposing Numerical Limitation

§ 10.11 To a portion of an amendment in the nature of a substitute directing the president to require all government agencies to use economy model motor vehicles, an amendment limiting the number of "fuel inefficient" passenger motor vehicles which the government could purchase was held germane as a further delineation of the broad restriction imposed by the amendment in the nature of a substitute.

On Dec. 14, 1973,[8] during consideration of H.R. 11450[9] in the Committee of the Whole, Chairman Richard Bolling, of Missouri, overruled a point of order against the following amendment:

MR. [GLENN M.] ANDERSON of California: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Anderson of California to the amendment in the nature of a substitute offered by Mr. Staggers: On page 31, line 21, strike out the period and insert the following:", *Provided*, That the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1975 may not exceed 30 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year; and the aggregate number of fuel inefficient passenger motor vehicles purchased by all executive agencies in fiscal year 1976 may not exceed 10 per centum of the aggregate number of passenger motor vehicles purchased by all executive agencies in such year. For purposes of this subsection, the term "fuel inefficient passenger motor vehicle" for fiscal year 1975 means an automobile which does not achieve at least seventeen miles per gallon as certified by the Department of Transportation; for fiscal year 1976, and thereafter, the term "fuel inefficient passenger motor vehicle" means an automobile which does not achieve at least twenty miles per gallon, as certified by the Department of Transportation.". . .

MR. [JAMES T.] BROYHILL of North Carolina: . . . Mr. Chairman, I make a point of order against this amendment, inasmuch as it deals with the specifications of certain equipment on American-made automobiles, and it is not under the jurisdiction of this committee, nor under the jurisdiction of any committee of the House. . . .

MR. ANDERSON OF CALIFORNIA: . . . Mr. Chairman, I would just like to read a portion of the present bill. All we are doing is extending the provisions of the bill.

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8. 119 CONG. REC. 41722, 41723, 93d Cong. 1st Sess.

9. The Energy Emergency Act.

The present bill provides as follows:

As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of government, where practical, to use economy model motor vehicles.

Mr. Chairman, we are simply amending and extending the same provision.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair points out that taken as an isolated point, the argument made by the gentleman from North Carolina (Mr. Broyhill) might have some validity, but the answer made by the gentleman from California (Mr. Anderson) is in direct response to the point. The subject is in the bill.

The Chair, therefore, overrules the point of order.

Bill Creating Task Force To Investigate Relationship Between Environmental Pollution and Certain Diseases—Amendment Directing Task Force To Consider Impact of Personal Health Habits

§ 10.12 To that portion of a bill creating a task force to investigate the relationship between environmental pollution and cancer and heart and lung diseases, an amendment directing that task force to consider the impact of personal health habits, including cigarette smoking, on that relationship was held germane.

On Sept. 15, 1976,[10] during consideration of the Clean Air Act Amendments of 1976[11] in the Committee of the Whole, the Chair overruled a point of order against an amendment, demonstrating that to a proposition general in scope an amendment more limited and specific may be germane:

Sec. 310. Title I of the Clean Air Act as amended by sections 107 and 108 is further amended by adding the following new subtitle at the end thereof:

"SUBTITLE D—PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

"PREVENTION OF ENVIRONMENTAL CANCER AND HEART AND LUNG DISEASE

"Sec. 170. (a) Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease (hereinafter referred to as the "Task Force"). The Task Force shall include representatives of the Environmental Protection Agency, the National Cancer Institute, the National Heart, Lung, and Blood Institute, and the National Institute on Environmental Health Sciences, and shall be chaired by the Administrator (or his delegate).

10. 122 CONG. REC. 30496–98, 94th Cong. 2d Sess.

11. H.R. 10498.

"(b) The Task Force shall—

"(1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

"(2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

"(3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases. . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Myers of Pennsylvania: Page 331, line 24, strike out the closing quotation marks and period and insert:
>
> "(c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tabacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease.".
>
> Renumber succeeding sections accordingly. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: . . . [T]his amendment would apply not to the standards and regulations that are being promulgated by the Administrator of EPA, that is in regard to the ambient air quality standards, but it would apply to agricultural products such as tobacco. Thus I make the point of order that the amendment is not germane to the title or to the bill as written in that it imposes additional duties and functions on the Administrator and directs him to make regulations on certain products which are not within the purview of this bill and also products which are generally thought to be under the jurisdiction of other committees. . . .

MR. MYERS of Pennsylvania: . . . This amendment deals with the section of the bill which mandates a comprehensive study, and I read from the section of the bill numbered section 170 which indicates as follows:

> Not later than three months after date of enactment of this section, there shall be established a Task Force on Environmental Cancer and Heart and Lung Disease . . .

On page 331 the bill goes on and some of the directions to the task force are stated in this way:

> The Task Force shall—
>
> (1) develop and implement a comprehensive research program to determine and quantify the relationship between environmental pollution and human cancer and heart and lung disease;

Paragraph (2) indicates once again as follows, that the task force shall:

> (2) make recommendations for comprehensive strategies to reduce or eliminate the risks of cancer (or such diseases) associated with environmental pollution;

Also paragraph (3) of the bill says that the task force shall:

> (3) engage in such other research and recommend such other measures as may be appropriate to prevent or reduce the incidence of environmentally related cancer and heart and lung diseases;

Also paragraph (4) once again mentions appropriate studies and says they

shall be made to evaluate environmentally related cancer and heart and lung diseases.

Last week when we discussed the bill before the House I brought up the fact that there appears to be a relationship between the use of tobacco and habits such as smoking and the interrelationship of environmental pollutants with the incidence of cancer. I see no way in which a comprehensive study could be made without the outright assumption by the Congress at this point that there is an interrelationship because of the fact that there appear to be statistics showing some relationship, and I do not think this amendment directs the task force to do anything other than to be as comprehensive as possible and not to ignore this facet. . . .

THE CHAIRMAN:[12] The Chair is prepared to rule.

A point of order has been made against an amendment offered by the gentleman from Pennsylvania (Mr. Myers). The amendment inserts the following language:

> (c) In developing and implementing its research program and making its recommendations, the Task Force shall consider the impact of personal health habits, including tobacco smoking, on the relationship between environmental pollution and human cancer and heart and lung disease.

The section which this seeks to amend is entitled "Prevention of Environmental Cancer and Heart and Lung Disease." This section imposes upon a task force a duty to make certain general findings.

It occurs to the Chair that the amendment is a specific proposition which is germane to a more general requirement imposed within the bill itself and that it is within the categories of findings which must be made by the task force.

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

Bill Providing Loan Guarantees to All States—Amendment Concerning Loans to One State

§ 10.13 A general proposition may be amended by a related proposition which is more limited or restricted in nature; thus, to a bill providing loan guarantee programs for all states and subdivisions, an amendment in the nature of a substitute providing direct loans and limited to New York was held germane.

The proceedings of Dec. 2, 1975, relating to H.R. 10481, the Intergovernmental Emergency Assistance Act, are discussed in 6.4, supra.

Comprehensive Grant Program—Restriction on State Funding Until Specific Program Has Been Put in Operation

§ 10.14 To a bill authorizing the funding of a variety of

12. J. Edward Roush (Ind.).

programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane; thus, to a bill providing a comprehensive grant program for improvement of state and local law enforcement and criminal justice systems, including within its scope the subject of welfare of law enforcement officers, an amendment requiring states to enact a law enforcement officers' grievance system as a prerequisite to receiving grants under the bill was held to come within the general subject of law enforcement improvement covered by the bill and was held germane.

During consideration of the Law Enforcement Assistance authorization bill[13] in the Committee of the Whole on June 18, 1973,[14] the Chair overruled a point of order against the following amendment:

The Clerk read as follows:

Amendments offered by Mr. Biaggi: Page 15, line 8, strike out "and".

Page 15, immediately after line 8, insert the following:

"(13) provide a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government and public agencies. . . .

"PART J—LAW ENFORCEMENT OFFICERS" GRIEVANCE SYSTEM AND BILL OF RIGHTS

"Sec. 701. Beginning one year after the date of enactment of this section, no grant under part B or part C of this title shall be made to any State, unit of general local government or public agency unless such State, unit of general local government, or public agency has established and put into operation a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government, and public agencies operating within the State and has enacted into law a "law enforcement officers" bill of rights' which includes in its coverage all law enforcement officers of the State, units of general local government and public agencies operating within the State.

"BILL OF RIGHTS

"The law enforcement officers' bill of rights shall provide law enforcement officers of such State, units of general local government, and public agencies statutory protection for certain rights enjoyed by other citizens. The bill of rights shall provide, but shall not be limited to, the following:

"(a) Political Activity by Law Enforcement Officers.—Except when on duty or when acting in his official capacity, no law enforcement officer shall be prohibited from engaging in

13. H.R. 8152.

14. 119 CONG. REC. 20099–101, 93d Cong. 1st Sess.

political activity or be denied the right to refrain from engaging in political activity. . . .

"(i) In addition to any procedures available to law enforcement officers regarding the filing of complaints and grievances as established in this section, any law enforcement officer may institute an action in a civil court to obtain redress of such grievances.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order is based on the nongermaneness of the amendment offered by the gentleman from New York. . . .

On the point of order, Mr. Chairman, on germaneness, this embarks on an entirely new direction. It establishes rights and duties for law enforcement officers and personnel which are not a part of the thrust of the LEAA law. . . .

MR. [MARIO] BIAGGI [of New York]: . . . The fact of the matter is that this is consistent with the proposal being made today, as to establishing guidelines. Guidelines have been established in the past. . . .

This is a question of civil rights as much as any other question is, as it relates to anybody else.

So far as germaneness is concerned, I obviously have to disagree with the gentleman. We have many guidelines already established. This will establish another guideline. There is no imposition here on any State or political subdivision. It is a prerogative they can exercise.

If they seek Federal funds they must comply. Right now the same obligation is imposed upon them. If they seek Federal funds they must comply with the civil rights law and all the prohibitions we have imposed upon them. All we are doing is including the law-enforcement officers. . . .

THE CHAIRMAN:[15] The Chair is ready to rule on the point of order raised by the gentleman from Alabama.

As indicated on page 4 of the committee report, a fundamental purpose of H.R. 8152 is to authorize Federal funding of approved State plans for law enforcement and criminal justice improvement programs. The bill attempts to address "all aspects of the criminal justice and law enforcement system—not merely police, and not merely the purchase of police hardware' and requires State plans to develop "a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State."

The amendment offered by the gentleman from New York would require that State plans submitted for LEAA approval contain, in addition to the 13 requirements spelled out in the committee bill as amended, provisions for a system of receipt, investigation, and determination of grievances submitted by State and local law enforcement officers. The second amendment would insert on page 52 a provision spelling out a "law enforcement officers' bill of rights" which must be enacted into law by any State seeking LEAA grants under that act in order to be eligible for such grants.

The committee bill seeks to establish a comprehensive approach to the financing of programs aimed at improving State and local law enforcement systems. Included in this comprehen-

15. Dan Rostenkowski (Ill.).

sive approach is the subject of the welfare of law enforcement officers as it relates to their official duties, including their salaries, equipment, et cetera. The issue of a grievance system for law enforcement officers is within the general subject of the improvement of State and local law enforcement systems, and the amendments are, therefore, germane to the pending bill.

The Chair overrules the point of order.

Bill Authorizing Reorganization of Government Agencies—Amendment Relating To One Agency

§ 10.15 To a bill authorizing the President to submit to the Congress plans for the reorganization of agencies of the government, an amendment was held to be germane which provided in part that "in the first such plan submitted the President shall include an agency wherein shall be consolidated . . . all functions relating to relief and rehabilitation of foreign countries," and which required the President to transfer to such agency certain functions of specified agencies and offices.

In the 79th Congress, a bill[16] was under consideration which provided in part:[17]

> Sec. 4. Any reorganization plan, transmitted by the President under section 3— . . .
>
> (3) shall make provisions for the transfer or other disposition of the records, property (including office equipment), and personnel affected by such transfer, consolidation, or abolition . . .
>
> (5) shall make provisions for winding up the affairs of any agency abolished.

An amendment was offered[18] as described above. Mr. William M. Whittington, of Mississippi, made the point of order that the amendment was not germane to the bill and not germane to the section under consideration. In the course of the debate on the point of order, he stated:

> This amendment was never presented to the committee. It is a most far-reaching amendment. . . .
>
> Moreover . . . this amendment deals with . . . agencies established . . . under the First War Powers Act. The bill under consideration does not provide for the consideration of those agencies. We deal with the permanent executive agencies of the Government, rather than the war agencies of the Government.

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16. H.R. 4129 (Committee on Expenditures in the Executive Departments).

17. See 91 CONG. REC. 9419, 79th Cong. 1st Sess., Oct. 4, 1945.

18. *Id.* at p. 9420 (Dirksen amendment).

Mr. Everett M. Dirksen, of Illinois, responding to the point of order, stated:

> The first point is that the amendment deals with nothing except executive agencies. The second point is that on page 2 of the pending bill there is this language:
>
> > To create, coordinate, and consolidate agencies and functions of the Government as nearly as can be according to major purposes.
>
> This is an effort to coordinate activities in consonance with a major purpose.

The Chairman[19] in ruling on the point of order, stated:[20]

> The Chair has examined the amendment in comparison with language contained in the pending bill and invites attention to the fact that under "Definition of Agencies", as provided in section 7 on page 9 of the pending bill, it is observed:
>
> > When used in this act the term "agency" means any executive department, commission, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, or administration, in the executive branch of the Government.
>
> The Chair is of the opinion that the agencies enumerated in the amendment would come within the scope of the definition stated in the bill to which the Chair has invited attention. The Chair feels that the amendment is germane, and therefore overrules the point of order.

Government Employees in Executive Branch—Amendment Relating to Specific Department

§ 10.16 To that title of a government reorganization bill authorizing inclusion in the civil service of officers and employees of the government, and exempting certain positions from the operation of the title's provisions, an amendment prescribing standards to be followed in making selections for positions in the Post Office Department was held to be germane.

In the 75th Congress, during consideration of a government reorganization bill,[1] the following amendment was offered:[2]

> Amendment offered by Mr. [Claude A.] Fuller [of Arkansas]: Page 77, line 7, after the period at the end of the sentence, insert a new paragraph, as follows:
>
> (a) Notwithstanding any provision of law to the contrary, hereafter all vacancies in the offices of postmasters of

19. Jere Cooper (Tenn.).

20. 91 Cong. Rec. 9420, 9421, 79th Cong. 1st Sess., Oct. 4, 1945.

1. S. 3331 (Select Committee on Government Operations).

2. 83 Cong. Rec. 5103, 75th Cong. 3d Sess., Apr. 8, 1938.

the first, second, and third classes shall be filled as hereinafter provided, by appointment by the President, by and with the advice and consent of the Senate, and such postmasters so appointed shall hold their offices for a term of 4 years. Whenever a vacancy occurs in the office of postmaster of the first, second, or third class . . . [the President] may appoint a classified civil-service employee serving in the post office in which the vacancy occurs and having qualified in a noncompetitive examination held by the Civil Service Commission, to fill the vacancy, or the President . . . may request the Civil Service Commission to hold an open competitive examination and the Civil Service Commission shall certify the results thereof to the President who shall appoint, by and with the advice and consent of the Senate, one of the three highest eligibles to fill the vacancy. . . .

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

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane to the title to which it is offered or to the bill itself. The title refers to the civil-service classification. The amendment deals with appointments not made by the civil service but made on a patronage basis. . . .

The Chairman,[3] in ruling on the point of order, stated:[4]

This title deals generally with the personnel of the executive departments of the Government. . . .

The title now under consideration authorizes the covering into the civil service of officers and employees of the Government, as well as exempting from the operations of the provisions of the title certain other positions. The pending amendment pertains to the appointment of personnel in the Post Office Department and provides the standards to be followed in making selections for positions in that Department.

It is the opinion of the Chair that the amendment is germane to the title. . . .

Bill Providing for Methods of Disposition of Surplus Government Property—Amendment Relating to Specific Kind of Property

§ 10.17 To that paragraph of a bill providing for methods of disposition of surplus government property, an amendment providing that certain property appropriated for educational use be disposed of under regulations prescribed by the Commissioner of Education was held germane.

In the 78th Congress, a bill[5] was under consideration which related to disposal of surplus government property and which stated in part:[6]

3. John W. McCormack (Mass.).
4. 83 CONG. REC. 5104, 75th Cong. 3d Sess., Apr. 8, 1938.
5. H.R. 5125 (Committee on Expenditures in the Executive Departments).
6. See 90 CONG. REC. 7123, 78th Cong. 2d Sess., Aug. 18, 1944.

METHODS OF DISPOSITION

Sec. 10. (a) Wherever any Government agency is authorized to dispose of property under this act, then, notwithstanding the provisions of any other law but subject to the provisions of this act, the agency may dispose of such property by sale, exchange [and the like].

The following amendment was offered:

Amendment offered by Mr. [Malcolm C.] Tarver [of New York]: On page 32, after line 6, insert the following:

Surplus property that is appropriate for educational use . . . may be transferred to the United States Office of Education for allocation . . . to the public schools and educational institutions. . . .

Mr. John Taber, of New York, raised the point of order that the amendment was not germane to that part of the bill. The Chairman[7] overruled the point of order.

Bill Making Appropriations for Public Works—Amendment To Make Appropriation for Post Office Buildings

§ 10.18 To a bill making appropriations for work relief and public works, including provisions relating to highways, roads, public buildings, and other facilities, an amendment proposing an appropriation for obtaining sites and erecting public buildings for post offices was held germane.

In the 76th Congress, during consideration of the Work Relief and Public Works Appropriations of 1939,[8] an amendment was offered[9] as described above. A point of order was raised against the amendment, as follows:

MR. [CLIFTON A.] WOODRUM of Virginia: [The amendment] provides for a project that calls for the purchase of land, which does not furnish employment of people. It is not within the purpose of the concepts of the bill; it is not germane to the general principles of the bill.

The Chairman,[10] in ruling on the point of order, stated:

The Chair is of the opinion that the present bill covers a very broad field. For example, paragraph (b) of section 1 relates to highways . . . public buildings, parks, and other recreational facilities, including buildings thereon, public utilities, electric transmission and distribution lines or systems to serve persons in rural areas, and so forth, and in another section of the bill it provides for the allocation of funds for public-works purposes. The amendment . . . provides for further alloca-

7. Robert E. Thomason (Tex.).

8. H.J. Res. 326 (Committee on Appropriations).

9. 84 CONG. REC. 7304, 76th Cong. 1st Sess., June 16, 1939.

10. John W. McCormack (Mass.).

tions, the administration to be carried on through the agency provided for in the pending bill. The Chair is of the opinion that the amendment is germane. . . .

Provisions Describing Requirements for Receiving Social Security Benefits—Amendment Adding Requirement

§ 10.19 To that title of a bill containing miscellaneous provisions and describing several requirements for receiving benefits under the Social Security Act, an amendment adding another requirement was held germane.

In the 76th Congress, during consideration of a bill [11] to amend the Social Security Act, the following amendment was offered: [12]

> Amendment offered by Mr. [Karl E.] Mundt [of South Dakota]: Page 104, line 3, insert a new section, as follows:
>
> Sec. 904. Beginning with January 1, 1941, no provisions of the Social Security Act shall be operative or effective for foreign-born aliens who have not taken out their full American citizenship papers by that date. . . .

Mr. Jere Cooper, of Tennessee, raised the point of order that the amendment was not germane to the bill. The Chairman [13] overruled the point of order.

Bill Authorizing Construction of Channel as Part of Intracoastal Waterway—Amendment To Authorize Additional Channel

§ 10.20 To a bill authorizing construction of a pipe line and navigable barge channel across Florida as part of the Intracoastal Waterway, an amendment proposing to construct another channel as part of the same Intracoastal Waterway was held to be germane.

In the 77th Congress, a bill [14] was under consideration authorizing construction of a pipe line and navigable barge channel across Florida. An amendment was offered [15] as described above.

Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane.[16]

The Chairman,[17] in ruling on the point of order, stated:

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11. H.R. 6635 (Committee on Ways and Means).

12. 84 CONG. REC. 6969, 76th Cong. 1st Sess., June 10, 1939.

13. Lindsay C. Warren (N.C.).

14. H.R. 6999 (Committee on Rivers and Harbors).

15. 88 CONG. REC. 5305, 77th Cong. 2d Sess., June 17, 1942.

16. *Id.* at p. 5306.

17. John M. Costello (Calif.).

[T]he amendment provides an additional location for an additional canal. It is, however, part of the same waterway, as the gentleman from Florida has so well pointed out, part of the Intracoastal Waterway. The amendment simply provides for a second connecting link in the waterways. The Chair is therefore constrained . . . to overrule the point of order.

Bill To Strengthen Relations With Greece and Turkey in Diverse Ways—Amendment Adding Negotiations Relating to Opium Trade

§ 10.21 A section of a bill designed to strengthen the United States-North Atlantic Treaty Organization relationships with Turkey and Greece in diverse ways by promoting a peaceful solution to the Cyprus dispute, by easing the embargo on arms shipments to Turkey, by requesting negotiations with Greece to determine its economic and military needs, and by providing refugee assistance to Cyprus, was held sufficiently broad in scope to admit as germane an amendment requesting negotiations with Turkey to prevent diversion of opium poppy into illicit channels.

During consideration of S. 2230[18] in the Committee of the Whole on Oct. 2, 1975,[19] the Chair overruled a point of order against the following amendment:

Amendment offered by Mr. Rangel: Page 4, line 9, strike out "(2)" and all that follows thereafter up to and including line 15 on page 4, and insert in lieu thereof the following:

"(C) the President is requested to initiate discussions with the Government of Turkey concerning effective means of preventing the diversion of opium poppy into illicit channels.

"(2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committees of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsections (b)(1)(B) and (C), together with his recommendations for economic and military assistance to Greece for the fiscal year 1976."

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the gentleman from New York has presented an amendment similar to one that was defeated earlier today. . . .

[The] amendment, Mr. Chairman, I submit is not in order because, as I

18. A bill authorizing appropriations for the Board for International Broadcasting for fiscal 1976, and to promote improved relations between the United States, Greece and Turkey.

19. 121 CONG. REC. 31492, 94th Cong. 1st Sess.

said in the argument on the point of order raised earlier, it violates rule XVI, clause 7 of the Rules of the House of Representatives. In the precedents cited under rule XVI, clause 7 there is contained a perfect example to sustain this point of order. On December 11, 1973, the Chair ruled that an amendment to the bill authorizing military assistance to Israel and funds for the U.N. emergency force in the Middle East, which expressed the sense of Congress that the President conduct negotiations to obtain a peace treaty in the Middle East and the resumption of diplomatic and trade relations between the Arab nations and the United States, was out of order.

This amendment attempts to address issues which are equally dissimilar. The title of the bill clearly states that the endeavor is to promote improved relations between the United States, Greece, and Turkey, to assist in the solution of the refugee problem on Cyprus, and to otherwise strengthen the North Atlantic Alliance. . . .

MR. [CHARLES B.] RANGEL [of New York]: Mr. Chairman, the previous point of order was ruled in favor of the gentleman[20] but that related to an amendment to an amendment.

Here we have an amendment to the bill which clearly in section 2 indicates that this bill is to improve and harmonize the relations among the allies of the United States and between the United States and its allies in the interest of mutual defense and national security. . . .

[The] amendment indicates that the Congress is directing the President of the United States to initiate discussions with the Government of Greece for the purpose of determining their military and economic needs.

It appears to me that there is no more serious question that is affecting our urban communities than drugs. This amendment merely directs the President to initiate discussions with the Government of Turkey for the purpose of or concerning the effective means of preventing the diversion of opium poppies into this country.

It is the same language. We are asking the President of the United States to initiate discussions with the Government of Greece in order to determine their needs. So I believe this is germane to the bill. I have discussed it with other members of the committee and I believe they share with me in my understanding of the germane question.

THE CHAIRMAN:[1] The Chair is ready to rule. The question is whether or not the amendment offered by the gentleman from New York (Mr. Rangel) is germane to the text of the bill.

The Chair observes on page 4 of the bill, subsection (2), the following language:

> (B) the President is requested to initiate discussions with the Government of Greece to determine the most urgent needs of Greece for economic and military assistance.
>
> (2) The President is directed to submit to the Speaker of the House of Representatives and to the Foreign Relations and Appropriations Committees of the Senate within sixty days after the enactment of this Act a report on discussions conducted under subsection (b)(1)(B), together with his recommendations for

20. See § 8.23, supra.

1. William H. Natcher (Ky.).

economics and military assistance to Greece for the fiscal year 1976.

The language of the gentleman's amendment is similar to paragraph (B).

Now, as to the germaneness of the amendment to the text of section 2 of the bill the principal purposes of that section are stated in paragraphs 1 through 6 on page 5 of the committee report, and they are fairly diverse in scope to the extent that they all have as their primary purpose continuation of our NATO relationship with Turkey and Greece. Viewed in that context, and in the context of section 2, the Chair feels that the amendment of the gentleman from New York adds a further requirement of negotiations to that already contained in section 2, which does not go beyond the purposes outlined in the bill.

Therefore, the Chair overrules the point of order and holds that the amendment is germane to section 2.

§ 11. Amendment Adding to Two or More Propositions of Same Class

A proposition concerning a number of subjects may be amended by the addition of another subject of the same class. An early example of this principle can be found in Cannon's Precedents[2] where to a bill admitting several Territories into the Union, an amendment adding another Territory was held germane. Similarly, where a bill covers two or more subjects, a third subject of a related nature is in order as an amendment thereto.[3] As an example, where a bill defines several unlawful acts, an amendment proposing to include another unlawful act of the same class is germane.[4] Similarly, to a bill bringing two new categories within the coverage of existing law, an amendment to include a third category, of the same class, was held to be germane.[5]

Title Containing Diverse "Miscellaneous" Provisions—Amendment Imposing Flat Percentage Limitation on Funds Authorized in Bill

§ 11.1 While the heading of a title of a bill as "miscellaneous" does not necessarily permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title may permit further amendment which in effect need only be germane to the bill as a whole; accordingly, where the final title of a foreign aid bill as perfected

2. See 5 Cannon's Precedents § 5838.

3. See § 11.24, infra.

4. See § 11.21, infra.

5. See § 11.16, infra.

contained a variety of unrelated provisions, such as provisions establishing effective dates for all portions of the bill, provisions stating requirements that authority to make payments in the bill be subject to advance appropriations, as well as provisions postponing the submission date for a report on foreign service personnel, relating to human rights reports, imposing language requirements for personnel in the foreign service, and prohibiting foreign aid to certain countries, an amendment limiting the expenditure of funds authorized in each title of the bill to a certain percentage was held germane. On Apr. 10, 1979,[6] **during consideration of H.R. 3324, the International Development Cooperation Act of 1979, the following amendments had been agreed to, whereupon a further amendment was offered by Mr. Robert Bauman, of Maryland, as indicated below:**

TITLE VI—MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

Sec. 601. The amendments made by titles I, II, III, and V and the provisions of title IV shall take effect on October 1, 1979.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 46, immediately after line 9, insert the following new section:

UNIFIED PERSONNEL SYSTEM

Sec. 602. Section 401(a) of the International Development and Food Assistance Act of 1978 is amended by striking out "March 15" and inserting in lieu thereof "May 1".

(b) The amendment made by subsection (a) shall be effective as of March 15, 1979. . . .

Amendment offered by Mr. Zablocki: Page 46, immediately after Section 601, insert the following new section:

BUDGET ACT REQUIREMENTS

Sec. 603. (a) The authority to make payments which is provided in sections 405(a), 406(a), 406(c), 407(e), 408(d), and 412 of this Act shall be effective only to the extent that the budget authority to make such payments is provided for in advance by appropriation Acts.

(b) Appropriations may not be made for the fiscal year 1979 under the authority of section 501(d). . . .

Amendment offered by Mr. [Robert J.] Lagomarsino [of California]: Page

6. 125 CONG. REC. 8032, 8034–37, 96th Cong. 1st Sess.

46, immediately after section 603, insert the following new section:

HUMAN RIGHTS REPORTS

Sec. 604. Paragraph (1) of section 116(d) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(1) the status of internationally recognized human rights, within the meaning of subsection (a)—

"(A) in countries that receive assistance under this part, and

"(B) in all countries which are members of the United Nations and which are not otherwise the subject of a human rights report under subparagraph (A) of this paragraph or under section 502B(b); and". . . .

Amendment offered by Mr. [Leon E.] Panetta [of California]: Page 46, after section 604, insert the following:

FOREIGN LANGUAGE AND AREA KNOWLEDGE REQUIREMENT

Sec. 605. The heads of affected departments and agencies, in consultation with the Secretary of State, shall review every personnel position in the U.S. Government involving service in foreign countries which are authorized by this Act, the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Arms Export Control Act, whose incumbent should have a useful knowledge of the language or dialect and the history and culture common to such country. Each position reviewed and designated as requiring language competence and area knowledge shall, within two years after enactment of this Act, be filled only by an individual with appropriate language and area knowledge, except that the heads of affected agencies and departments, in consultation with the Department of State, may make exceptions to this requirement when special or emergency conditions exist. The Secretary, in consultation with the heads of other affected departments and agencies, shall establish foreign language and area studies standards for officers and employees of the U.S. Government who are assigned duties involving service abroad under such Acts. The heads of affected departments and agencies shall arrange for appropriate language training or area studies for such officers and employees. . . .

Amendment offered by Mr. Zablocki as a substitute for the amendment offered by Mr. Ashbrook: Page 46, immediately after line 9, insert the following new section:

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 606. Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature to the Socialist Republic of Vietnam, Cambodia, or Cuba.[7]

MR. BAUMAN: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 46, line 7 after Sec. 601 insert (a) and add the following new paragraph:

"(b) *Provided,* That, No more than 90 percent of the funds authorized to be appropriated by each title of this act shall be expended, excluding those funds authorized to be appropriated in section 111, all of title II and section 302.". . .

7. The Zablocki substitute for the Ashbrook amendment was agreed to, and the Ashbrook amendment as amended was agreed to.

MR. ZABLOCKI: Mr. Chairman, as the gentleman from Wisconsin listened to the Clerk read the amendment, and I read the amendment, it appears that the amendment provides a limitation on authorization of funds in section 111, all of title II, and section 302.

I believe the gentleman's amendment, therefore, is not in order and is subject to a point of order since he is authorizing to be appropriated by each title no more than 90 percent of the funds. . . .

MR. BAUMAN: . . . The amendment is germane to title VI. Title VI clearly refers to the effective dates of all titles, and this amendment simply has the effect, with three exceptions, of cutting by 10 percent the amount of the funds made effective on those dates.

Mr. Chairman, it is a simple cut in funding. . . .

MR. ZABLOCKI: If I may be heard further, Mr. Chairman, the gentleman's amendment is to title VI, section 601.

Section 601 sets forth the effective dates of the various titles in the legislation. . . .

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

The amendment offered by the gentleman from Maryland provides a percentage limitation on funds authorized to be appropriated by the bill now pending, with the exception of certain specified sections of authorized funds. Title VI of the bill, entitled "Miscellaneous Provisions" has by amendment already been substantially expanded in its scope, and the amendment offered by the gentleman from Maryland need be germane only to the title as a whole, since the bill is being read by title.

Therefore, it is the opinion of the Chair, and the ruling of the Chair, that the amendment is germane to title VI, and the point of order is overruled.

Bill Amending Bankruptcy Act To Provide Procedure for Adjustment of Municipal Debt—Amendment Defining Certificates of Indebtedness Under Bill as Among Those Eligible for Federal Guarantees

§ 11.2 To a section of a bill defining certain terms used in the bill, an amendment further defining other terms used in the bill may be germane; thus, to a bill amending the Bankruptcy Act to provide a judicial procedure for the adjustment of debts of public municipalities, and authorizing courts to issue certificates of indebtedness under general conditions determined by the courts to assure their marketability, an amendment defining such certificates to permit federal guarantee of principal and interest was held germane as a further definition relating to a specific power being added to those general powers already contained in the bill in order to accomplish a

8. Elliott Levitas (Ga.).

fundamental purpose of the bill.

On Dec. 9, 1975,[9] during consideration of H.R. 10624 (a bill to revise chapter IX of the Bankruptcy Act), the Chair overruled a point of order against the amendment described above. The proceedings in the Committee of the Whole were as follows:

THE CHAIRMAN:[10] The Clerk will read.

The Clerk read as follows:

H.R. 10624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter IX of the Bankruptcy Act is amended to read as follows:

"CHAPTER IX

"ADJUSTMENT OF DEBTS OF POLITICAL SUBDIVISIONS AND PUBLIC AGENCIES AND INSTRUMENTALITIES

"Sec. 81. Chapter IX Definitions.—As used in this chapter the term—

"(1) 'claim' includes all claims of whatever character against the petitioner or the property of the petitioner, whether or not such claims are provable under section 68 of this Act and whether secured or unsecured, liquidated or unliquidated, fixed or contingent . . .

"(3) 'creditor' means holder (including the United States, a State, or subdivision of a State) of a claim against the petitioner;

"(4) 'claim affected by the plan' means claim as to which the rights of its holder are proposed to be materially and adversely adjusted or modified by the plan;

"(5) 'debt' means claim allowable under section 88(a) . . .

"(2) during the pendency of a case under this chapter, or after the confirmation of the plan if the court has retained jurisdiction under section 96(e), after hearing on such notice as the court may prescribe and for cause shown, permit the issuance of certificates of indebtedness for such consideration as is approved by the court, upon such terms and conditions, and with such security and priority in payment over existing obligations, secured or unsecured, as in the particular case may be equitable. . .

MS. [ELIZABETH] HOLTZMAN [of New York]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: Page 2, line 24, strike out "and".

Page 3, strike out the period in line 5 and insert in lieu thereof "; and".

Page 3, immediately after line 5, insert the following new paragraph:

"(10) 'certificate of indebtedness' means certificate issued under section 82(b)(2), the payment of interest and principal of which may be guaranteed by the United States. . . .

MR. [THOMAS N.] KINDNESS [of Ohio]: Madam Chairman, I make the point of order against the amendment on the basis that the amendment is not germane.

The amendment is in violation of clause 7, rule XVI of the Rules of the House. This amendment violates several well settled principles of germaneness under a scheme that is no more than a subterfuge.

9. 121 CONG. REC. 39415, 39419, 39426, 39427, 94th Cong. 1st Sess.

10. Lindy Boggs (La.).

One traditional test of germaneness has been whether the subject being dealt with is defined in the bill. This amendment avoids that hurdle by inserting a self-serving circular substantive definition of "certificate of indebtedness." Putting the substantive power to guarantee certificates of indebtedness in the definition section of the bill cannot be relied upon as a basis for establishing germaneness.

Of greater significance, this amendment violates the principle stated in chapter 28, section 3.21, of Deschler's Procedure. . . .

MS. HOLTZMAN: . . . Just to clarify for the gentleman from Ohio (Mr. Kindness), the amendment that has been issued simply deals with the definition of the term "certificate of indebtedness" and says, "'certificate of indebtedness' means certificate issued under section 82(b)(2), the payment of interest and principal of which may be guaranteed by the United States.". . .

Madam Chairman, my amendment, which only deals with the definition, is very germane to the bill.

What this amendment does is to say that a certificate of indebtedness, which is in essence a bond issued by a municipality in bankruptcy, can be defined as a certificate which is guaranteed by the United States.

Madam Chairman, there is no question that the bill does deal with a certificate of indebtedness. It is possible that there may be guarantees issued by the United States under other statutes. There is no question, therefore, that the definition which does allow the certificate of indebtedness to include one that is guaranteed is an amendment and a definition that is germane to the bill.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Ohio (Mr. Kindness) makes a point of order against the amendment offered by the gentlewoman from New York (Ms. Holtzman) on the grounds that it is not germane to the bill.

The amendment would add a new definition to those contained in the bill, to define certificates of indebtedness which may be issued under section 82 of the bill as a certificate which may be guaranteed by the United States.

The Chair would first state that the committee jurisdiction over the subject of an amendment is not an exclusive test of germaneness—Deschler's Procedure, chapter 28, section 4.16. But in any event, the pending amendment does not, in the form in which it is offered, present an issue exclusively within another committee's jurisdiction.

As to the subject matter and methodology of the pending bill, section 82 thereof allows the bankruptcy court to permit the issuance of certificates of indebtedness, with such security and priority of payment as may be equitable. The committee report, on page 9, specifically states that the court can supply assurance of payment on certificates of indebtedness, to make them marketable, by permitting security and priority of payment on such certificates.

Therefore, the concept of bankruptcy procedures insuring the marketability of certificates of indebtedness is included in the bill. Defining a term used in the bill in such a way as to allow the further option of Federal guarantees is germane to the fundamental

purposes of the bill, since the amendment merely adds to the definition provision and grants to the bankruptcy court an additional specific option to assure security for certificates of indebtedness—a concept already contained in a more general form in the bill.

The Chair will distinguish the situation presented on December 2 and that presently before the Chair for determination. The amendment offered by the gentlewoman from New York (Ms. Holtzman) adds a further definition relating to specific power to those general powers granted to the court in the bill; the amendment in the nature of a substitute which was offered to the Intergovernmental Assistance Act the other day entirely substituted one program for another. In the present instance, the appropriate test is not whether the amendment proposes to substitute one method for a closely allied method, but whether the amendment adds a specific provision which is germane to the provisions already in the reported bill.

For the reasons stated, the Chair overrules the point of order.

Federal Energy Administration Act—Amendment Containing "Definitions" Providing Exemption From Limitation on Authority

§ 11.3 To a section containing "definitions" of two terms referred to in a bill, an amendment adding a further definition of other terms contained in the bill (and whose effect was to provide an exemption from a limitation on authority contained in another section of the bill) was held to be germane.

On Mar. 7, 1974,[11] during consideration of the Federal Energy Administration Act (H.R. 11793) in the Committee of the Whole, Chairman John J. Flynt, Jr., of Georgia, held the following amendment to be germane to the section to which it was offered:

MR. [GILLIS W.] LONG of Louisiana: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3)) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares.". . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, this matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentleman's concern, but these words included are probably included in statutes. It seems to me

11. 120 CONG. REC. 5640, 5641, 93d Cong. 2d Sess.

what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

MR. LONG of Louisiana: Mr. Chairman, the gentleman from New York (Mr. Horton) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and specific place for an amendment of this type to be introduced.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Louisiana (Mr. Long) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. Long).

The Chair will state that subsection (1) of section 11 reads as follows:

> Any reference to "function" or "functions" shall be deemed to include—
>
> and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. Long) starts as follows:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—
>
> And so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Bill Defining and Promoting Development of Synthetic Fuels—Amendment Adding Methane to Definition

§ 11.4 To a bill promoting the development of synthetic fuels, defined as "fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources," an amendment including, within the definition of such fuels, methane produced from coal seams, geopressurized brine, tight sands and devonian shale was held germane as adding another subject to subjects of the same class.

During consideration of the Defense Production Act Amendments of 1979[12] in the Committee of the Whole on June 26, 1979,[13] Chairman Gerry E. Studds, of Massachusetts, overruled a point of order and held the following amendment to be germane:

MR. [TIMOTHY E.] WIRTH [of Colorado]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Wirth: Page 10, line 6, insert after the first period the following new sentence: "Such terms also include methane produced from such sources as coal seams, geopressurized brine, tight sands and Devonian shale.".

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]he bill deals with production of synthetic fuels. The amendment offered by my good friend, the gentleman from Colorado, deals with production from conventional sources of hydrocarbons from within the Earth. Given that circumstance, regretfully, I observe that the amendment does not conform with the requirements of the rules relating to germaneness.

The bill also deals with creating synthetic feedstocks. The particular section, section 3, with which we deal at this time, deals with synthetic feedstocks.

The proposal that the gentleman from Colorado (Mr. Wirth) has before us deals with a broad series of productions from conventional or semiconventional sources of hydrocarbon from within the Earth and, as such, it is therefore not germane. . . .

MR. WIRTH: Mr. Chairman, at the bottom of page 9, line 24 in the bill is the definition of what is intended by the committee to be covered by the legislation in H.R. 3930. That definition in the amendment which I have offered is broadened to include coverage by the provisions of this act for hard-to-obtain natural gas.

The purpose of the legislation, as I understand the gentleman from Pennsylvania and the committee, is to increase production of energy and the area of hard-to-get natural gas. That which is described in the amendment which I offered clearly is a matter of the kind of stimulus that the gentleman from Pennsylvania and members of the committee have defined in the bill, and in broadening the definition offered by the committee, this is consistent with the purposes of H.R. 3930.

THE CHAIRMAN: The Chair is prepared to rule.

The section of the bill which defines synthetic fuels, page 9, line 24 reads as follows:

> The term synthetic fuels—". . . means fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, including, but not limited to, . . ." a consecutive category of resources.

In the opinion of the Chair, the definition is sufficiently broad as to allow the amendment offered by the gentleman from Colorado.

The Chair overrules the point of order.

12. H.R. 3930.

13. 125 CONG. REC. 16687, 16688, 96th Cong. 1st Sess.

Bill Prescribing Functions of Federal Energy Administration—Amendment Directing Administrator To Issue Guidelines for Fuel Use

§ 11.5 To a proposition conferring discretionary authority, an amendment adding a related function or limiting the exercise of that authority is germane; thus, to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizen fuel use was held germane as a further delineation of those functions.

On Mar. 5[14] and 6,[15] 1974, the Committee of the Whole had under consideration a section of the Federal Energy Administration Act (H.R. 11793) setting forth the responsibilities of the Administrator and stating in part:

> Sec. 5. To meet the energy needs of the Nation for the foreseeable future, the Administrator shall—
>
> (1) advise the President and the Congress with respect to the establishment of a comprehensive national energy policy for the balance of the twentieth century, and in coordination with the Secretary of State, the integration of domestic and foreign policies relating to energy resource management;
>
> (2) assess the adequacy of energy resources in meeting demands for the immediate and long-range future for all sectors of the economy and for the general public;
>
> (3) develop effective arrangements for the participation of State and local governments in the resolution of energy problems;
>
> (4) develop plans and programs for dealing with energy production shortages;
>
> (5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;
>
> (6) assure that programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;
>
> (7) develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources;
>
> (8) develop and recommend policies on import and export of energy resources;
>
> (9) collect, evaluate, assemble, and analyze energy information on reserves, production and demand and related economic data;
>
> (10) identify the need for and take action to expedite the development of energy resources;

14. 120 CONG. REC. 5301, 93d Cong. 2d Sess.

15. *Id.* at pp. 5436, 5437.

(11) work with business, labor, consumer and other interests and obtain their cooperation; and

(12) perform such other functions as may be prescribed by law.

MR. [FRANK] HORTON [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point. . . .

There was no objection. . . .

MR. [BILL] GUNTER [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendments offered by Mr. Gunter: Page 19, line 23, add the following new subsection:
>
> "(11) Issue preliminary summer guidelines for citizen fuel use within 30 days of the enactment of this Act.
>
> Page 19, line 23, strike out "(11)" and insert in lieu thereof "(12)".
>
> Page 20, line 1, strike out "(12)" and insert in lieu thereof "(13)".

MR. HORTON: Mr. Chairman, I make a point of order against the amendments. Basically they are the same arguments I made before and also this sets up a policy or program which is outside the section and not a subject matter of this bill.

THE CHAIRMAN:[16] Does the gentleman from Florida desire to be heard on the point of order?

MR. GUNTER: I do, Mr. Chairman.

Mr. Chairman, the amendment is rather simple and easy to understand. It requires the Administrator to issue within 30 days, upon enactment of this act, a preliminary summary. . . .

Mr. Chairman, the amendment as stated would simply require the Administrator, to issue within 30 days upon enactment of this act, preliminary summer guidelines for fuel use which, Mr. Chairman, I think falls within the framework of the section specifying the functions. I do not interpret this particular specification as outside of those programs which are spelled out in the committee report, and in the body of the act.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Gunter) has offered an amendment to section 5 of the bill, to which amendment the gentleman from New York (Mr. Horton) has raised a point of order.

The Chair has carefully read the language of the amendment, and has carefully listened to the arguments made by the gentleman from New York (Mr. Horton), in support of his point of order, and the arguments made by the gentleman from Florida (Mr. Gunter), in opposition to the point of order.

In the opinion of the Chair, the language of the amendment as offered by the gentleman from Florida clearly relates to the functions of the Administrator, which are otherwise enumerated and defined within the section now under consideration.

The Chair finds nothing in the language of the amendment which mandates the Administrator any more than do the other functions enumerated, nor does the Chair find anything in the amendment which would in any way amend or seek to amend existing law.

The Chair does not rule now or at any other time on the consistency of amendments; the Chair, therefore, after analyzing the amendment and

16. John J. Flynt, Jr. (Ga.).

listening to the argument, rules that the amendment is germane and, therefore, overrules the point of order.

Bill Transferring Functions of Government Affecting Energy to New Department of Energy—Amendment Transferring Additional Function

§ 11.6 To a bill transferring to a new Department a variety of governmental authorities relating to energy, an amendment transferring another existing authority within the same class is germane; thus, to a bill creating a new Department of Energy and transferring to it functions of the federal government affecting energy under existing law, an amendment adding a new title to create a public energy administration within the department and to authorize the President to transfer to the administration his oil import purchase authority under existing law was held germane.

On June 3, 1977,[17] during consideration of H.R. 6804[18] in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [JOHN] CONYERS [Jr., of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conyers: On page 129, after line 6, insert the following new title:

TITLE VIII—PUBLIC ENERGY ADMINISTRATION

Section 801. (a) There is established within the Department of Public Energy Administration, at the head of which shall be an administrator appointed by the Secretary.

(b) Notwithstanding the provisions of section 205 of this Act, the President, in the exercise of his authority under section 13 of the Emergency Petroleum Allocation Act of 1973, may provide in the regulations promulgated under such section for the delegation of his functions under such section to the Public Energy Administration. The Administrator shall by rule provide for a separation of regulatory and enforcement function assigned to him. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, first of all the language I have says that:

There is established within the Department of Public Energy Administration—

And I am not clear I understand what that means. Perhaps the amendment at the desk is different from the one I have, but if that is the way the amendment reads, I think there is a clarification needed in the amendment.

But the point of order I make refers to subparagraph (b) which says:

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17. 123 CONG. REC. 17419, 95th Cong. 1st Sess.

18. The Department of Energy Organization Act.

> Notwithstanding the provisions of section 205 of this Act, the President, in the exercise of his authority under section 13 of the Emergency Petroleum Allocation Act of 1973, may provide in the regulations promulgated under such section for the delegation of his functions under such section to the Public Energy Administration.

It seems to me we are extending the provisions of section 13 of the Emergency Petroleum Allocation Act of 1973 and I do not think we have the authority to do that in this legislation.

Therefore I make a point of order against the amendment. . . .

MR. CONYERS: . . . This amendment, as the Committee knows, is a revision from the original amendment that was debated in the Committee on Government Operations.

I would argue very strongly that it is merely taking a responsibility and a duty specifically provided in law. It really does not matter which law. If we will examine the act, we will find that we have borrowed authorities from agencies and Departments that have been created by law from before 1973 and after 1973, so that that has absolutely no relevance whatsoever.

The point that I think is critical to whether this amendment is germane or not is whether or not it transfers an existing authority, which the gentleman by admission that it is already existing in the statute concedes. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . Mr. Chairman, the amendment proposes to permit the President to exercise discretionary authority and does not really change the Allocation Act, because the President now has authority under that act. All the amendment, it seems to me to do, is permit him to exercise authority under existing legislation in a new way and in a way comparable to the manner in which he is permitted permissively to grant authority under the act. . . .

THE CHAIRMAN:[19] The Chair is prepared to rule.

The Chair has listened very carefully to the arguments made on behalf of the point of order and against it and is in agreement with the gentleman from Michigan, that the purpose of the bill is merely to transfer certain authorities that exist in other agencies and departments of Government and finds that the amendment of the gentleman from Michigan is consistent with that intent and, therefore, overrules the point of order.

Bill Directing Use of Operating Expenses for Department of Energy—Amendment Relating to Use of Alternative Fuels by Department

§ 11.7 To a title of the annual Department of Energy authorization bill, providing limitations and directions on the use of operating expenses for the entire Department funded throughout the bill, and specifically limiting the use of funds for physical facilities and for the purchase of gasoline for use of the Department, an amendment providing procedures

19. Lucien N. Nedzi (Mich.).

for the Department to follow in purchasing alternative fuels for use in its vehicles during the fiscal year covered by the bill, was held germane as a further related restriction or direction on the use of operating funds for the fiscal year.

On Oct. 18, 1979,[20] during consideration of H.R. 3000[1] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

TITLE VIII—PROVISIONS REGARDING USE OF FUNDS

LIMITATION OF REPROGRAMMING OF FUNDS

Sec. 801. (a)(1) Subject to the limitations of sections 201(b) and 802, no amount appropriated pursuant to this Act (other than title I) may be used for any program, function, or purpose in excess of the amount expressly authorized to be appropriated for that program, function, or purpose by this Act. . . .

LIMITATION OF FUNDS FOR FACILITIES FOR DEPARTMENT OF ENERGY

Sec. 809. No funds authorized to be appropriated by this Act may be used for the renovation, furnishing, or repair of facilities to provide temporary or permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy and for which funds were appropriated by chapter V of title I of the Supplemental Appropriations Act, 1978.

LIMITATION ON USE OF GASOLINE BY DEPARTMENT

Sec. 810. No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or to reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of motor gasoline purchased (and for which reimbursement was made to another Federal agency or entity) during the fiscal year ending September 30, 1979, by any component of the Department for which funds are authorized to be appropriated by this Act. . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 78, line 11, insert "(a)" after "Sec. 810.".

Page 78, after line 20, insert the following new subsection:

(b)(1) The Secretary of Energy shall advertise in the Federal Register to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for use during the fiscal year ending September 30, 1980, in motor vehicles owned by the Department of Energy.

(2) The Secretary shall require that each such distributor who sub-

20. 125 CONG. REC. 28795, 28796, 28798–800, 96th Cong. 1st Sess.

1. The Department of Energy Authorization Act for fiscal years 1980 and 1981.

mits such a bid include in such bid an agreement—

(A) to provide a quantity of an alternative fuel—

(i) which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline, and

(ii) the cost of which does not exceed the cost that the Secretary would incur to purchase 200,000 gallons of motor gasoline.

(B) to pay any amount, as determined by the Secretary, by which any cost of constructing, operating, and maintaining any facility for the storage of such alternative fuel exceeds the cost of constructing, operating, and maintaining any facility for the storage of motor gasoline that would have been incurred if such motor gasoline had been purchased by the Secretary in lieu of such alternative fuel.

(C)(i) to pay the cost of equipping such motor vehicles to consume such alternative fuel, and

(ii) to deposit in an escrow account established by the Secretary funds sufficient to pay any cost of refitting such motor vehicles to consume motor gasoline if the Secretary determines that the utility of such alternative fuel is inadequate or if such distributor fails to provide the quantity of such alternative fuel specified in such bid, and

(D) to pay any amount, as determined by the Secretary, by which any cost of repairing or maintaining such motor vehicles equipped to consume such alternative fuel exceeds the cost that would have been incurred to repair and maintain such motor vehicles if such motor vehicles had not been so equipped. . . .

(5) For purposes of this subsection, the term "alternative fuel" means any liquid fuel, other than motor gasoline, consumable by a motor vehicle for propulsion, including gasohol, liquefied methane, liquefied coal, and any liquid hydride. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise to insist on my point of order. . . .

Mr. Chairman, the rules of the House require that amendments to legislation shall be germane, first, to the bill, and second, to the portion of the bill to which they are directed.

Mr. Chairman, without addressing at this particular moment whether or not the amendment is germane to the bill, I will address the second point, which is the lack of germaneness of the amendment to the portion of the bill to which it is offered.

Mr. Chairman, if the Chair will observe, the portion of the bill to which the amendment is offered, it can be observed it is a limitation on the use of gasoline by a department. It then is a limitation on funds, which reads as follows:

> No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of the motor gasoline purchase.

In other words, we have here a limitation. The proposal that is offered by my dear friend, the gentleman from California, is one which would set up a rather large program which would require the Secretary of Energy to do a whole series of things, none of which are consistent with or which are relevant to this limitation. . . .

I would ask the Chair to note that the section with which we are dealing is a limitation on use of gasoline. This

is for alternative fuels, which will have an equivalent energy release of 200,000 gallons of gasoline.

Now, whether the gentleman speaks of hydrogen or whether the gentleman speaks of different alcohols or synthetic fuels produced from other sources with which I might not presently be familiar, I am not able to say; but the fuels here are much broader and are not petroleum products necessarily, but are synthetics. . . .

In addition to this, Mr. Chairman, there are other sections relating to synthetics, relating to conservation, and relating to procurement. Those are not the sections in question here, but I would point out, Mr. Chairman, that I am unaware of any portion of the bill to which this would be germane, because, as the Chair would observe, it sets up a very large process for the Department of Energy to procure synthetic fuels. That is something which is not found elsewhere in the legislation. . . .

MR. DANNEMEYER: Mr. Chairman, section 810 of the committee bill which is before the committee now for its consideration contains a restriction on the use of funds during the existing fiscal year for the purchase of motor gasoline. That is in section 810 of the bill before the committee.

For instance, it provides that the Department of Energy is required to reduce its consumption of gasoline by not less than 15 percent during this 1980 fiscal year.

That is the very thrust of this proposed amendment. It is designed also to reduce the quantity of gasoline that is being consumed by the Department of Energy through the medium of soliciting alternative sources of supply. It is not specific; it just says, "alternative fuels" in the proposed amendment.

It is submitted that the reduction of gasoline by 15 percent which is mandated in the committee bill is consistent with the thrust of the amendment which seeks delaying of the funds for making available alternative fuels.

In a nutshell, Mr. Chairman, there is little difference between reducing the use of gasoline by 15 percent, either by cost or other means, and achieving that reduction of gasoline consumption by the use of alternative fuels.

On that basis, Mr. Chairman, the amendment proposed by the gentleman from California is, I believe, within the scope of section 810 of the committee bill.

THE CHAIRMAN PRO TEMPORE:[2] The Chair is prepared to rule.

The Chair will observe that the rules of the House require that the amendment first be germane to the pending portion of the bill to which it is offered.

Title VIII deals with operating funds and personnel expenses of the entire Department of Energy for the fiscal year 1980. The amendment appears to the Chair to be confined to fiscal year 1980 and to constitute an appropriate restriction or direction on how the Department uses its operating funds for the fiscal year in question, and it is, therefore, germane.

The Chair, therefore, overrules the point of order.

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2. Gerry E. Studds (Mass.).

Substitute Amendment Imposing Conditions on Use of Auto Stickers in Energy Conservation Plan—Amendment Relating To Use of Stickers But Affecting Different Page and Line Numbers

§ 11.8 An amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute. Accordingly, to a substitute requiring that certain emergency energy conservation plans (entailing the use of auto stickers indicating certain days an auto would not be operated) be established (1) only after consultation with state governors, and (2) only after consideration of rural and suburban needs, an amendment striking out and inserting language elsewhere in the bill which also related to the use of auto stickers as part of the energy conservation plans, was held germane to the two diverse conditions already required by the substitute.

During consideration of the Emergency Energy Conservation Act of 1979[3] in the Committee of the Whole on Aug. 1, 1979,[4] Chairman Dante B. Fascell, of Florida, overruled a point of order against an amendment to a substitute and held that the amendment was germane to the substitute. The amendment and proceedings were as follows:

> MR. [TOBY] MOFFETT [of Connecticut]: Mr. Chairman, I offer an amendment as a substitute for the amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: Page 45, after line 9, insert the following new subsection:
> >
> > "(d) Needs of Rural and Certain Other Areas.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in suburban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.
>
> MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Maguire to the amendment offered

3. S. 1030.
4. 125 CONG. REC. 21939, 21944–47, 96th Cong. 1st Sess.

by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. Maguire) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [JOHN D.] DINGELL [of Michigan]: I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. Maguire) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected. . . .

MR. MAGUIRE: Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

Bill Authorizing Construction of Several Pipelines—Amendment Adding Another

§ 11.9 To a bill authorizing construction of pipe lines in one state along a waterway, an amendment adding a similar pipeline along the same waterway in another state was held germane.

In the 77th Congress, the following amendment was offered to a bill[5] authorizing construction of pipelines:[6]

> That in addition to the sum herein authorized, there is hereby authorized the sum not to exceed $13,000,000 for the purpose of constructing a crude oil pipe line from either Charleston, S.C., or Savannah, Ga., whichever of the said cities, or both, on the inland waterway meets with the approval of the Secretary of the Navy and the Secretary of War, to the Tinsley oil field located in the vicinity of Yazoo, Miss.
>
> The following exchange[7] concerned a point of order made against the amendment:
>
> MR. [ALBERT E.] CARTER [of California]: I make the point of order that the amendment is not germane to the bill. While it is true that the bill does refer to one pipe line, the gentleman's amendment refers to an altogether different pipe line in a different place, to be constructed for a different sum of money. While it is true they refer to similar subjects, I contend that the gentleman's proposal is not germane to this particular paragraph. . . .
>
> THE CHAIRMAN (John M. Costello, of California): The Chair is ready to rule.
>
> The gentleman from South Carolina has offered an amendment which would provide for the building of an additional pipe line, either in South Carolina or Georgia. The bill originally provided for the building of a pipe line and has been amended now to provide for the building of one or more pipe lines which should be built in the interest of national defense to provide for the transportation of materials and supplies for that purpose. The amendment offered by the gentleman from South Carolina applies likewise to the transportation of crude oil and such supplies for the carrying out of national defense.
>
> It has been previously held in the House in connection with a bill providing for an interoceanic route that an amendment providing for another route was proper and germane.
>
> It appears to the Chair that the amendment which the gentleman from South Carolina offers, since it provides for additional pipe lines, is germane to the bill, and the Chair overrules the point of order made by the gentleman from California.

Bill To Regulate Air Pollution From Various Sources—Amendment To Regulate Bus Emissions

§ 11.10 To a proposition relating to several subjects within

5. H.R. 6999 (Committee on Rivers and Harbors).
6. 88 CONG. REC. 5302, 77th Cong. 2d Sess., June 17, 1942.
7. *Id.* at pp. 5302, 5303.

a general category, an amendment affecting an additional subject within that same category is germane. Thus, to a title of a comprehensive bill imposing clean air standards to regulate air pollution from a variety of mobile sources, including motor vehicles, an amendment inserting a new section proposing regulatory standards for carbon monoxide emissions into buses was held germane as regulation of the same category of air pollution sources.

On Sept. 15, 1976,[8]) during consideration of H.R. 10498[9] in the Committee of the Whole, the Chair overruled a point of order against an amendment holding that to a bill being read for amendment by title, an amendment in the form of a new section need not be germane to a specific section therein, it being sufficient that it be germane to the title as a whole. Title II of the bill was before the Committee for amendment, and the diversity of the title is evident from the following table of contents:

TITLE II—AMENDMENTS RELATING PRIMARILY TO MOBILE SOURCES

Sec. 201. Limitation on indirect source review authority.

Sec. 202. Extension of transportation control compliance dates.

Sec. 203. Light-duty motor vehicle emissions.

Sec. 204. Emission standards for heavy duty vehicles or engines and certain other vehicles or engines.

Sec. 205. Aircraft emission standards.

Sec. 206. Assurance of protection of public health and safety.

Sec. 207. Test procedures for measuring evaporative emissions.

Sec. 208. Railroad locomotive emission standards.

Sec. 209. Motor vehicle parts certification and study by Federal Trade Commission.

Sec. 210. Vehicle inspection and maintenance. . . .

MR. [EDWARD I.] KOCH [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Koch: Page 302, after line 7, insert:

CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

Sec. 220. (a) Title II of the Clean Air Act (relating to emission standards for moving sources) is amended by adding the following new part at the end thereof:

"PART D—CARBON MONOXIDE STANDARDS FOR SCHOOLBUS PASSENGER AREAS

"ESTABLISHMENT OF STANDARDS

"Sec. 241. (a) The Administrator, in conjunction with the Secretary of

8. 122 CONG. REC. 30476, 30477, 94th Cong. 2d Sess.

9. The Clean Air Act Amendments of 1976.

Transportation, shall study the problem of carbon monoxide intrusion into buses and sustained-use motor vehicles. . . .

(b) Not later than one year after the enactment of this part, the Administrator shall issue proposed standards setting forth the levels of carbon monoxide in the passenger areas of schoolbuses which are requisite to protect, with an adequate margin of safety, the health of passengers and to permit safe operation of such buses.

(c) Pursuant to the requirements of section 307(d), the Administrator shall, by regulation, promulgate, with such modifications as he deems appropriate, final standards applicable to the presence of carbon monoxide in the passenger areas of schoolbuses. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I have a point of order against the amendment. . . .

(T)his amendment would impose a number of additional duties on the Environmental Protection Agency and the Administrator of that Agency and also on the Secretary of the Department of Transportation.

Mr. Chairman, there is nothing in this act pertaining to authority of any agency of the Federal Government to prescribe standards for buses or to prescribe standards for school buses. . . .

The bill includes authority to prescribe standards for new vehicles, not for those vehicles that are on the road and in operation. . . .

MR. KOCH: . . .Mr. Chairman, first, as I understand the gentleman, it is just a colloquy on the imposition of standards on heavy duty vehicles that is already in the bill.

Second, I have a memorandum prepared by the Library of Congress and I will just briefly recite from it, if I may:

H.R. 10498 amends the Clean Air Act in several respects. Title I of the bill contains 15 sections dealing with amendments relating primarily to statutory sources. Title II has 19 sections relating primarily to mobile sources. And title III has 17 sections of miscellaneous amendments (e.g., redesignation of air quality control regions, fine particulate study, and study and report concerning economic approaches to controlling air pollution). When a bill provides for numerous changes of various sections in existing law, amendments to the bill are sometimes held to be germane where the amendments modify sections of the law not dealt with in the bill. . . .

THE CHAIRMAN:[10] The Chair is prepared to rule on the point of order made by the gentleman from North Carolina (Mr. Broyhill).

The gentleman from New York (Mr. Koch) has offered an amendment which has as its title, "Carbon Monoxide Standards for School Bus Passenger Areas." The Chair would like to first point to the title of the bill itself:

This Act, together with the following table of contents, may be cited as the Clean Air Act Amendments of 1976.

Then, the Chair would point to title II, and would emphasize and point out the practical nature and the general nature of title II, which is at this point open to amendment at any point. It is entitled, "Amendments Relating Primarily to Mobile Sources." An examination of the table of contents within the title itself indicates that "mobile sources" being regulated by title II are

10. J. Edward Roush (Ind.).

of many, many sorts, and very diverse including amendments to the Clean Air Act mentioned by the gentleman from Florida and other changes in that law.

It is the opinion of the Chair that the gentleman's amendment as a new section is germane to the title as a whole and that it does not escape nor go beyond the purview of title II. The Chair, therefore, overrules the point of order.

Diverse Titles Relating to Hazardous Waste Cleanup—New Title To Create Cause of Action for Victims of Improper Hazardous Waste Disposal

§ 11.11 To a bill containing diverse titles relating to hazardous waste cleanup, including new uses of a trust fund to finance removal and remedial actions, contemplating compensatory relief through private suits, and containing provisions regarding relocation costs, replacement of drinking water supplies and other disaster relief, and amended to include a provision relating to deed covenants in government surplus property conveyances (several of such provisions containing subject matter within the jurisdiction of committees other than the Committee on Energy and Commerce which reported the bill), an amendment in the form of a new title creating a new federal cause of action for victims of improper disposal of hazardous waste, with amounts recovered from the liable private parties to go toward reimbursement of the trust fund for remedial expenses was held germane as within the general diverse class of remedies covered by the bill as a whole, where some of those remedies already contained in the bill were within the jurisdiction of the committee (the Committee on the Judiciary) having jurisdiction over the subject of the amendment.

The proceedings of Aug. 10, 1984, relating to H.R. 5640 (the Superfund authorization), are discussed in § 4.10, supra.

Transportation Facilities Eligible for Grants—Amendment Making Additional Groups Within Same Category Eligible

§ 11.12 To a section of a bill defining eligibility for certain grants affecting transportation, in terms of four diverse classifications of facilities within the generic category of railroad beds and

facilities, an amendment adding two additional groups within the same generic category was held germane.

During consideration of the Emergency Rail Transportation Improvement Act of 1975[11] in the Committee of the Whole on Oct. 23, 1975,[12] the Chair overruled a point of order against the amendment described above. The section of the bill pending and the amendment offered thereto were as follows:

Sec. 6. Roadbeds and facilities are eligible for project grants pursuant to section 4 if they—

(1) have been designated for transfer to the Consolidated Rail Corporation in the final system plan approved by the Board of Directors of the United States Railway Association under section 206(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 716(c)); or

(2) are utilized by the National Railroad Passenger Corporation pursuant to the Rail Passenger Service Act (45 U.S.C. 501 et seq.) for providing intercity rail passenger service or are part of either the basic system or the experimental routes established pursuant to such Act; or

(3) are owned by a railroad in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) on the date of enactment of this Act; or

(4) are utilized for providing intercity rail passenger service by any railroad which is not in reorganization under section 77 of the Bankruptcy Act (11 U.S.C. 205) or subject to reorganization as provided in section 207(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717(b)). . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: On page 21, line 5 of H.R. 8672, delete the following: "(45 U.S.C. 717(b))." And, in lieu thereof, insert the following: "(45 U.S.C. 717(b)); or

"(5) have been identified to the Secretary by any State, political subdivision thereof, or regional commission as significantly contributing to improvements in, or the continuation of, essential present or anticipated transportation needs, and the Secretary concurs in such identification; or

"(6) are owned by a State or public entity.". . .

MR. [FRED B.] ROONEY [of Pennsylvania]: Mr. Chairman, I believe the amendment should be referred to the Committee on Public Works. I have discussed this with the chairman of the Subcommittee on Surface Transportation of the Committee on Public Works and I am informed that at the present time they are working on this legislation. Therefore I do not think it is germane to this legislation and that this committee does not have that jurisdiction. . . .

THE CHAIRMAN:[13] The Chair is prepared to rule.

The amendment offered by the gentleman from Massachusetts (Mr. Conte) would add two categories to the

11. H.R. 8672.

12. 121 CONG. REC. 33776, 33777, 94th Cong. 1st Sess.

13. Jonathan B. Bingham (N.Y.).

eligible roadbeds and facilities in section 6 of the bill. The four categories that are now included comprise a diverse group within the generic category of railroad beds and facilities and do not constitute any clearly discernible class different from the categories proposed to be added by the amendment offered by the gentleman from Massachusetts (Mr. Conte). There is nothing in the language of the amendment which would indicate that the facilities covered thereby are within a different class.

In addition, the Chair would refer to the fact that the findings and purposes of the bill refer to railroad and railroad beds and facilities without excluding any particular type of roadbeds and facilities. For these reasons the point of order is overruled.

Loan Guarantees to Chrysler Corporation—Amendment Imposing Additional Conditions

§ 11.13 Where a proposal authorized loan guarantees to the Chrysler Corporation, for purposes of enabling the corporation to remain economically viable and to continue to furnish goods and services, thereby avoiding adverse effects on the economy and domestic employment, but set a variety of conditions on such loan guarantees (such as a prohibition against paying dividends during the term of the loan guarantee), an amendment providing that during that term the corporation shall not purchase or develop manufacturing facilities outside the United States was held germane as a further condition related to the stated purposes of the bill as a whole.

During consideration of H.R. 5860 in the Committee of the Whole on Dec. 18, 1979,[14] the Chair overruled a point of order against the amendment described above, which was offered to an amendment in the nature of a substitute that had been introduced by Mr. William S. Moorhead, of Pennsylvania. The Moorhead amendment stated in part:[15]

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

Sec. 4. (a) The Board, on such terms as it deems appropriate, may make commitments to guarantee either the principal amount of loans to a borrower or the principal amount of, and interest on, loans to a borrower. A commitment may be made only if, at the time the commitment is issued, the Board determines that—

(1) there exists an energy-savings plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

14. 125 CONG. REC. 36791-93, 36818, 36819, 96th Cong. 1st Sess.

15. *Id.* at pp. 36791, 36792.

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrowers;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof . . .

(e) With respect to any borrower other than a borrower under subparagraphs (A), (B), and (C) of paragraph (2) of section 2, the Board may make commitments to guarantee loans and may make loan guarantees under this Act to any such borrower before the energy-saving plan required under subsection (a)(1) is developed if the Board determines that such commitments or loan guarantees are necessary to preserve the Corporation for the development of the plan required under subsection (a)(1).

(f)(1) Notwithstanding the provisions of subsection (a)(4), no loan guarantee may be made under this Act unless—

(A) the Corporation offers for sale not less than $100,000,000 of stock of the Corporation which—

(i) was issued after October 17, 1979; or

(ii) was held by the Corporation as treasury stock of the Corporation before October 17, 1979;

(B) the Corporation secures commitments to purchase not less than $100,000,000 of such stock from persons with an existing economic stake in the health of the Corporation; and

(C) the commitments referred to in subparagraph (B) exceed such persons' outstanding commitments to purchase such stock as of October 17, 1979.

(2) Any financial commitment or concession made under paragraph (1) may be applied toward the requirements of subsection (c).

Section 8[16] of the amendment in the nature of a substitute stated several terms and conditions of the loan guarantees, including a prohibition against paying dividends during the term of the loan guarantee.

An amendment was offered to the amendment in the nature of a substitute:[17]

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute. . . .

The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Stark to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: At the end of section 4 [insert] . . .
>
> ". . . During the period in which any loan guarantee is outstanding under this Act, the Corporation shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane. . . .

(T)he rules of the House require that the amendment be germane to both

16. *Id.* at pp. 36792, 36793.

17. *Id.* at p. 36818.

the bill and the amendment to which it is offered, as well as to the particular portion of the amendment to which the proposal is offered. This amendment, I think, fails to meet all three of these requirements.

The particular section of the amendment to which this amendment is offered reads as follows: "Authority for Commitments for Loan Guarantees." This section deals with two things: No. 1, that the builder of the automobile to receive the loan guarantee shall have an energy savings plan. That is the first one. It shall have such a plan as a part of both its operating and its financial plan.

The section subsequently goes on and lays down what goes into a satisfactory financing plan. If the Chair will follow this, he will find that the particular section deals with the financing plan clear through the section and deals with the actions of the corporation which will be taken to satisfy a satisfactory financing plan and a plan which will assure the protection of the United States and the interest of the taxpayers in the loan.

The proposal that is offered by the gentleman from California (Mr. Stark) dictates what shall be done by Chrysler, not what will respond to the requirements of this particular section which deal with the financial capability and financial ability of the corporation to repay and as to what constitutes a satisfactory financing plan by the corporation. . . .

Mr. Chairman, I point out that the amendment is not germane because it does not fall in the category of conditions that are met in . . . the bill, the amendment to the bill or the particular section to which it is made.

MR. STARK: Mr. Chairman, if the Chair will bear with me, my amendment, I believe, is to section 4. The gentleman from Michigan is quite correct that that is the authority for commitments under loan guarantees. On page 4 of the committee print of the amendment in the nature of a substitute, on line 14, under the sections which the gentleman from Michigan stated:

> . . . the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof.

Going along further, under the financial plan, which the gentleman said should be submitted, on page 6, paragraph (8):

> . . . the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the corporation.

I certainly presume that domestic economic viability of the corporation relates to expenditures in the United States and not overseas.

So I would submit that my amendment deals directly with assuring that the intent of section 4 will be carried out by the Board and, therefore, is of the most germane nature and very important to the bill. . . .

THE CHAIRMAN:[18] . . . [T]he Chair is ready to rule.

The Chair feels that the argument made by the gentleman from California (Mr. Stark) is to the point, that both the provisions mentioned are perti-

18. Richard Bolling (Mo.).

nent, and that the amendment is pertinent to the general purposes of the Moorhead amendment in the nature of a substitute, as indicated by related provisions in the section in question and especially by the substitute as a whole.

Therefore, the Chair overrules the point of order.

Bill Amending Two Provisions of Gold Reserve Act—Amendment Related To Different Subject in Act

§ 11.14 To a bill seeking to amend the Gold Reserve Act in two particulars, an amendment seeking to amend the act in a third particular but not related to the purpose of the amendments under consideration was held not germane.

In the 76th Congress, a bill [19] was under consideration amending the Gold Reserve Act relative to the goal of achieving stabilization of domestic prices and the exchange value of the dollar. A proposed amendment sought to amend the act with regard to a matter not covered in the bill, the purchase of gold abroad by the Secretary of the Treasury and a requirement that the proceeds of such purchase be used only to "Buy American" products. A point of order was raised against the amendment on the grounds that it was not germane to the bill.[20] The point of order was raised by Mr. Howard W. Smith, of Virginia. In response to the point of order, the Chairman [1] summarized the issues and ruled as follows: [2]

> The pending bill has two objectives in view, as far as the bill itself is concerned, in the present parliamentary situation. One, the use of the stabilization fund, to extend the powers in the President of the use of the stabilization fund for the purpose of stabilizing the exchange value of the dollar. Two, to continue power in the President by proclamation, to fix the weight of the gold dollar, for the purpose of stabilizing domestic prices or to protect commerce against the adverse effects of depreciated foreign currency.
>
> The bill picks out two powers granted in the Gold Reserve Act of 1934, from a number of other powers in that act, and it extends the date of expiration of those powers vested in the President and also in the Secretary of the Treasury, and continues those powers for an additional period. . . .
>
> The Chair . . . finds in section 2947 of [vol. 8] of Cannon's Precedents a ruling by . . . the late Speaker Frederick H. Gillett.

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19. H.R. 3325 (Committee on Coinage, Weights, and Measures).

20. 84 Cong. Rec. 4628, 76th Cong. 1st Sess., Apr. 21, 1939.

1. John W. McCormack (Mass.).

2. 84 Cong. Rec. 4629, 4630, 76th Cong. 1st Sess., Apr. 21, 1939.

The syllabus to that decision reads as follows:

> To a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill was held not to be germane. . . .

The present occupant of the Chair feels that (the precedents cited) are very convincing, and . . . feels strongly inclined to follow the precedent established by the rulings to which the Chair has referred. For the reasons stated, recognizing that it is a close question, the Chair feels constrained to sustain the point of order.

Bill Prohibiting Various Activities Related to Consumer Credit—Amendment To Prohibit "Loansharking"

§ 11.15 To a bill making unlawful a number of activities in the field of interstate consumer credit transactions, an amendment adding another activity, "loansharking," to those prohibited in the bill was held germane.

In the 90th Congress, a bill[3] was under consideration requiring disclosure of finance charges and interest rates on credit sales, restricting the garnishment of wages, establishing a Commission on Consumer Finance and dealing generally with the subject of credit transactions. An amendment prohibiting "loansharking"—the loaning of money at rates of interest above those permitted by state law—was held germane to such bill. The amendment, offered by Mr. Richard H. Poff, of Virginia, stated in part:[4]

> b(1) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce by loan sharking or attempts so to do shall be fined not more than $10,000 or imprisoned not more than five years, or both. . . .
>
> (4) Whoever knowingly participates in any way in a wrongful use of actual or threatened force, violence, or fear in connection with a loan or forbearance in violation of subsections (1) and (2) of this section, or attempted violation thereof, shall be fined not more than $10,000 or imprisoned not more than twenty-five years, or both.

A point of order was raised against the amendment, as follows:[5]

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make a point of order against this amendment. . . .
>
> . . . It involves the Federal enforcement of State usury statutes and involves a lot of things like that which Members of this House are entitled to know something about. There really should be committee consideration of it. . . .

In defense of the amendment, the proponent stated as follows:[6]

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3. H.R. 11601 (Committee on Banking and Currency).

4. 114 CONG. REC. 1605, 1606, 90th Cong. 2d Sess., Jan. 31, 1968.

5. *Id.* at p. 1606.

6. *Id.*

I wish to call to the attention of the Chair reference to the title of the bill, and particularly to the first two clauses thereof which read as follows:

> To safeguard the consumer in connection with the utilization of credit by requiring full disclosure of the terms and conditions of finance charges in credit transactions or in offers to extend credit; by establishing maximum rates of finance charges in credit transactions . . .

Mr. Chairman, the thrust of this amendment is to fix a Federal definition of the crime of usury as it is related to the State statutes which deal with the subject of usury.

Mr. Chairman, it is my feeling that the amendment is altogether addressed to the subject matter of the bill and is properly identified with its provisions.

The Chairman,[7] in ruling on the point of order, stated:[8]

The bill under consideration deals with credit, interest and garnishment, and several other classifications of these fields.

The Chair, in perusing the amendment offered by the gentleman from Virginia, finds that it deals with interest, interest rates, and refers to the matter of "loan sharks"; this has to do with the matter of interest - the excessive charge of interest. And it appears to the Chair that this is another classification to add to those under consideration in the original bill.

The Chair, therefore, holds that the amendment is germane and overrules the point of order.

7. Charles M. Price (Ill.).

8. 114 Cong. Rec. 1607, 90th Cong. 2d Sess., Jan. 31, 1968.

Amendment Adding to Items Covered by Flammable Fabrics Act

§ 11.16 To a bill extending the coverage of the Flammable Fabrics Act to include wearing apparel and household furnishings, an amendment to bring children's toys within the mandate of the act was held to be germane.

In the 90th Congress, a bill[9] was under consideration relating to fire hazards arising out of the condition of wearing apparel and household furnishings. The following exchange[10] concerned an amendment offered by Mr. James G. O'Hara, of Michigan:

> Mr. [Hastings] Keith [of Massachusetts]: Mr. Chairman, I make a point of order against the consideration of this matter at this point. . . .
>
> Mr. Chairman, my objection is to the consideration of the subject matter of the proposed amendments as not being pertinent and as not being germane to this legislation, and I make a point of order against the amendments on that ground.

Mr. O'Hara responded to the point of order in the following language:

> Mr. Chairman, this is an amendment to the Flammable Fabrics Act.

9. S. 1003 (Committee on Interstate and Foreign Commerce).

10. 113 Cong. Rec. 33769, 33770, 90th Cong. 1st Sess., Nov. 27, 1967.

The Flammable Fabrics Act is rather extensively amended by the bill before us. The Flammable Fabrics Act is amended to include interior furnishings "made in whole or in part of fabric or related material" and so on.

Then, "fabric" is defined to mean "any material—except fiber, filament, or yarn for other than retail sale—woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefore," and so on.

Then we get to "related material" which is defined to mean "paper, plastic, rubber, synthetic film, or synthetic foam" and so on.

Then the term "product" means "any article of wearing apparel or interior furnishing."

Mr. Chairman, I would submit that under the provisions of this particular legislation we are simply adding a new category, made of fabric and related material, a new category of items. Therefore, it would be germane to this legislation. . . .

THE CHAIRMAN:[11] . . . The bill which the Committee has under consideration is designed to protect the public against undue risk of fire leading to death, injury of property, and damage, arising out of the condition of articles of wearing apparel and interior or household furnishings.

This is the language of the bill which the Committee of the Whole has under consideration, which deals with two classes of subjects. The amendment which is proposed by the gentleman from Michigan would seek to add a third class. It would appear that the addition of a third class is a proper amendment and, therefore, would be germane.

There is the general proposition that a proposition dealing with a number of subjects may be amended by the addition of another subject of the same class.

The Chair, therefore, overrules the point of order.

Bill Containing Diverse Provisions Relating to Authorities of Department of Defense—Amendment Prohibiting Use of Certain Real Property for Deployment of Weapons System

§ 11.17 To a bill containing diverse provisions relating to authorities of the Department of Defense, an amendment adding a new title precluding that department from utilizing certain real property for deployment of a weapons system pending a study was held germane as confined solely to activities of the Defense Department and not extending to issues of the release of public lands through another department.

On May 21, 1980,[12] during consideration of H.R. 6974[13] in the

11. Donald M. Fraser (Minn.).

12. 126 CONG. REC. 11972, 11973, 96th Cong. 2d Sess.

13. The Department of Defense Authorization for fiscal 1981.

Committee of the Whole, Chairman Dan Rostenkowski, of Illinois, overruled a point of order in the circumstances described above:

MR. [DAVID D.] MARRIOTT [of Utah]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Marriott:

TITLE X—RESPONSE TO MX/MPS SYSTEM IMPACT BY THE SECRETARY OF DEFENSE

Sec. 1000. The Secretary of Defense may not use any land made available for the deployment of any part of the MX/MPS system until the Secretary of Defense has provided Congress and the States affected by the system with the following—

(1) A report setting forth specific social, economic and environmental impacts of the MX/MPS system on the people, lands, and resources affected, and detailing the amount of public land to be partially or completely closed to any or all public use, and setting forth any circumstances which would require the use of area security, rather than point security, for the system;

(2) A proposal outlining the methods of addressing the social, economic, and environmental impacts of the MX/MPS system so as to minimize the negative effects of such impacts, including specific steps that can be taken to eliminate delays in delivery of necessary impact aid funds to affected states, counties, and communities;

(3) A study of the feasibility of basing parts of the MX/MPS system in more than two States, so as to minimize the social, economic, and environmental impacts on any single State. . . .

MR. [RICHARD H.] ICHORD [of Missouri]: . . . I observe that the amendment applies to the MX–MPS system which is contained in title II and was fully debated by the committee.

The gentleman sets up a new title X applying solely to MX lands.

Mr. Chairman, I would raise a point of order against the amendment on two grounds. First, the amendment is not now in order as a separate title X. It should have been offered to title II.

The gentleman would have to ask unanimous consent to open up the MX issue.

Mr. Chairman, as a second ground, fully appreciating the good and honorable intentions of the highly esteemed gentleman from Utah in offering this amendment, I make the point of order that the amendment is not germane to the legislation under consideration today since this bill in even a remote respect, Mr. Chairman, does not authorize the acquisition of public lands in any fashion, nor are the agencies of Government concerned nor the public lands within the jurisdiction of this bill.

If we examine the amendment, the gentleman deals strictly with three conditions for the withdrawal of land. Therefore, such an amendment would not properly find its place in H.R. 6974. In fact, Mr. Chairman, the law is such that if we make a withdrawal of land over 5,000 acres it has to be done by other legislation. I am constrained, even though appreciating the good intentions of the gentleman from Utah, to make the point of order that the amendment offered by the gentleman from Utah (Mr. Marriott) is not germane to the bill under the provisions of House rule XVI, clause 7. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair observes that the gentleman from Utah (Mr. Marriott) has offered his amendment as a new title X, which is an amendment which must be germane to the bill as a whole and, the Chair feels that the amendment certainly relates to the bill, and that under the precedents a subject may be germane at more than one place in the bill.

The Chair also makes the observation that the amendment only addresses the authority of the Secretary of Defense to use any available lands for research on and deployment of the MX. Such an amendment is germane since it is not addressed to the question of the acquisition of public lands or the release of public lands by the Department of the Interior and since other authorities of the Defense Department are contained in the bill. Therefore, the Chair overrules the point of order raised by the gentleman from Missouri.

Bill Embracing Different Subjects Relating to Prosecution of War—Amendment Adding Further Subject Affecting War Effort

§ 11.18 To a bill to expedite the prosecution of war, embracing 16 different titles upon unrelated subjects, an amendment proposing to insert a new title on another subject but having for its purpose the same general object was held germane.

In the 77th Congress, during consideration of the second war powers bill[14] the following amendment was offered as a new title:[15]

TITLE IV–A

That during the national emergency declared to exist by the President on May 27, 1941, the following provisions of law, as amended, are suspended, insofar as they—

(a) Prescribe the maximum hours, days, or weeks of labor in any specified period of time;

(b) Require compensation at a rate higher than the usual rate at which an employee is employed (1) for labor in excess of a specified number of hours, days, or weeks in any specified period of time, or (2) for labor on Sundays, holidays, or during the night. . . .

A point of order was made against the amendment as follows:[16]

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Virginia [Mr. Smith] on the ground that it is not germane to the bill. . . .

The Smith amendment provides for maximum hours of employment and rates of pay. It suspends the operation of some 17 different public acts. The bill before you has nothing to do with

14. S. 2208 (Committee on the Judiciary).

15. 88 CONG. REC. 1708, 77th Cong. 2d Sess., Feb. 26, 1942.

16. *Id.* at p. 1709.

any or all of the acts thus sought to be suspended. It has naught to do with hours of employment or rates of pay. It is not a labor bill.

The following additional remarks were made in support of the point of order:[17]

MR. [ARTHUR D.] HEALEY [of Massachusetts]: . . . I submit, Mr. Chairman, that the amendment deals with suspension of sections of laws relating to hours and wages, and that there is no section of the bill now under consideration, as reported by the committee, that deals with that subject or any subject related to it.

The proponent of the amendment defended it as follows:[18]

MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, the Chair, and everyone else, of course, recognize that this is an unusual situation, because we are considering what is known as a war-powers bill, a bill which has 16 separate titles, no two of which are germane to each other. . . . [All that is] necessary in a situation of this kind is that the fundamental purpose of [the amendment] which is, namely, to expedite the war effort, shall be germane to the fundamental purpose of the bill to which it is offered.

The Chairman,[19] in ruling on the point of order, stated:[20]

. . . [T]he Chair [endeavors] to point out that there is an unusual situation presented in that the pending bill embraces 16 different titles, all titles on different and unrelated subjects. Therefore the Chair is of the opinion that the only proper and reasonable test that can be applied in a situation of this kind is the subject matter and the purpose covered by the pending bill and the pending amendment. The purpose of the pending bill is to further expedite the prosecution of the war effort.

Therefore the Chair is of the opinion that the amendment is germane to the purposes of the bill, and the Chair therefore overrules the point of order.

Provisions Requiring Nondiscrimination in Army Nurse Corps—Amendment Proscribing Additional Form of Discrimination

§ 11.19 To a proposed requirement that officers in the Army Nurse Corps be appointed irrespective of race, color, creed, national origin, or ancestry, an amendment adding to such categories that of "membership or nonmembership in any labor organization" was held germane.

In the 80th Congress, a bill[1] was under consideration to establish a permanent nurse corps of the Army and Navy and to estab-

17. *Id.* at p. 1710.
18. *Id.* at pp. 1710, 1711.
19. Jere Cooper (Tenn.).
20. 88 CONG. REC. 1712, 77th Cong. 2d Sess., Feb. 26, 1942.

1. H.R. 1943 (Committee on Armed Services).

lish a Women's Medical Specialist Corps in the Army. Mr. Adam C. Powell, Jr., of New York, had offered an amendment which provided that commissioned officers of the Army Nurse Corps, Regular Army, be appointed from female citizens "irrespective of race, color, creed, national origin, or ancestry." [2] During consideration of the Powell amendment, Mr. Clare E. Hoffman, of Michigan, offered an amendment to the amendment for purposes of adding a requirement that the officers referred to be appointed irrespective of "membership or nonmembership in any labor organization." [3] The following point of order was then raised against the Hoffman amendment:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, I make the point of order that the amendment to the amendment is not germane. The amendment offered by the gentleman from New York merely deals with the question of race, creed, or color, and national origin. The amendment to the amendment offered by the gentleman from Michigan deals with an entirely different subject. . . .

Speaker Joseph W. Martin, Jr., of Massachusetts, ruled as follows on the point of order:

> The amendment offered by the gentleman from New York [Mr. Powell] provides generally that appointment in the Nurse Corps shall be made irrespective of race, creed, color, or national origin.
>
> The amendment offered by the gentleman from Michigan (Mr. Hoffman) simply adds an additional category.
>
> In the opinion of the Chair, the amendment is germane, and the Chair, therefore, overrules the point of order.

Bill Waiving State Laws Affecting Voting Rights of Armed Forces—Amendment Waiving Payment of Poll Tax as Requirement

§ 11.20 To that section of a bill concerning the right of members of the armed forces to vote notwithstanding any state law relating to elections, including requirements as to registration, an amendment waiving the payment of a poll tax as a prerequisite to registration was held merely to add another provision relating to the voting rights in question and was held germane.

On July 23, 1942, a bill [4] was under consideration which related to absentee voting in time of war by members of the armed forces. The bill stated in part: [5]

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2. 93 CONG. REC. 2011, 80th Cong. 1st Sess., Mar. 13, 1947.

3. *Id.* at p. 2012.

4. H.R. 7416 (Committee on Election of President, Vice President, and Representatives in Congress).

5. 88 CONG. REC. 6561, 77th Cong. 2d Sess., July 23, 1942.

SPECIAL METHOD OF VOTING IN TIME OF WAR

Section 1. In time of war, notwithstanding any provision of State law relating to elections (including requirements as to registration), every individual absent from the State of his residence and serving in the land or naval forces of the United States in the continental United States (exclusive of Alaska), who is otherwise qualified to vote under the law of the State of his residence, shall be entitled, as provided in this act, to vote for electors of President and Vice President of the United States, United States Senators and Representatives in Congress.

An amendment offered by Mr. Estes Kefauver, of Tennessee, sought specifically to include payment of a poll tax among the state requirements relating to elections which were to be deemed inapplicable to members of the armed forces as described. Mr. John E. Rankin, of Mississippi, made the point of order that the amendment was not germane; the point of order, however, was overruled. The Chairman [6] stated:

The Chair invites attention to the provision of the bill where the amendment is offered, including requirement as to registration. The amendment seeks to add another provision relating to the right of the men to vote.

Therefore, the Chair is of the opinion that the amendment is germane and overrules the point of order.

6. Jere Cooper (Tenn.).

Bill Prohibiting Interference With Officials Attempting To Enforce Civil Rights—Amendment Proscribing Interference Under Additional Circumstances

§ 11.21 To a bill making it a criminal offense to interfere with enjoyment of certain enumerated civil rights and prohibiting interference with public officials attempting to enforce these rights without discrimination, an amendment proscribing interference with a public official, law enforcement officer, or fireman who is attempting to carry out the purposes of the bill or prevent civil disturbances, riots, or the destruction of property was held germane.

The following exchange [7] in the 90th Congress concerned an amendment to a bill [8] prescribing penalties for interference with civil rights:

MR. [JAMES C.] WRIGHT [Jr., of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

. . . [It shall be a criminal offense to injure, interfere with, or the like]

7. 113 CONG. REC. 22757, 22758, 90th Cong. 1st Sess., Aug. 16, 1967.

8. H.R. 2516 (Committee on the Judiciary).

any law enforcement officer making or attempting to make a lawful arrest to carry out the purposes of this act or to prevent or abate a riot or violent civil disturbance . . . or . . . any fireman attempting to extinguish a fire created by any disturbance resulting from a civil rights protest. . . .

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

The fundamental purpose of this bill is to prescribe penalties for the forcible interference because of race, color, or creed or national origin with the enjoyment of civil rights.

Those rights are Federal rights. They stem from the 14th amendment, and from the laws passed by the Congress. . . .

The question of protection of policemen and firemen is a matter I doubt very much whether we would have the constitutional right to adopt, or pass.

The congressional power in this respect could not stem from the 14th amendment. It could not stem from the commerce clause.

That is not the case with policemen and firemen. In my estimation this is purely a State or local matter and not for the Congress. . . .

MR. WRIGHT: Mr. Chairman, it is a well-established principle fully recognized in the rules of this House and in its precedents and rulings of the Chair that an amendment is germane when it does no more than to add an additional category to the list of punishable offenses prescribed in the bill. . . .

THE CHAIRMAN:[9] . . . The bill before the Committee of the Whole enumerates eight areas of civil rights activity and is designed to prevent or punish interference with these activities. It does this by defining three new crimes:

The bill makes it a crime:

First, to interfere with any person, because of his race, color, religion, or national origin, while he is lawfully engaging or seeking to engage in these activities;

Second, to interfere with any person to discourage lawful participation by such person in any of the eight activities, and, more particularly, to interfere with related free speech and assembly;

Third, for any person to interfere with any public official to discourage such official from affording equal treatment to those participating in the eight activities.

The amendment adds a fourth category of criminal activity closely related to the last of these three crimes. It also relates to interference with public officials in the performance of their duties and proscribes any attempt to injure, intimidate or interfere with a public official attempting to carry out the purpose of this act or attempting to prevent certain civil disturbances.

The Chair feels that this amendment falls within the general proposition that where a section of a bill defines several unlawful acts an amendment proposing to include an additional unlawful act of the same class is germane.

Bill Authorizing Investigation of Civil Rights Violations—Amendment Adding Further Discriminatory Practice To Be Investigated

§ 11.22 To a bill authorizing a commission to investigate

9. Richard Bolling (Mo.).

abridgment of civil rights, an amendment making discrimination on the basis of political affiliation a subject of such investigation was held to be germane.

In the 84th Congress, a bill[10] was under consideration which provided in part that a commission should investigate allegations that certain citizens were being deprived of their right to vote or being subjected to unwarranted economic pressures by reason of their color, race, religion, or national origins. The following amendment was offered:[11]

> Amendment offered by Mr. Paul C. Jones, of Missouri: On page 21, line 12, after the word "religion", insert "political affiliation."

A point of order was raised against the amendment, as follows:[12]

> MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make the point of order that this amendment is not germane to this bill. The prohibition against discrimination on the grounds of color, race, religion, and [national] origin is envisioned within the terms of the bill now and it says nothing about political affiliations. We do not want to change the entire character of this commission, as it is set up here, by providing that they are to get into an investigation of how people vote and why. It would involve, or at least could involve, investigation of the so-called Communist Party and other subversive groups. It completely changes the character of the bill. It is not within the purview of either this section or the title of the bill in any way, it seems to me.

In defense of the amendment, the proponent stated as follows:[13]

> MR. JONES of Missouri: Mr. Chairman, I think it is apparent to anyone if they read the bill, that it says it is to investigate the allegation that certain citizens of the United States are being deprived of their right to vote. . . .
>
> I think [it] is well recognized, that political affiliation is something that excludes some people from the right of franchise in this country.

The Chairman,[14] in ruling on the point of order, stated:[15]

> The Chair has examined both the language of the amendment and the language of the bill and finds, for the reason that the word "sex" was germane yesterday, "political affiliation" is germane to the section that the gentleman has offered his amendment, and the Chair overrules the point of order.

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10. H.R. 627 (Committee on the Judiciary).

11. 102 CONG. REC. 13730, 84th Cong. 2d Sess., July 20, 1956.

12. *Id.* at pp. 13730, 13731.

13. *Id.* at p. 13731.

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

15. 102 CONG. REC. 13731, 84th Cong. 2d Sess., July 20, 1956.

Bill Establishing Department of Education and Containing Findings—Amendment Adding Finding With Regard to Use of Quotas Based on Race or Other Factors

§ 11.23 To that portion of a bill containing diverse findings and purposes related to a general subject, an amendment adding another finding or purpose related to that subject is germane; thus, to a title of a bill establishing a new Department of Education, stating a wide range of findings and educational purposes for the creation of the Department, including a finding that there is a need to insure equal access to educational opportunities, an amendment adding the finding that no individual should be denied such opportunities by regulations which utilize ratios, quotas, or other numerical requirements based on race, creed, color, national origin or sex, was held germane as adding a related finding to the diverse class of educational policies stated in the title.

On June 12, 1979,[16] during consideration of H.R. 2444[17] in the Committee of the Whole, Chairman Lucien N. Nedzi, of Michigan, overruled a point of order against the following amendment:

> MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Walker: On page 54, in line 21, strike out the ";", and insert the following: "and that no individual should be denied such education opportunities by rules, regulations, standards, guidelines, and orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex.". . .
>
> MR. [FRANK] HORTON [of New York]: Mr. Chairman, I raise a point of order against this amendment, since it is on a subject that is different from that which is under consideration and, thus, it fails to meet the test that is imposed by rule XVI, clause 7.
>
> We are considering a reorganization statute, that is H.R. 2444, within the jurisdiction of the Committee on Government Operations. That committee has reported this bill.
>
> The gentleman is introducing a new subject by way of his amendment which affects education programs. If such an amendment were introduced

16. 125 CONG. REC. 14460, 96th Cong. 1st Sess.

17. Department of Education Organization Act of 1979.

as a bill, it would not even be referred to the Committee on Government Operations.

In order to be germane, an amendment must have the same fundamental purpose as the bill under consideration. The purpose of H.R. 2444 deals only with the organizational structure of a new Department of Education.

The amendment raises a controversial subject of public policy and gets into substantive issues. Thus, the fundamental purpose of the amendment is not germane to the fundamental purpose of the bill.

I know yesterday there was a ruling of the chair with regard to one of the other amendments that were offered that made reference to the inclusion in this bill of section 103, namely prohibition against Federal control of education. That provision is the restatement of the present law which prohibits the Federal Government from controlling or getting into the control of local education. In other words, that is a restatement of what the present law is. It was put in this bill so it would make certain to those who were involved with the Department of Education in the bill that they would know that it is not the intention of the Federal Government to direct or control education at the local level.

This amendment goes into substantive issues which are not involved in this committee. We have had no hearings on this subject; we have had no opportunity to discuss it; we have had no testimony on it. . . .

MR. WALKER: . . . What I am simply doing in this particular amendment is further defining findings which are already stated under the findings and purposes section of this bill.

The present findings says:

> There is a continuous need to insure equal access for all Americans to educational opportunities of high quality.

All this language does is expand upon that particular phraseology by saying that no individual should be denied such educational opportunities by rules, regulations, standards, guidelines, or orders which utilize any ratio, quota, or other numerical requirement related to race, creed, color, national origin or sex.

It simply defines material which is already stated in the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to remind the Member that title I of H.R. 2444 in section 102 contains a diverse statement of purposes and findings applicable to the newly created Department of Education. These findings, while not affecting or creating new authorities which are to be transferred to the Department, are extremely diverse in character and emphasize several aspects of the question of the extent of Federal Government involvement in educational programs. Since it is difficult to group into one class all of the stated purposes and findings for the new Department, and since the pending amendment does not directly address new substantive authorities to be conferred upon or withheld from the Department, the Chair will rule that the amendment stating an additional finding relative to Federal educational policy is germane to title I of the bill.

The Chair would cite a relevant precedent contained in Cannon's precedents, volume VIII, section 3011,

where, to a section embodying a declaration of policy and including a number of purposes, an amendment proposing to incorporate an additional purpose was held germane. There, the Chair emphasizes that the declaration of policy section did not have any particular effect upon the bill, and that the section contained several diverse proposals.

Accordingly, the Chair overrules the point of order, and the gentleman from Pennsylvania is recognized for 5 minutes in support of his amendment.

Bill Prohibiting Certain Activities in Political Campaigns—Amendment To Prohibit Certain Political Activities on Part of Employees of Public Utility Holding Companies

§ 11.24 To a bill making it unlawful for persons, corporations, and the like to engage in certain "pernicious political activities," an amendment making unlawful certain "pernicious political activities" on the part of employees of public utility holding companies was held to be germane.

In the 76th Congress, a bill [18] was under consideration that sought to prevent pernicious political activities by making it unlawful for any person to make contributions in excess of $5,000 to political campaigns. The bill also declared it to be unlawful for any person, partnership, corporation, or the like, to purchase any goods, commodities, or advertising, where the proceeds of such purchase would inure to the benefit of any political campaign. The following amendment was offered: [19]

Amendment offered by Mr. [John E.] Rankin [of Mississippi]: Page 21, after line 7, insert: "it is further declared to be a pernicious political activity, and it shall hereafter be unlawful, for any officer or employee of a public utility holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935, or of any subsidiary company thereof, (1) to take any active part in political management or in political campaigns, or (2) to use his authority or influence as such officer or employee for the purpose of interfering with an election or a nomination for office, or affecting the results thereof, or (3) directly or indirectly to coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes."

A point of order was made against the amendment by Mr. John J. Dempsey, of New Mexico,

18. S. 3046 (Committee on the Judiciary).

19. 86 CONG. REC. 9453, 76th Cong. 3d Sess., July 10, 1940.

on the ground that the amendment was not germane to the bill.[20] Mr. Earl C. Michener, of Michigan, speaking in support of the point of order,[1] argued that the bill dealt basically with groups or classes who received compensation or contributions directly or indirectly from the federal government, and that the class of persons included within the terms of the Rankin amendment were not such a class as the bill intended to regulate. A further argument was made by Mr. Francis H. Case, of South Dakota,[2] that the section of the bill to which the amendment was offered dealt primarily with the subject of contributions rather than with that of participation in campaigns; observing that much of the proposed amendment was devoted to the subject of participation in campaigns, Mr. Case cited another section of the bill to which he felt the amendment would more appropriately be offered. The Chairman, John W. McCormack, of Massachusetts, in ruling on the point of order, stated:[3]

> The Chair is in complete agreement with so much of the observations of the distinguished gentleman from Michigan [Mr.
>
> Michener] as relates to the amendment's not being germane if the bill were confined to one group. The Chair would have no hesitancy in ruling if the bill confined itself . . . to employees of a state or of any political subdivision.
>
> However, the Chair is very much concerned by the provision of section 13, which brings in another class, declaring it to be [a pernicious political activity for any person to make political contributions as specified].
>
> Then in the third paragraph of section 13 there is brought in another class: . . . "any person, individual, partnership, committee, association, corporation, and any other organization or group of persons. . . ."
>
> There is a well-recognized rule of the House, which has been passed upon on many occasions, that where a bill confines itself to one subject, another subject, even if related, would not be germane, but where a bill covers two or more subjects a related subject would then be in order. . . .
>
> This being a related matter, and the bill covering two or more groups, it seems to the Chair that another group could be included therein, which the amendment offered by the gentleman from Mississippi undertakes to do. For the reasons stated, therefore, the Chair overrules the point of order.

Provisions Relating to Government and Political Rights in District of Columbia—Amendment Providing for Non-voting Delegate to Senate

§ 11.25 To a proposition relating in many diverse respects

20. *Id.* at p. 9453.
1. *Id.*
2. *Id.* at p. 9454.
3. *Id.*

to the political rights of the people of the District of Columbia, an amendment conferring upon that electorate the additional right of electing a non-voting Delegate to the Senate was held germane.

On Oct. 10, 1973,[4] the Committee of the Whole had under consideration H.R. 9682, a bill to reorganize the government of the District of Columbia. An amendment in the nature of a substitute provided for a comprehensive reorganization of the government of the District of Columbia, including sections permitting the popular election of a mayor and city council. It also contained amendments to the District of Columbia Election Act relating to procedures for election of a delegate to the House of Representatives. An amendment was offered providing for the election of a non-voting delegate to the Senate. The proceedings were as follows:

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Gross to the amendment in the nature of a substitute offered by Mr. Diggs: Page 118, immediately after line 2, insert the following:

DISTRICT OF COLUMBIA DELEGATE TO THE SENATE

Sec. 741. (a) The people of the District of Columbia shall be represented in the Senate of the United States by a Delegate, to be known as the "Delegate to the Senate from the District of Columbia", who shall be elected by the voters of the District of Columbia in accordance with the District of Columbia Election Act, in the same manner as such Act relates to the election of the Delegate to the House of Representatives from the District of Columbia. . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I wish to make a point of order against the amendment. . . .

[T]he point of order is based on the fact that the amendment is not germane. The bill deals with self-government for the District of Columbia and allocating certain powers to the District and certain restrictions on the exercise of that authority. The amendment, as I understand it, purports to give representation in the Congress, which is a wholly different subject not embraced in the bill before the Committee. . . .

THE CHAIRMAN:[5] The Chair is prepared to rule. The Chair believes that the matter before the committee covers so many different subjects that have to do with the rights of people of the District of Columbia that the amendment is, in fact, germane and overrules the point of order.

4. 119 CONG. REC. 33656, 33657, 93d Cong. 1st Sess.

5. Richard Bolling (Mo.).

Resolution Authorizing Investigation of Sources and Purity of Milk Supply in District of Columbia—Amendment Expanding Investigation To Include Ways To Ensure Adequate Supply of Dairy Products

§ 11.26 To a resolution authorizing a committee to investigate several matters relating to the sources and purity of the milk supply in the District of Columbia, an amendment was held to be germane which proposed that such investigation encompass additional aspects of the problem of ensuring an adequate supply of dairy products in the District of Columbia.

The following resolution was offered on Mar. 13, 1939: (6)

HOUSE RESOLUTION 113

Resolved, That the House Committee on the District of Columbia, or a duly authorized subcommittee thereof, be, and is hereby, authorized and directed to make a full and complete investigation of (1) the sources and purity of the milk and cream supply of the District of Columbia; (2) of any violation of the law of the District of Columbia or regulations of the District Commissioners made pursuant thereto with respect to the importation of milk or cream into the District of Columbia or importation of unlicensed milk or cream into the District of Columbia and the method by which such violations are perpetrated; (3) the possible effect upon the health of the community by reason of the unlawful importation of unlicensed milk or cream into the District of Columbia; (4) whether and to what extent cream for ice-cream purposes, under section 4 of the 1925 Milk Act of the District of Columbia, is being diverted unlawfully to milk or cream for fluid consumption; (5) whether any conspiracy exists on the part of any distributor of any dairy products to violate the provisions of the 1925 District Milk Act or the regulations made pursuant thereto. . . .

To such resolution, the following amendment was offered: (7)

Amendment offered by Mr. [Charles A.] Halleck [of Indiana]: Page 2, line 7, after "thereto," strike out the period and insert:

(6) the propriety and feasibility of licensing or otherwise permitting under proper regulation in such manner as to fairly protect the safety and health of consumers in the District of Columbia the entry into the District of Columbia of so-called western cream and milk, and cream and milk from any available sources in the United States for fluid, manufacturing, or other use in the District of Columbia and on the Washington market;

(7) and whether the 1925 Milk Act, and all other acts relating to the importation, distribution, and inspection of milk and dairy products require modification, alteration, or improve-

6. 84 CONG. REC. 2663, 76th Cong. 1st Sess. (Committee on Rules).

7. *Id.* at p. 2671.

ment in order to insure an adequate supply of milk and dairy products for the residents of the District of Columbia at reasonable and fair prices.

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

MR. [HOWARD W.] SMITH of Virginia: Mr. Speaker, I make the point of order against the amendment that it is not germane to the resolution before the House. . . . As the Chair will notice, the resolution of investigation is confined to a narrow scope, namely, its sole purpose is investigation of law violations. The gentleman from Indiana desires to enter upon an investigation of whether the law as now existing is a good law or a bad law, or whether Congress ought to do something about it.

In ruling on the point of order, Speaker William B. Bankhead, of Alabama, stated: (8)

There is a very well considered line of opinions and precedents holding that where a number of subjects are embraced in a bill, it is germane to add another subject of the same class thereto, and inasmuch as the committee is authorized to make recommendations affecting legislation to cure or change the situation with reference to the supply of milk or cream, the Chair is of the opinion that the amendment is in order and is germane to the resolution and overrules the point of order.

8. *Id.* at p. 2672.

Bill Amending Laws Affecting Authority of Secretary of Agriculture—Amendment Addressed to Different Law Affecting Such Authority

§ 11.27 Although an amendment which changes a law not cited in a pending bill is ordinarily not germane, a title of a bill which amends several laws to address a variety of authorities of an executive department may be broad enough to admit as germane an amendment changing another existing law to add another authority of that department within the same general class; thus, to a title of an omnibus agricultural bill respecting a number of unrelated authorities of the Secretary of Agriculture as to crop set-asides, loans and sales, export sales, price supports, importation and allotment studies, an amendment amending the Agricultural Marketing Act of 1946 (not amended by the title) to require the Secretary to adopt a minimum standard for the contents of ice cream, and allowing only such ice cream as meets those standards to bear a USDA stamp of approval,

was held germane since restricted to authority of the Department of Agriculture.

On July 22, 1977,[9] during consideration of H.R. 7171 (the Agricultural Act of 1977) in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

TITLE IX—MISCELLANEOUS COMMODITY PROVISIONS

SET-ASIDE ON SUMMER FALLOW FARMS

Sec. 901. Notwithstanding any other provision of law, for the 1971 through 1981 crops of wheat, feed grains, and cotton if in any year at least 55 per centum of cropland acreage in an established summer fallow farm is diverted to a summer fallow use no further acreage shall be required to be set aside under the wheat, feed grains, and cotton programs for such year.

LOAN EXTENSION AND SALES PROVISIONS FOR WHEAT AND FEED GRAINS

Sec. 902. The Agricultural Act of 1949, as amended, is amended by adding the following new section: . . .

FARM STORAGE FACILITY LOANS

Sec. 905. Section 4(h) of the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended; 15 U.S.C. 714b(h)) is amended by inserting immediately before the period at the end of the second sentence the following: ": . . .

SOYBEAN PRICE SUPPORT

Sec. 906. The Agricultural Act of 1949, as amended, is further amended by adding a new section 304, as follows:

"Sec. 304. Notwithstanding any other provisions of this Act, the Secretary shall make available to producers loans and purchases on each crop of soybeans at such level as he determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors.". . . .

REPORT ON RECOMMENDATIONS FOR REVISED ALLOTMENT SYSTEM

Sec. 909. The Secretary shall collect and analyze currently available information pertaining to the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. . . .

MR. [CHARLES] ROSE [of North Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rose: On page 52, line 5, insert the following:

STANDARD OF QUALITY

Sec. 910. Sec. 203(c) of the Agricultural Marketing Act of 1946 is amended by inserting immediately before the period at the end thereof the following semicolon: "; *Provided*, That within 30 days of enactment of the Agricultural Act of 1977, the Secretary of Agriculture shall by regulation adopt a Standard of Quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon,

9. 123 CONG. REC. 24558, 24559, 24569–71, 95th Cong. 1st Sess.

and weighs not less than 4.5 pounds to the gallon . . . In no case shall the content of milk solids not fat be less than 6%. . . . Only those products which meet the standard issued by the Secretary shall be able to bear a symbol thereon indicating that they meet the USDA standard for "ice cream.'". . .

MR. PAUL G.] ROGERS [of Florida]: . . . I make the point of order against the amendment offered by the gentleman from North Carolina (Mr. Rose) on the ground that it is not germane to the bill under consideration and thus is in violation of rule XVI, clause 7.

The gentleman's amendment is aimed at the Food and Drug Administration's proposed regulations which would change that agency's standard of identity for "ice cream" under the authority of section 401 of the Federal Food, Drug and Cosmetic Act. . . .

Knowing full well that any direct attempts to amend the proposed standard of identity would be nongermane, the gentleman now seeks instead to amend the Agricultural Marketing Act to provide that only products that meet statutory standards, as set forth in his amendment, could bear a symbol indicating that they meet a USDA standard for ice cream.

Now, I would base the point of order on three grounds.

First, it amends an act—the Agricultural Marketing Act of 1946—not otherwise amended by the bill, and thus is in violation of rule 16, clause 7. Three precedents support this ground. I cite the Chair's ruling on June 23, 1960, in which, to a bill amending the Agriculture Adjustment Acts of 1938 and 1949 to provide, in part, for market adjustment and price support programs for wheat and feed grains, an amendment to the Agricultural Adjustment Act of 1933 concerning the importation of agricultural products was ruled out as not germane.

On the same day, an amendment to the 1933 act to direct the President under certain conditions to consider an investigation into imports of specified agricultural products was likewise ruled not germane. These rulings are noted in Deschler's Procedure, chapter 28, section 33.5 and 33.7.

In addition, the point that I think is most important, on July 12, 1962, a point of order was raised to an amendment to an omnibus agricultural bill, just as this bill, a specific precedent from the same committee on the same type of legislation, seven particular laws amended in the particular section to which the amendment was offered—seven changes, there are only about three or four here—seven changes in those laws. The amendment which had been offered proposed changes in the Agricultural Marketing Agreement Act of 1937, which was not otherwise amended in the bill, just as this would be, exactly on point. The amendment was ruled not to be germane. (Deschler's Procedure, chapter 28, section 33.6.) I do not know of any point of order so much on point that I have ever read, even from the committee, even of the type in the bill.

Second, I would like to say, the proposed amendment does not relate to the title of the bill to which it is offered, nor to the bill as a whole. . . .

The provisions of title IX of H.R. 7171 pertain to set-asides under the wheat, feed grains, and cotton programs; loan extensions and sales provi-

sions for wheat and feed grains; a special grazing and hay program for wheat acreage; export sales of wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed and cotton, farm storage facility loans, soybean price supports; reporting of export sales; restrictions on the importation of filberts, and a report by the Secretary of Agriculture on the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. In no such instance, either directly or by inference, is the Secretary of Agriculture's authority to adopt standards of quality for agricultural products under 7 U.S.C. 1621 addressed by title IX or by the bill as a whole. . . .

MR. ROSE: . . . What this amendment attempts to do is direct, under its existing authority, the Secretary of Agriculture to develop, not a standard of identity, but a standard of quality for ice cream; a standard of quality that shall contain a certain percentage of nonfat milk solids. . . .

My distinguished friend, the chairman of the subcommittee that has direct jurisdiction over the Food and Drug Administration, has cited Deschler's Procedure, 33.5. I believe that this headnote is misleading, because I believe that if one were to carefully read that entire procedure, one would discover that this is not the actual, in fact, ruling in that case. But, I would base my main argument on section 28.51 of Deschler's Procedure, which states:

> To a portion of a bill amending several miscellaneous laws on a general subject—
>
> And this is such a section—
>
> an amendment to another law relating to that subject is germane. (120 Congressional Record 8508, 8509, 93rd Congress, 2nd Session, March 27, 1974.) . . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The gentleman from Florida makes a point of order against the amendment offered by the gentleman from North Carolina on the grounds that it is not germane to the bill or to the pending portion thereof.

The amendment would add to title IX of the bill, which contains miscellaneous commodity provisions, a new section requiring the Secretary of Agriculture to promulgate a Department of Agriculture standard for ice cream based on its contents, and to allow ice cream meeting that standard to bear a USDA symbol. The amendment would accomplish that purpose by amending the Agricultural Marketing Act of 1946, which is not amended by the bill but which authorizes the Secretary of Agriculture to promulgate food standards.

The gentleman from Florida has first argued that the amendment is not germane under the precedents because it amends a law not amended by the bill under consideration. The precedents do not bear out the assertion that an amendment is necessarily out of order if amending a law not mentioned in the bill. As indicated by "Deschler's Procedure," chapter 28, section 28.51, a title of a bill amending miscellaneous laws on a general subject may be broad enough to admit the offering of an amendment changing another law on

10. Frank E. Evans (Col.).

that subject. The first two precedents cited by the gentleman dealt with amendments, offered to agricultural price support bills, dealing with the importation of agricultural products, a subject not relevant to the bill under consideration and not entirely within the jurisdiction of the Committee on Agriculture. The third precedent cited by the gentleman involved an amendment to the Agricultural Marketing Act of 1937, not amended by the omnibus agriculture bill under consideration, requiring certain compensatory payments by food handlers to producers.

The basis of the Chair's ruling on that occasion, which is not reflected in the headnote in "Deschler's Procedure," chapter 28 . . . section 33.6, was that the amendment was not germane to the title of the bill to which it was offered; and the Chair was not called upon to rule that the amendment was not relevant to the bill as a whole. On that occasion, the title of the bill under consideration contained commodity programs dealing with conventional authorities of the Secretary as to price supports and payments through the Commodity Credit Corporation, diverted acreage, acreage allotments, and marketing quotas and levels. The amendment, however, was intended to restore competition to the dairy market by requiring not the Secretary but handlers of dairy products to make compensatory payments to producers of milk, a regulatory authority not related to the provisions of the title under discussion.

The gentleman from Florida also argues that the amendment is germane neither to the subject matter nor to the fundamental purpose of title IX to which it is offered. The title does not appear to the Chair to have any single purpose or subject matter, dealing as it does with the authorities of the Secretary of Agriculture as to set-asides, loans and sales, grazing, export sales, price supports, importation, and an allotment study for various food commodities. Therefore, the addition of a new authority of the Secretary relative to the production or quality of food or the protection of agricultural producers is relevant to the broad question of the Secretary's authority contained in the title. . . .

The Chair would note that the amendment offered by the gentleman from North Carolina does not regulate the labeling or marketing of ice cream but only adds a specific emphasis to be followed by the Secretary in carrying out the discretionary authority he already has under law to promulgate quality standards for food products. The subject matter of the amendment being germane to the title under consideration, the Chair finds that couching the authority contained therein as an amendment to another law dealing with general authorities of the Secretary of Agriculture does not on that basis render it subject to a point of order.]

For the reasons stated, the Chair overrules the point of order.

Bill Relating to Marketing of Various Agricultural Products—Amendment Extending Coverage of Bill to Poultry and Eggs

§ 11.28 To an omnibus agricultural bill, containing farm

programs in respect of dairy products, wool, feed grains, cotton and wheat, an amendment to add a new title to the bill relating to poultry and eggs was held to be germane.

In the 89th Congress, a bill[11] was under consideration which proposed to maintain farm income, stabilize prices, and afford greater economic opportunity in rural areas. The bill contained provisions relating to the marketing of dairy products and other agricultural products. An amendment was offered which proposed to regulate poultry and eggs, in addition to the products already included within the provisions of the bill.[12] The following objection was made to the amendment:[13]

> MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from New York is not germane, and I should like to speak on the point of order. . . .
>
> Mr. Chairman, the amendment proposed by the gentleman from New York is . . . in substance the contents of his bill, H.R. 7481, which is presently pending in the Committee on Agriculture. This amendment provides for production limitations and marketing orders for eggs and is proposed as amendatory langauge to the Agricultural Marketing Agreement Act of 1937, as amended, which amended, supplemented, and re-enacted the Agricultural Adjustment Act of 1933, as amended.
>
> There is only one place in H.R. 9811 where this statute is amended and that is in title I which contains proposed amendments to the Federal milk marketing order program established under that act.
>
> The precedents are ample, Mr. Chairman, on the principle that one individual proposition may not be amended by another individual proposition even though the two belong to the same class. . . .

The proponent of the amendment defended it as follows:

> MR. [JOSEPH Y.] RESNICK [of New York]: Mr. Chairman, I believe that the purposes of my amendment are identical with the purposes of this bill, namely, to maintain farm income and stabilize prices. . . . Dairy and poultry are frequently considered as the same class commodity and by reason of that fact they are set apart in a separate subcommittee of the Committee on Agriculture. I believe . . . this bill deals with everything eatable and wearable and smokable and certainly this falls within the purview of this bill.

In overruling the point of order, the Chairman[14] stated:[15]

> The gentleman from New York [Mr. Resnick] offers an amendment which

11. H.R. 9811 (Committee on Agriculture).

12. See 111 CONG. REC. 21053, 21054, 89th Cong. 1st Sess., Aug. 19, 1965.

13. *Id.* at p. 21054.

14. Oren Harris (Ark.).

15. 111 CONG. REC. 21054, 89th Cong. 1st Sess., Aug. 19, 1965.

is, in effect, a new additional title to the bill, H.R. 9811. The gentleman from Minnesota [Mr. Quie] makes a point of order against the amendment on the basis that it is not germane to the bill H.R. 9811. The new title which is offered in the amendment of the gentleman from New York has to do with laying chickens and chicken table eggs. The Chair would like to observe that there are seven titles in this bill dealing with various agricultural commodities. It would also like to observe that the new proposed title has to do with amending the Agricultural Adjustment Act of 1933 together with the Agricultural Marketing Agreement Act of 1937. The first title of the bill, H.R. 9811, starts off with an amendment to the Agricultural Adjustment Act and the Agricultural Marketing Agreement Act of 1937. Furthermore, as has been stated, the bill proposes to maintain farm income, stabilize prices, and to afford, among other things, greater economic opportunity in rural areas. Obviously, the provision of the proposed new title would come within the purview of the titles of the bill and the point of order is overruled.

Bill Relating to Cigarette Labeling and Advertising, and Requiring Related Reports—Amendment To Require Reports on Tobacco Subsidies

§ 11.29 To a bill relating to the labeling and advertising of cigarettes and requiring certain reports concerning health consequences of smoking and the effectiveness of labeling, an amendment requiring the Secretary of Agriculture to report periodically on government subsidies to growers and processors of tobacco was held germane.

In the 91st Congress, during consideration of the Public Health Cigarette Smoking Act of 1969,[16] an amendment was offered as follows:[17]

> Amendment offered by Mr. [James C.] Cleveland [of New Hampshire]: . . .
>
> (3) The Secretary of Agriculture shall transmit a report to Congress not later than six months after the effective date of this Act, and annually thereafter, concerning the dollar amounts of administrative costs, export payments, market promotion activities, price supports, or subsidies, direct or indirect, of any kind whatsoever, that inures to growers, processors, or exporters of tobacco produced in the United States.

A point of order was made against the amendment, as follows:[18]

> MR. [DAVID E.] SATTERFIELD [3d, of Virginia]: I make a point of order against the amendment as not being germane. It pertains to the Department of Agriculture and the economics

16. H.R. 6543 (Committee on Interstate and Foreign Commerce).

17. 115 CONG. REC. 16291, 16292, 91st Cong. 1st Sess., June 18, 1969.

18. *Id.* at p. 16292.

applicable to export promotion, market promotion, and other matters pertaining to tobacco. The amendment is not germane to the current action. It is also beyond the scope of the bill.

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

MR. CLEVELAND: . . . Now, Mr. Chairman, the purpose of this legislation we are debating is to warn the American public about the dangers of smoking cigarettes. This is certainly a proper health function of the Government. But is it not hypocritical, even two-faced, to be providing this warning while another arm of the Government is actively and perhaps expensively engaged in the business of supporting, subsidizing and even promoting the use of tobacco? . . .

On the same page, the committee . . . has asked the Federal Trade Commission to transmit a report to the Congress . . . concerning the effectiveness of cigarette labeling and the current practices and method of cigarette advertising.

It seems to me it would be quite germane for us to take the next step and ask the Secretary of Agriculture just how much he is putting into the promoting of tobacco and tobacco products, how much of it is being exported abroad, and under what conditions. . . .

The Chairman,[19] in ruling on the point of order, stated:[20]

The Chair has examined the amendment offered by the gentleman from New Hampshire (Mr. Cleveland) and the bill before the Committee. The Chair observes that there are two reports required in the bill, as shown on page 5, and the gentleman's amendment adds a third report that would be required, and this third report would be germane to the subject matter of the bill. It seems clearly germane, and the Chair overrules the point of order.

Bill Continuing Import Controls on Specified Products—Amendment Adding Products

§ 11.30 To a bill to continue for a temporary period certain powers for the purpose of administering import controls with respect to fats, oils, and rice products, an amendment making the bill applicable, in addition, to potatoes, cheese, and hams, was held to be germane.

In the 81st Congress, a bill[1] was under consideration which read in part as follows:[2]

Be it enacted, etc., That, notwithstanding any other provision of law, title III of the Second War Powers Act, 1942 . . . shall continue in effect until July 1, 1951, for the purpose of authorizing and exercising, administering, and enforcing of import controls with respect to fats and oils . . . and rice and rice products, upon a determina-

19. Jack B. Brooks (Tex.).

20. 115 CONG. REC. 16292, 91st Cong. 1st Sess., June 18, 1969.

1. S. 3550 (Committee on Banking and Currency).

2. 96 CONG. REC. 9492, 81st Cong. 2d Sess., June 29, 1950.

tion by the President that such controls are (a) essential to the acquisition or distribution of products in world short supply. . . .

The following amendment was offered to such proposition:[3]

Amendment offered by Mr. August H. Andresen [of Minnesota]: Page 2, line 1, after "rice products", insert "potatoes, cheese, hams."

The following exchange[4] concerned a point of order made against the amendment:

MR. [DONALD W.] NICHOLSON [of Massachusetts]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill. . . .

MR. AUGUST H. ANDRESEN: . . . I call the Chair's particular attention to the fact that on page 2, line 1, rice and rice products are included. All that I am doing is to add additional products. Certain rice and rice products are food; and the commodities I mentioned, potatoes, cheese, Polish hams, eggs from Communist China, are all food products and are in line with rice and rice products. . . .

THE CHAIRMAN [Walter K. Granger, of Utah]: The Chair is prepared to rule.

The body of the bill as well as the title enumerates commodities in addition to fats and oils. Rice is mentioned. It would be in order to add other commodities.

The Chair overrules the point of order.

3. *Id.* at p. 9495.

4. *Id.*

Bill Providing Two Categories of Foreign Assistance—Amendment Providing Additional Category

§ 11.31 To a portion of a bill providing two categories of economic assistance to specified foreign nations, an amendment adding a further specific category of economic assistance for those countries may be germane; thus, to a title of a foreign aid bill providing general economic assistance to southern African countries and refugee training and assistance to address economic dislocation from conflict in that region, broadened by amendment to require presidential determinations whether aid to certain southern African countries would further the foreign policy interests of the United States, an amendment adding a further related category of aid to such countries for a fair and open election program, and authorizing the president to appoint a team of observers to observe elections in such countries and to report thereon to Congress, was held germane.

On Apr. 5 and 9, 1979,[5] H.R. 3324[6] was under consideration in the Committee of the Whole. The amendment described above was held germane, thus demonstrating that an amendment adding an additional category to a proposition containing two or more categories within the same general class is germane.

The Clerk read as follows:

TITLE III—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended by striking out "for the fiscal year 1979, $1,902,000,000" and inserting in lieu thereof "for the fiscal year 1980, $1,895,000,000 and for the fiscal year 1981, $1,950,000,000". . . .

"Sec. 533. Southern Africa Programs.—Of the amounts authorized to be appropriated to carry out this chapter for the fiscal year 1980 and for the fiscal year 1981, $68,000,000 for the fiscal year 1980 and $85,000,000 for the fiscal year 1981 shall be available for the countries of southern Africa and for a southern Africa regional refugee support, training, and economic planning program to address the problems caused by the economic dislocation resulting from the conflict in that region and for education and job training assistance. Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts, and to provide support to countries in that region.". . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 24, after line 2, add the following new paragraph:

"(b) No assistance may be furnished under this section to Mozambique, Angola, Tanzania, or Zambia, except that the President may waive this prohibition with respect to any such country if he determines, and so reports to the Congress, that furnishing such assistance to such country would further the foreign policy interests of the United States.". . .

THE CHAIRMAN:[7] The question is on the amendment offered by the gentleman from Maryland (Mr. Bauman).

The amendment was agreed to. . . .

MR. BAUMAN: Mr. Chairman, I offer an amendment.

The Clerk read as follows:[8]

Amendment offered by Mr. Bauman: On page 23, line 10, strike all of Section 303(a) and insert in lieu thereof the following new Section 303:

"Sec. 303. (a) Section 533 of the Foreign Assistance Act of 1961 is amended to read as follows:

"'Sec. 533—Southern Africa Program

"'(a) Of the amount authorized to be appropriated to carry out this

5. 125 CONG. REC. 7374, 7750, 7752, 7755–57, 96th Cong. 1st Sess.

6. International Development Cooperation Act of 1979.

7. Elliott H. Levitas (Ga.).

8. See 125 CONG. REC. 7755, 96th Cong. 1st Sess., Apr. 9, 1979.

chapter for the fiscal year 1980, $68,000,000 shall be available (only) for the countries of southern Africa and for—

"'(1) a southern Africa regional refugee support, training, and economic planning program to address the problems caused by the economic dislocation resulting from the conflict in that region;

"'(2) education and job training assistance;

"'(3) a southern Africa fair and open election program to address the problem resulting from the conflict and internal strife in that region.

"'Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts and to provide support to countries in that region.

"'(b) In furtherance of the purposes of this section and the foreign policy objectives of the United States the President may appoint a team of impartial observers to observe elections in southern Africa and report to Congress:

"'(1) as to whether all of the people of southern Africa and all organized political groups were given a fair opportunity to participate fully in the election without regard to ethnic identity or political affiliation. . . .

"'(c) Of the amounts authorized to be appropriated to carry out the purposes of this section, $20,000,000 shall be made available to the government of Zimbabwe/Rhodesia which is installed in that nation as a result of the election held in April 1979, which election may be evaluated and reported upon by observers as provided for in this section.'"

MR. [STEPHEN J.] SOLARZ [of New York]: I make a point of order that this amendment is not in order. It provides or appears to call upon the President to send observers to monitor the elections in southern Africa by which presumably is meant Rhodesia since there are no elections anywhere else in southern Africa which are currently being held.

There is nothing in this bill which deals with elections either in southern Africa or in Rhodesia itself. For this reason it seems to me this amendment goes beyond the scope of the bill and is not germane. . . .

MR. BAUMAN: . . . Mr. Chairman, first of all the section to which this amendment is addressed is section 303 of the bill. This section was just recently amended by a previous amendment which I offered and which considerably expanded the scope of that section, including a Presidential waiver and determination regarding aid for four different countries in the southern African area. The general proposition is that the entire section and indeed the entire purpose of the bill should be looked to as to whether or not germaneness is applicable to an amendment which is offered.

The gentleman objects that this particular section imposes some duty upon the President. I would call the attention of the Chair to section (b) the amendment which simply allows the President in his discretion to use the mechanism the amendment provides to evaluate any election held in the southern African area including ones in the Republic of South Africa or in any of the other nations which may hold elections at any time. This amendment offers a device to determine whether or not the funds under this section shall be made available.

Mr. Chairman, I would like to call the attention of the Chair to the prece-

dents which I believe do have application in this case.

The general proposition is that to a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within that same class is germane.

This was a decision on March 26, 1975, made by the Chairman of the Committee of the Whole in the case of an amendment that was offered and a point of order made against additional language offered by the other body to a tax bill. The amendment was ruled to be germane, and the Chair said:

> The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation, including an excise tax, an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane . . . the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

I would also call the attention of the Chair to the ruling of the Chair on March 20, 1975, in which a bill was brought before the House that contained price supports for a number of different agricultural commodities. An amendment was offered by the gentleman from Massachusetts (Mr. Conte) that added another defined class to agricultural commodities, and the Chair ruled "that the purpose of this bill as set forth in the report is to establish an emergency price support program" for "cotton, wheat, feed grains, soybeans, and milk."

Then he went on to say:

> Under the general proposition that it is in order to add another subject to a proposition containing subjects of the same class, the Chair would point out that the amendment of the gentleman from Massachusetts adds another agricultural commodity to the commodities proposed . . .

Mr. Chairman, the reason that this precedent is applicable in the case of this amendment is that we have before us in this bill section 303 which amends the southern Africa programs section of the Foreign Assistance Act. That act sets up funding for various programs in southern Africa, including regional refugee support, training, economic planning, and economic dislocation, and also including improving transportation links interrupted or jeopardized by regional political conflicts, and it provides support to "countries" within that region, meaning governments.

All the gentleman's amendment proposes is that in addition to these various objectives in southern Africa, an additional use of the money can be found, and that is discretionary with the President to judge whether or not elections in the area are held fairly and openly and whether or not the countries then would be eligible for receipt of money under the funding.

So I suggest, Mr. Chairman, it is a valid amendment, simply adding to the class of already described activities that the bill contemplates, and it does not impose any new duties, simply leaving discretionary with the President what he would do with the authority granted. . . .

THE CHAIRMAN: The Chair is prepared to rule on the point of order

made by the gentleman from New York (Mr. Solarz) against the amendment offered by the gentleman from Maryland (Mr. Bauman).

The essential nature of the point of order made by the gentleman from New York (Mr. Solarz) is that the amendment offered by the gentleman from Maryland (Mr. Bauman) is not germane to title III. The key, it seems to the Chair in resolving that question, turns on the point made by the gentleman from Maryland in referring to the precedents cited by the gentleman from Maryland; namely, whether the new category of authorized funds for a southern Africa fair and open election program to address the problem resulting from the conflict and strife in the region is the same class of assistance authorized in section 303. Or is it a new and different class of assistance?

In making a determination with respect to that question, the Chair has read carefully the language in section 303. The purposes of assistance cataloged in section 303 are basically two in nature. One is general economic assistance for the countries of southern Africa, and, secondly, a southern Africa regional refugee support, training, and economic support program to address the problems caused by the economic dislocation resulting from the conflict in the region.

The language in section 303 goes on to point out:

> Such funds may be used to provide humanitarian assistance to African refugees and persons displaced by war and internal strife in southern Africa, to improve transportation links interrupted or jeopardized by regional political conflicts . . .

In addition to that, the gentleman from Maryland has pointed out that the language of section 303 in its scope has just recently been expanded considerably by an amendment offered and adopted in the Committee of the Whole to permit the President to make determinations on other issues of U.S. national interest regarding certain countries in southern Africa.

It is the opinion of the Chair that, since the general thrust of the purposes or classes of assistance in section 303 is to provide funds to alleviate the effects of political turmoil and strife in the region, and that this is specifically noted in the language presently in the bill, and that the team of observers provision as merely an oversight mechanism relating to proper utilization of those funds. It would seem the funding of fair elections in the region would be another class of assistance of the same general type, and, therefore, the amendment offered by the gentleman from Maryland, in the opinion of the Chair, is germane.

The point of order is overruled.

Prohibition Against Using Certain Foreign Aid Funds for Retirement of Recipient Nation's Debt—Amendment To Prohibit Other Uses by Recipient

§ 11.32 To a bill amending the Mutual Security Act of 1954 to prohibit use of designated funds by recipient nations for retirement of their national debts, an amendment to prohibit financial assistance to any country that has

reduced its own budget or made any tax reductions to its citizens was held to be germane.

In the 85th Congress, a bill[9] was under consideration to amend the Mutual Security Act of 1954. The bill contained the following provisions:[10]

> Sec. 516. Prohibition against debt retirement: None of the funds made available under this act nor any of the counterpart funds generated as a result of assistance under this act or any other act shall be used to make payments on account of the principal or interest on any debt of any foreign government or on any loan made to such government by any other foreign government; nor shall any of these funds be expended for any purpose for which funds have been withdrawn by any recipient country to make payment on such debts. . . .

The following amendment was offered:

> Amendment offered by Mr. [John V.] Beamer of Indiana: On page 19, section 516, following line 13, add the following: *Provided further,* That none of the funds made available under this act nor any of the counterpart funds generated as a result of assistance under this act or other act shall be given to any country that has reduced its own budget or made any tax reductions to its citizens.

The following exchange[11] concerned a point of order raised against the amendment:

> MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I renew the point of order. This amendment is not germane, and goes far beyond the scope of the section that the amendment applies to.
>
> The Chairman:[12] . . . Upon examining this section, it is obvious that the section contains several prohibitions against debt retirement, and the other section contains many other prohibitions relative to the use of these funds.
>
> The amendment offered by the gentleman from Indiana simply adds an additional prohibition.
>
> In the opinion of the Chair it is germane and is in order.

Concurrent Resolution Concerning Steps To Effect Release of American Arrested in Czechoslovakia—Amendment To Sever Diplomatic Relations With Czechoslovakia

§ 11.33 To a concurrent resolution expressing the profound indignation of the Congress at the arrest and conviction of an American correspondent in Czechoslovakia and providing that agencies of our government take all possible action to bring about his release, an

9. H.R. 12181 (Committee on Foreign Affairs).
10. See 104 CONG. REC. 8736, 85th Cong. 2d Sess., May 14, 1958.
11. *Id.* at p. 8737.
12. Hale Boggs (La.).

amendment proposing termination of all commercial and diplomatic relations with Czechoslovakia was held to be germane.

On Aug. 2, 1951,[13] the Clerk read the following resolution:[14]

> Whereas the arrest and conviction of William N. Oatis, correspondent for the Associated Press in Prague, Czechoslovakia, is a shocking violation of fundamental human freedoms . . .
>
> . . . Now, therefore, be it
>
> *Resolved by the House of Representatives (the Senate concurring),* That the Congress of the United States expresses its profound indignation at the farcical arrest, and conviction of William N. Oatis; and that the sense of this resolution be conveyed . . . to the officials of the Czechoslovakian Government.

The following proceedings then occurred:[15]

> THE SPEAKER [Sam Rayburn, of Texas]: The Clerk will report the remaining committee amendments:
>
> The Clerk read as follows:
>
> > Committee amendments: . . .
> > Page 2, line 4, after "Oatis", insert "that the executive agencies of the Government be requested to take all possible action to bring about his release."
>
> The committee amendments were agreed to.

Subsequently, the following amendment was offered:[16]

> Amendment offered by Mr. [Orland K.] Armstrong [of Missouri]: On page 2, after line 9, add the following:
>
> "*Be it further resolved,* That it is the sense of the House that all commercial relations with Czechoslovakia should be terminated immediately . . . and be it further
>
> "*Resolved,* That if William N. Oatis is not restored to his freedom within 90 days that the Department of State take steps to evacuate all nationals of the United States in Czechoslovakia with the end in view of severing diplomatic relations with that Government."

Mr. James P. Richards, of South Carolina, raised a point of order against the amendment, contending that the amendment was not germane to the resolution. Speaker Rayburn, however, overruled the point of order, stating:[17]

> The resolution provides among other things that the executive agencies of the Government are requested to take all possible action to bring about the release of Mr. Oatis. The gentleman from Missouri is simply adding other conditions. Thus, the amendment is in order, and the Chair therefore overrules the point of order.

Amendment Adding Tax Credit to Those Already Contained in Bill

§ 11.34 To a proposition seeking to reduce tax liabilities

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13. 97 CONG. REC. 9446, 82d Cong. 1st Sess.

14. H. Con. Res. 140 (Committee on Foreign Affairs).

15. 97 CONG. REC. 9447, 82d Cong. 1st Sess., Aug. 2, 1951.

16. *Id.* at p. 9454.

17. *Id.* at p. 9455.

of individuals and business in several diverse ways, including tax credits, an amendment adding a further tax credit to those already contained in the bill is germane.

On Mar. 26, 1975,[18] it was demonstrated that the test of the germaneness of a portion of a Senate amendment in the nature of a substitute adding a new section to a House bill is the relationship of that section to the subject of the House bill as a whole. The proceedings during consideration of the conference report on H.R. 2166, the Tax Reduction Act of 1975, were as follows:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

The conference substitute included the following provision:

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE.

(a) Allowance of Credit.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) General Rule.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the pur chase price of a new principal residence purchased or constructed by the taxpayer. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of provision 1, clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It appears in section 208 of the conference report, on page 14, as reported by the Committee on Conference. . . .

[A] careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types of tax meas-

18. 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess.

ures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER:[19] The Chair is ready to rule.

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation . . . an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House bill, and was not

19. Carl Albert (Okla.).

an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

Diverse Programs To Support Arts and Humanities—Amendment Adding Program of Employment for Artists

§ 11.35 Where a bill seeks to accomplish a general purpose by diverse methods, an amendment which adds a specific method to accomplish that result may be germane; thus, to a bill containing three diverse titles authorizing grant programs for support of the arts and humanities, including subsidies through the National Endowment for the Arts to encourage and assist artists, an amendment in the form of a new title authorizing the employment of unemployed artists through the National Endowment for the Arts was held germane as a specific additional program related to the general programs already in the bill.

During consideration of H.R. 12838 (to amend the National Foundation on the Arts and Humanities Act of 1965) on Apr. 26, 1976,[20] Chairman Pro Tempore Edward I. Koch, of New York, overruled a point of order against the amendment described above. The proceedings were as follows:

TITLE I—ARTS AND HUMANITIES

STATE HUMANITIES COUNCILS

Sec. 101. (a) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new subsection: . . .

"(f)(1) The Chairman, with the advice of the National Council on the Humanities is authorized to establish and carry out programs of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c), and in order to develop programs in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

"Sec. 11. (a)(1)(A) For the purpose of carrying out section 5, there are authorized to be appropriated $100,000,000 for fiscal year 1977, and $113,500,000 for fiscal year 1978. . . .

20. 122 Cong. Rec. 11098–101, 94th Cong. 2d Sess.

TITLE II—MUSEUM SERVICES. . .

Sec. 202. It is the purpose of this title to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may better be able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

Sec. 203. There is hereby established, within the Department of Health, Education, and Welfare, an Institute of Museum Services (hereinafter in this title referred to as the "Institute"). . . .

Sec. 205. (a) The Director of the Institute shall be appointed by the President, by and with the advice and consent of the Senate. . . .

Sec. 206. (a) The Director, subject to the advice of the Board, is authorized to make grants to museums to increase and improve museum services, through such activities as—

(1) programs to enable museums to contract or install displays, interpretations, and exhibitions in order to improve their services to the public;

(2) assisting them in developing and maintaining professionally trained or otherwise experienced staff to meet their needs;

(3) assisting them to meet their administrative costs in preserving and maintaining their collections, exhibiting them to the public, and providing educational programs to the public through the use of their collections;

(4) assisting museums in cooperation with each other in the development of traveling exhibitions, meeting transportation costs, and identifying and locating collections available for loan. . . .

TITLE III—CHALLENGE GRANT PROGRAM

ESTABLISHMENT OF PROGRAM

Sec. 301. The National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:

"CHALLENGE GRANT PROGRAM

"Sec. 12. (a) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, with the advice of the National Council on the Arts and the National Council on the Humanities, are authorized, in accordance with the provisions of this section, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

"(1) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

"(2) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

"(3) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions. . . .

MS. [BELLA S.] ABZUG [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Abzug: Page 34, after line 11, insert the following new title:

TITLE IV—EMERGENCY PROGRAM FOR THE EMPLOYMENT OF ARTISTS

ESTABLISHMENT OF PROGRAM

Sec. 401. (a) The Congress of the United States recognizes the contributions which artists make to the cultural life of each community throughout the Nation as well as to the Nation as a whole. . . .

(b) The National Foundation on the Arts and Humanities Act of 1965, as amended by section 301, is further amended by adding at the end thereof the following new section:

"EMERGENCY PROGRAM FOR EMPLOYMENT OF ARTISTS

"Sec. 13. (a) The Chairman of the National Endowment for the Arts with the advice of the National Council on the Arts, shall carry out a program, directly and through grants-in-aid to States, during any fiscal year in which the seasonally adjusted national rate of unemployment published by the Bureau of Labor Statistics of the Department of Labor exceeds 6.5 per centum as determined by the Chairman, of employment of unemployed artists in projects or products. . . .

"(b) In carrying out the program under subsection (a), the Chairman of the National Endowment for the Arts shall coordinate such program with programs for public service employment under the Comprehensive Employment and Training Act of 1973 and with other appropriate public programs providing employment for unemployed individuals. . . .

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, reading the amendment, I question the germaneness of this amendment. The jobs provision added into the Arts, Humanities, and Cultural Affairs Act, it seems to me fits better in the next bill coming up, the emergency job programs bill, and I raise a point of order on germaneness. . . .

Mr. Chairman, this amendment is not germane to the bill before us. It has to do with providing additional jobs of a public service nature. It fits more in the legislation next on the agenda. I do not see that it fits within the purview of the legislation we have before us. . . .

MS. ABZUG: Mr. Chairman, I disagree. I think it is germane to the purposes of this act. This act recognizes the contributions which artists make to the cultural life of the communities throughout the Nation.

Mr. Chairman, what this amendment does is to provide for the employment of artists in the program which is to be conducted and determined, the eligibility for which programs as well as the employment in the programs is determined by the Chairman of the National Endowment for the Arts. I think it is germane. . . .

THE CHAIRMAN PRO TEMPORE: The Chair is prepared to rule. The Chair has examined the "Ramseyer" in the committee report on page 23. Title I of the committee amendment extends the law which provides subsidies for projects and productions which would otherwise be unavailable for economic reasons and which will encourage and assist artists and enable them to achieve wider distribution of their

works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence. That is a general purpose of the bill and the amendment provides a specific program of grants through the Chairman of the National Endowment for the Arts to accomplish that.

The amendment is germane as a new title to the bill which presently contains three diverse titles and the gentlewoman from New York is recognized for 5 minutes.

Gun Control Bill—Amendment Adding Provisions as to Registration of Guns

§ 11.36 To a bill amending existing law concerning gun controls by extending coverage of the law to rifles, shotguns, and ammunition, and modifying the law with respect to destruction devices, an amendment adding further provisions relating to registration of firearms by the purchasers thereof was held to be an extension of a matter already carried in the bill and therefore germane.

In the 90th Congress, a bill[1] was under consideration which related to the control of firearms. The following exchange[2] concerned a point of order raised by Mr. John D. Dingell, Jr., of Michigan, against an amendment that had been offered by Mr. Robert McClory, of Illinois:

MR. DINGELL: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . . Mr. Chairman, the fundamental purpose of the amendment must be germane to the bill. Here the amendment goes far beyond the purposes of the bill and imposes a whole new series of responsibilities on the Secretary, including registration of firearms, regulation of estates of decedents, and provides a means whereby firearms may be turned in . . . and sets forth the provisions whereby registration will be regulated by the Secretary. . . .

MR. MCCLORY: Mr. Chairman, I would like to be heard briefly.

Mr. Chairman, I would like to point out this bill we are considering today is the State Firearms Control Assistance Act of 1968, and the purpose of my amendment is to assist the states and to assist the Federal Government in carrying out and in enforcing the provisions of the main bill. . . .

This amendment will facilitate enforcement and the carrying out of the congressional objectives and purposes from this registration, and also will fulfill the needs with regard to attending to the movement of this type of firearm in interstate commerce. . . .

THE CHAIRMAN (John J. Rooney, of New York): The Chair is prepared to rule. . . .

Now, with regard to this point of order, the bill which the Committee of

1. H.R. 17735 (Committee on the Judiciary).
2. 114 CONG. REC. 22249, 22250, 90th Cong. 2d Sess., July 19, 1968.

the Whole is now considering seeks to regulate the various transactions involving rifles, shotguns, and handguns. It provides for the identification of such firearms by manufacturers and importers and, as amended by the Committee on the Judiciary and by this committee earlier this afternoon, specifies that this identification shall include serial numbers. Licensed importers, dealers, and manufacturers are required to retain descriptions of the firearms with which they deal.

The amendment proposed by the gentleman from Illinois [Mr. McClory] is drafted as a further amendment to title 18, United States Code, the same portion of the Code amended by the pending bill. It carries the concept of registration or identification to the persons having handguns in their possession. The system of registration established by the amendment would be under the jurisdiction of the Secretary of the Treasury, the same officer designated for this purpose by the bill.

The Chair notes that the bill makes at least three major innovations in the existing law concerning gun control: it extends that law with respect to transactions in rifles and shotguns; it brings ammunition within the scheme of the law; and it modifies the law regarding shipment and sale of destructive devices. Since present law is modified in the foregoing ways, an additional change in the law and the bill—a change that is an extension of a subject already carried in the bill—is germane.

The Chair therefore overrules the point of order.

§ 12. Amendment Extending Coverage of Bill to Other Subjects of Same Class

Frequently, it is sought by amendment to extend the coverage of the bill to other subjects of the same class as that discussed in the bill. Depending on the circumstances, one or more of the principles discussed in this chapter may be applicable in determining the germaneness of such amendments. Thus, if the bill comprises two or more propositions of the same class, an amendment that merely adds a related proposition may be germane.[3] It may be necessary to discern whether the amendment would enlarge the scope of the bill to cover a distinct new "class," or would merely include a new "category" within a "class" already covered by the bill.[4] If, on the other hand, the bill comprises an individual proposition or one of a limited nature, an amendment, even though related in subject, may be ruled out as not germane.[5] As a further example, a

3. See § 11, supra.

4. See § 12.1, infra.

5. See § 8, Individual Proposition Offered as Amendment to Another Individual Proposition, and § 9, General Amendments to Specific or Limited Propositions, supra.

general subject may ordinarily be amended by specific propositions of the same class.[6]

Adding Category Within Same Class

§ 12.1 To an amendment covering a certain class, an amendment extending coverage to an additional category within that class is germane; thus, to a Senate amendment providing for prepayment of certain loans by Rural Electrification Administration borrowers serving a specified density of population, a proposed House amendment eliminating the population density criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class was held germane.

During consideration of H.R. 1827 (supplemental appropriations, fiscal 1987) in the House on June 30, 1987,[7] the Chair overruled points of order in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[8] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 223: Page 49, after line 17, insert:

RURAL ELECTRIFICATION ADMINISTRATION

Notwithstanding the amount authorized to be prepaid under section 306A(d)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)(1)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) that serves 6 or fewer customers per mile may, at the option of the borrower, prepay such loan (or any loan advance thereunder) during fiscal year 1987 or 1988, in accordance with section 306A of such Act.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 223 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

RURAL ELECTRIFICATION ADMINISTRATION

Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the

6. See § 10, supra.

7. 133 CONG. REC. 18307, 18308, 100th Cong. 1st Sess.

8. Dan Glickman (Kan.).

borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act. . . .

MR. [RON] PACKARD [of California]: Mr. Speaker, I make a point of order, the following points of order, actually:

No. 1, that subject to rule 21, clause 2, this amendment is legislating on appropriation bills.

No. 2, that this amendment is not germane to the supplemental appropriations bill. . . .

MR. WHITTEN: Mr. Speaker, I rise in opposition to the point of order. This amendment is germane to the amendment of the Senate.

What the amendment does is quite straightforward. It removes the phrase "that serves 6 or fewer customers per mile" from the Senate amendment. This has the direct result of allowing REA's that have population density of up to 12.4 customers per mile to qualify, rather than just 6 customers per mile.

The amendment does not change the class of borrowers that can prepay; it simply enlarges the same class. It does not add some other type of borrower.

The Senate amendment allows Rural Electrification Administration borrowers who serve 6 or fewer customers per mile of line to refinance their REA guaranteed debt with the Federal Financing Bank without being assessed a prepayment penalty.

There are 51 borrowers whose loans bear an interest rate such that they would be worthwhile to refinance at present interest rates.

At present there are 31 borrowers with loans whose density is 6 or fewer per mile.

There are 20 borrowers with loans whose density is greater than 6 customers per mile of line.

The conference agreement would allow all 51 borrowers to refinance their loans rather than only 31 borrowers.

This type of amendment is clearly in order and is germane.

Cannon's procedures states, "A general subject may be amended by specific proposition of the same class." Mr. Speaker, this is exactly what is being done.

In fact, the amendment is even stricter. In effect, what is involved is a proposition being amended by the same proposition in the same class. Clearly, such an amendment expands the scope, but is germane. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

With respect to the issue of whether this motion constitutes legislation on an appropriations bill, the Chair rules that it is not in violation of clause 2 [of Rule XX], since the amendment was brought back in disagreement for a separate vote, not as part of the conference report. . . .

With respect to the germaneness issue that the gentleman raises, the motion is germane to the Senate amendment since relating to the same class of borrowers covered by the Senate amendment and the Senate amendment itself is being brought back in disagreement for a separate vote. Therefore, there is no valid germaneness point of order with respect to the motion disposing of the Senate amendment. . . .

Therefore, the Chair overrules the various points of order.

Bill To Set Price Supports for Commodities—Amendment Adding Commodity

§ 12.2 To a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane; thus, to a bill temporarily amending for one year an existing law establishing price support levels for several agricultural commodities, an amendment adding another agricultural commodity to be covered by the same provisions of law for that year was held germane.

During consideration of H.R. 4296 (a bill concerning emergency price supports for 1975 crops) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The language of the bill to which the amendment was offered read as follows:[9]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof the following new section 108:

"Sec. 108. (a) Notwithstanding sections 103, 105, and 107 of this Act, the established price for the 1975 crops of upland cotton, corn, and wheat shall be 48 cents per pound, $2.25 per bushel, and $3.10 per bushel, respectively, and the Secretary shall make available to producers loans and purchases on the 1975 crops of upland cotton, corn, and wheat at 40 cents per pound, $1.87 per bushel, and $2.50 per bushel, respectively; *Provided,* That the rates of interest on commodity loans made by the Commodity Credit Corporation to all eligible producers shall be established quarterly on the basis of the lowest current interest rate on ordinary obligations of the United States: *Provided further,* That the nonrecourse loan for 1975 crop upland cotton as set forth in section 103(e)(1) of the Agricultural Act of 1949, as amended, shall be made available for an additional term of eight months at the option of the cooperator.

"(b) Notwithstanding the provisions of section 301 of this Act, the Secretary shall make available to producers loans and purchases on the 1975 crop of soybeans at such levels as reflect the historical average relationship of soybean support levels to corn support levels during the immediately preceding three years."

THE CHAIRMAN:[10] The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 15, after the word "cooperator" strike the period and insert ", except that for the 1975 crops of upland cotton, feed grains and wheat, the Secretary shall establish, insofar as is

9. See 121 CONG. REC. 7388, 94th Cong. 1st Sess., Mar. 20, 1975.

10. John Brademas (Ind.).

practicable, the same terms and conditions relative to storage costs and interest rates on all nonrecourse loans extended on such crops.".

THE CHAIRMAN: The question is on the committee amendment.

The committee amendment was agreed to.

During the proceedings of Mar. 20, 1975,[11] the following amendment was offered:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 2, after line 25, add this new section:

"(c) Notwithstanding the provisions of section 301 of this Act or common sense, the Secretary shall make available to producers loans and purchases on the 1975 crop of fruit nuts at such levels as reflect the historical average relationship of fruit nut support levels to dingleberry support levels during the immediately preceding one hundred and ninety-nine years". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, the chairman of the committee finds it necessary to insist on his point of order.

I know the gentleman who has offered the amendment is a strong supporter of fruit nuts and is in great seriousness in an effort to improve the bill, but the reference in the amendment is to a standard which cannot be administered because the country was not organized, the Congress was not organized at the time he alleges in the amendment the dingleberry support price was created. But principally because under rule XVI, clause 7, the fundamental purpose of this amendment does not relate to the fundamental purpose of the bill, which is to effect changes in the target prices of loan rates on wheat, feed grain, and cotton.

The nuttiness of an amendment has never been found in the precedents of the House as an argument against germaneness. . . .

MR. CONTE: . . . I feel that this amendment is germane in the context of this bill. The whole bill is nutty, and I am merely institutionalizing what the American people have known all along, that farm subsidies do not grow on trees.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would observe that the purpose of this bill as set forth in the report is to establish an emergency price support program in the 1975 crop commodity year for upland cotton, wheat, feed grains, soybeans, and milk.

Under the general proposition that it is in order to add another subject to a proposition containing subjects of the same class, the Chair would point out that the amendment of the gentleman from Massachusetts adds another agricultural commodity to the commodities proposed to be supported under the bill during the same period of time.

The Chair rules, therefore, that the gentleman's amendment is germane and overrules the point of order.

Parliamentarian's Note: The Chair looked beyond the obvious facetious intent of the offeror of

11. 121 CONG. REC. 7652, 94th Cong. 1st Sess.

the amendment, and upon discovering that the "dingleberry" was indeed a fruit nut and therefore an existing agricultural commodity, determined that the amendment came within the class potentially covered by the bill.

Adjustment of Existing Postal Rates—Amendment To Abolish Franking Privilege

§ 12.3 To a bill to readjust postal rates, an amendment proposing to abolish franking privileges was held to be not germane.

In the 82d Congress, a bill[12] was under consideration which sought to readjust postal rates. The following amendment was offered to the bill:[13]

> Amendment offered by Mr. [Carl T.] Curtis of Nebraska: On page 26, line 9, insert a new section as follows:
>
> No mail matter of any kind shall be sent through the mails by any department or agency of the United States Government, including the legislative branch, without full payment of the postal rates provided by law for similar mail matter sent by other users.

Responding to a point of order raised by Mr. Thomas J. Murray, of Tennessee, that the amendment was not germane to the bill, Mr. Curtis stated:

> This bill is to adjust postal rates. It deals with various classes and kinds of mail and services rendered by the Post Office Department. . . . If you can raise rates under this bill from a given rate to a higher rate, certainly you can raise free mail to some sort of rate.

The Chairman,[14] in ruling on the point of order, stated:

> The bill before us is for the purpose of adjusting postal rates. The gentleman from Nebraska offers an amendment which would not adjust existing postal rates but would define classes of mail which should be subject to payment of postage. Neither of the classes included within the amendment proposed is included within the bill. The amendment is beyond the scope of the bill. Therefore, the Chair sustains the point of order.

Bill Relating to Compensation for Mail Carriers Under Star-Route Contracts—Amendment Requiring Cost Estimates in Advertisements for Bids for Star Routes

§ 12.4 To a bill providing additional compensation for star-route carriers for increased mileage above the contract terms, an amendment providing that the Postmaster General in advertising for bids for any star route shall publish the estimated actual

12. H.R. 2981 (Committee on Post Office and Civil Service).

13. 97 Cong. Rec. 11685, 82d Cong. 1st Sess., Sept. 19, 1951.

14. Paul J. Kilday (Tex.).

cost for carrying the route including a reasonable wage for the carrier was held to be germane.

In the 75th Congress, a bill[15] was under consideration which related to additional compensation for star-route carriers and which stated in part:[16]

> *Be it enacted, etc.,* That section 3951 of the Revised Statutes . . . is hereby amended by adding at the end thereof the following new paragraphs:
>
> The Postmaster General may . . . allow extra pay to a contractor for necessary increased travel caused by obstruction of roads, destruction of bridges, or discontinuance of ferries occurring during the contract term, but no extra pay allowed shall be proportionately greater than the rate established by the contract involved. . . .
>
> Sec. 2. Proposals for carrying the mail on star routes shall not be considered unless the bidder is a legal resident of the county or counties traversed by the roads over which the mails are to be carried. . . .

To such bill, the following amendment was offered:

> Amendment offered by Mr. [Frederick E.] Biermann [of Iowa]: Page 2, after line 26, insert:
>
> Sec. 3. The Postmaster General in advertising for bids for any star route shall publish the estimated actual cost of carrying the route, which estimate shall include a reasonable wage for the carrier. No bid shall be accepted which is more than 10 percent below the estimated actual cost.

The following exchange concerned a point of order raised against the amendment:

> MR. [JAMES M.] MEAD [of New York]: . . . I make the point of order against the amendment that it is not germane. It is writing into the bill a new principle of law. . . .
>
> MR. BIERMANN: Mr. Speaker, this bill deals with a method of compensating star-route carriers. At the time when a star route is let the Postmaster General publishes the price that the present carrier is getting for transporting the route. My amendment simply provides for the publication of another figure in place of that. . . .
>
> THE SPEAKER:[17] . . .
>
> . . . As the Chair understands the major purpose of the bill now under consideration, it deals with the subject of providing additional compensation for star-route carriers for necessary increased mileage, and for other purposes, and although the bill itself purports only to amend an existing statute, it undertakes in terms to set out certain provisions under which the Postmaster General may let these bids for the carrying of star-route contracts. Although the word "wage" does seem to be mentioned in the amendment offered by the gentleman from Iowa, the Chair is clearly of the opinion that as the bill has been proposed, it is merely an addition to the terms under which the contract shall be let.

15. H.R. 7879 (Committee on Post Office and Post Roads).

16. 81 CONG. REC. 8017, 75th Cong. 1st Sess., Aug. 2, 1937.

17. William B. Bankhead (Ala.).

The Chair therefore overrules the point of order.

Bill Promoting Development of Synthetic Fuels—Amendment To Include Methane Within Definition

§ 12.5 To a bill promoting the development of synthetic fuels, defined as fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, an amendment including within the definition of such fuels methane produced from coal seams, geopressurized brine, tight sands and devonian shale was held germane as adding another subject to subjects of the same class.

On June 26, 1979,[18] during consideration of the Defense Production Act Amendments of 1979[19] in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [TIMOTHY E.] WIRTH [of Colorado]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wirth: Page 10, line 6, insert after the first period the following new sentence: "Such terms also include methane produced from such sources as coal seams, geopressurized brine, tight sands and Devonian shale.".

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the bill deals with production of synthetic fuels. The amendment offered by my good friend, the gentleman from Colorado, deals with production from conventional sources of hydrocarbons from within the Earth. Given that circumstance, regretfully, I observe that the amendment does not conform with the requirements of the rules relating to germaneness.

The bill also deals with creating synthetic feedstocks. The particular section, section 3, with which we deal at this time, deals with synthetic feedstocks.

The proposal that the gentleman from Colorado (Mr. Wirth) has before us deals with a broad series of productions from conventional or semiconventional sources of hydrocarbon from within the Earth and, as such, it is therefore not germane. . . .

MR. WIRTH: Mr. Chairman, at the bottom of page 9, line 24 in the bill is the definition of what is intended by the committee to be covered by the legislation in H.R. 3930. That definition in the amendment which I have offered is broadened to include coverage by the provisions of this act for hard-to-obtain natural gas.

The purpose of the legislation, as I understand the gentleman from Pennsylvania and the committee, is to increase production of energy and the area of hard-to-get natural gas. That

18. 125 CONG. REC. 16687, 16688, 96th Cong. 1st Sess.

19. H.R. 3930.

which is described in the amendment which I offered clearly is a matter of the kind of stimulus that the gentleman from Pennsylvania and members of the committee have defined in the bill, and in broadening the definition offered by the committee, this is consistent with the purposes of H.R. 3930.

THE CHAIRMAN:[20] The Chair is prepared to rule.

The section of the bill which defines synthetic fuels, page 9, line 24 reads as follows:

> The term synthetic fuels—". . . means fuels and chemical feedstocks produced by the conversion of renewable and nonrenewable resources, including, but not limited to, . . ." a consecutive category of resources.

In the opinion of the Chair, the definition is sufficiently broad as to allow the amendment offered by the gentleman from Colorado.

The Chair overrules the point of order.

Bill Providing for Limited Transfer of Functions to New Consumer Protection Agency—Amendment Authorizing Director of Office of Management and Budget To Transfer Designated Types of Function to Agency

§ 12.6 To a bill creating a nonregulatory Consumer Protection Agency, providing for a limited transfer of functions to the agency but authorizing the Administrator to utilize the services of offices of other agencies performing similar activities, an amendment authorizing the Director of the Office of Management and Budget to transfer to the agency such programs or activities of various agencies as were duplicative of or could be performed more appropriately by the new agency and which could be transferred without further Congressional action, was held to be germane to the bill as a whole since provisions in the bill brought the activities of those offices within the scope of the bill, and all offices transferred were within the same generic class of nonregulatory intra-agency entities whose transfer would not enlarge the authority of the new agency beyond that contemplated by the bill.

During consideration of H.R. 7575[1] in the Committee of the Whole on Nov. 6, 1975,[2] the Chair overruled a point of order against the amendment described above, stating, in part, that the

20. Gerry E. Studds (Mass.).

1. The Consumer Protection Act of 1975.

2. 121 CONG. REC. 35374, 35375, 35376, 94th Cong. 1st Sess.

test of germaneness of adding a new section at the end of a bill is the relationship between the amendment and the bill as a whole. The proceedings were as follows:

The Clerk will read.

The Clerk read as follows:

SAVING PROVISIONS

Sec. 14. (a) Nothing contained in this Act shall be construed to alter, modify, or impair the statutory responsibility and authority contained in section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(a)(4)), or of any provision of the antitrust laws, or of any Act providing for the regulation of the trade or commerce of the United States, or to prevent or impair the administration or enforcement of any such provision of law.

(b) Nothing contained in this Act shall be construed as relieving any Federal agency of any authority or responsibility to protect and promote the interests of the consumer. . . .

MR. [PAUL N.] MCCLOSKEY [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCloskey: Page 26, immediately after line 5, insert the following new Section 15 and renumber succeeding sections accordingly:

TRANSFER OF PROGRAMS, OPERATIONS AND ACTIVITIES

Sec. 15. (a)(1) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to transfer to the Agency such programs, operations, and activities of each Federal agency as (A) are duplicative of or can be performed more appropriately by the Administrator under the authority contained in this Act, and (B) may be transferred without the need for Congressional action.

(2) Transfers authorized and directed under paragraph (1) shall include but not be limited to those programs, operations, and activities defined in paragraph (1) which are, on the date of enactment of this Act, performed by the following Federal departments and agencies: The Office of Consumer Affairs of the Department of Health, Education, and Welfare; the Office of Ombudsman for Business of the Department of Commerce . . . the Advisory Committee on Water Data for Public Use of the Department of the Interior; the Science Advisory Board's Executive Committee of the Environmental Protection Agency; and the Citizen's Advisory Committee on Transportation Quality of the Department of Transportation. . . .

(c) The Administrator, pursuant to section 4 of this Act, shall be responsible for incorporating such programs, operations, and activities as are transferred pursuant to subsection (a) in such manner and to the extent he deems consistent with the Agency's responsibilities under section 5 of this Act, and issuing such organizational directives as he deems appropriate to carry out the purposes of this section. . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California (Mr. McCloskey) on the grounds that it is in violation of clause 7 of rule XVI of the House of Representatives.

The amendment offered by the gentleman from California proposes a new section to the bill which involves a substantial transfer of functions from ex-

isting Federal agencies and departments.

The Director of OMB is directed to transfer consumer-related programs, operations, and activities from existing agencies and departments to the Agency for Consumer Protection. H.R. 7575 has several provisions directing Federal agencies to cooperate in providing information, documents, and other materials to the Agency for Consumer Protection. In addition, section 15 provides for a very narrow and specific transfer of the Consumer Product Information Coordinating Center in the General Services Administration to the new Consumer Agency. The amendment offered by the gentleman from California would involve the wholesale transfer of nearly 20 functions from various Federal departments and agencies. Such a massive shift of responsibility by the Federal agencies is neither the intent nor purpose of H.R. 7575.

In addition, the transfer in section 15 is limited to a Consumer Product Information Coordinating Center, and does not involve the transfer of substantive responsibilities for consumer representation, intervention in agency proceedings, or other such administrative and policy responsibilities. In this regard, I think a distinction can be drawn between the limited type of transfer contemplated in section 15 and the massive transfer proposed in the amendment.

In addition, the amendment alters existing statutory and administrative mandates placed upon Federal agencies and departments. The administration, over and above statutory mandates, has made significant steps in increasing consumer representation within Federal agencies. The proposed amendment would wipe out all those positive gains, and have OMB decide which functions to transfer rather than for Congress to exercise its oversight responsibility. . . .

MR. MCCLOSKEY: First of all, Mr. Chairman, the Chair will note that points of order were waived as to section 15 of the act, which accomplishes the transfer of the Consumer Protection Information Coordinating Center. This, in effect, is a new section 15.

Second, unlike the suggestion of the gentleman from Illinois, this amendment specifically does not attack anything created by an act of Congress. It refers only to administratively created organizations. I refer the Chair to the first paragraph, section 15(a)(1), which says:

> Sec. 15. (a)(1) Except to the extent prohibited by law, the Director of the Office of Management and Budget is authorized and directed to transfer to the Agency such programs, operations, and activities of each Federal agency as (A) are duplicative of or can be performed more appropriately by the Administrator under the authority contained in this Act, and (B) may be transferred without the need for Congressional action.

Clearly, the amendment does not purport to change any congressionally mandated consumer office, but only those created by executive order.

Paragraph C of the amendment asks the Director of Office of Management and Budget to identify and report to the committees of the House and send the reorganizations for such additional transfers as may be necessary to avoid duplication with programs, operations, and activities, but which require congressional action.

Mr. Chairman, I would like, finally, to cite a prior act of the Congress for the authority to accomplish this. Section 210 of the Federal Property and Administrative Services Act of 1949 provides, in part:

> Whenever the Director of the Office of Management and Budget shall determine such action to be in the interest of economy or efficiency, he shall transfer to the Administrator [of GSA] all functions then vested in any other Federal agency with respect to the operation, maintenance, and custody of any office building owned by the United States . . . [etc.]

This amendment clearly does nothing more than authorize and direct the Director of Office of Management and Budget to accomplish those transfers which in his judgment are duplicated by the creation of this new agency and may more appropriately be formed by the Administrator under the authority that this law will give him. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is a reorganization of the executive branch, clearly, the jurisdiction of the Committee on Government Operations, under rule 10, page 3, which includes the Government Operations responsibilities and authorities, the reorganization in the executive branch of Government.

The amendment transfers programs in existence which do not require the change of any statutes. . . .

MR. [BENJAMIN S.] ROSENTHAL [of New York]: . . . Mr. Chairman, I rise in opposition to the point of order.

Those activities and functions authorized to be transferred to the agency include only those which may already be performed under the authority provided in the remainder of the bill. The functions of the administrator are not expanded, nor is his authority or power increased by the amendment.

Additionally, the functions proposed to be transferred, as both the gentleman from Texas (Mr. Brooks) and the gentleman from New York (Mr. Horton) have already suggested, were created by administrative action and were not created by statute. The proposed transfer does not impair or amend statutes governing the operations of the agency from which transfers would be made. . . .

THE CHAIRMAN:[3] The Chair is ready to rule. . . .

The gentleman from Illinois (Mr. Erlenborn) has made a point of order to the amendment offered by the gentleman from California (Mr. McCloskey) on the grounds that the amendment is not germane.

The Chair will state initially that since the amendment proposes to add a new section to the bill, the rule on germaneness does not require that the amendment be germane to one particular section, it being sufficient if it is germane to the subject matter of the bill as a whole—Deschler's Procedure, chapter 28, section 14.4.

The subject of the amendment, the transfer of various executive agency functions, is clearly within the jurisdiction of the committee reporting the bill. While the transfer envisioned by the amendment is more comprehensive than the transfers contained in section 15 of the bill, as noted, the test of germaneness is the relationship between the amendment and the bill as a whole. Thus, despite the limited trans-

3. Edward P. Boland (Mass.).

fer provisions in the bill, the Chair notes that on page 4, lines 13 to 15, the new agency is authorized to utilize the services and personnel of other Federal agencies and of State and private agencies and instrumentalities.

On page 5, lines 7 to 11, if the Administrator of the new agency so requests, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the new agency. Finally, on page 26, lines 3 to 5, the bill provides that nothing contained in the act shall be construed as relieving any Federal agency of any authority or responsibility to protect and promote the interests of the consumer.

The Chair believes that activities of the offices transferred to the agency by this amendment are already brought into the operation of this act by the sections of the bill just cited.

In addition, it is the opinion of the Chair that the express language of the amendment itself refutes the argument that it broadens the scope of the powers of the agency beyond those contemplated in the bill. The amendment would transfer only such functions as duplicate or can be performed under the express authority contained in the bill. Therefore, no functions, activities or powers may be transferred under the amendment which are not already within the powers granted to the new agency in the bill.

It has been argued that the amendment would change statutory and administrative duties. However, the Chair is unaware of any legislation creating the offices referred to in the amendment and is unaware of any regulatory power conferred on them by statute. It would appear that the offices mentioned have been created solely by departments and agencies of the executive branch.

For the reasons stated, the Chair overrules the point of order.

Bill Authorizing Commission To Investigate Abridgment of Certain Civil Rights—Amendment Enlarging Scope To Include Study of Rights Reserved to States and to People

§ 12.7 To a bill authorizing a commission to investigate abridgment of certain civil rights, an amendment to enlarge the scope of the investigation to authorize the commission to study and collect information concerning the rights reserved to the states and to the people, was held to be germane.

In the 84th Congress, a bill[4] was under consideration which provided, in part, that a commission should investigate allegations that certain citizens were being deprived of their right to vote or being subjected to unwarranted economic pressures by reason of their color, race, or religion; and that such commission should further study and collect information concerning economic, social, and

4. H.R. 627 (Committee on the Judiciary).

legal developments constituting a denial of equal protection of the laws. An amendment was offered[5] authorizing the commission, in addition, to study and collect information concerning rights reserved to the states and to the people under the Constitution. Speaking in response to a point of order made by Mr. Kenneth B. Keating, of New York, Mr. James P. Richards, of South Carolina, who had offered the amendment, stated:

> Mr. Chairman, I think [the amendment] is patently germane, because in the subsection it seeks to amend, you provide for the collection of information and you provide for studies in regard to equal protection of the laws under the Constitution. And if that section itself means what it says, then I am sure the provisions of the 10th amendment of the Constitution itself would warrant a study and investigation to see how those provisions are applied under the Constitution that is mentioned.

The following statement was made by Mr. William M. Colmer, of Mississippi, in opposition to the point of order.

> Mr. Chairman, I contend that this amendment is germane, not only for the reasons stated by the gentleman from South Carolina but in line with the ruling of the Chair on yesterday on another amendment, where the Chair differentiated between the labor amendment and the age amendment, in that the Chair ruled that the matter was within the province and jurisdiction of that particular committee. . . .

Mr. Keating stated:[6]

> Mr. Chairman, the part of this section which is sought to be amended here has to do with the equal protection of the laws provision of the Constitution, no other part of the Constitution.
>
> It is true that amendments to the Constitution come under the jurisdiction of the Judiciary Committee, but the parallel between the ruling of yesterday and this amendment does not follow. The amendment offered by the gentleman from South Carolina would bring in a part of the Constitution which is not in any way under the purview of this section. It would be like trying to change the prohibition amendment under the Constitution in this bill. It has to do with an entirely different part of the Constitution, and it is not germane to the consideration of this bill.

The Chairman,[7] without elaboration, held that the amendment was germane.

Army Officers' Retirement—Amendment Affecting Other Branches of Service

§ 12.8 To a bill extending certain retirement privileges to officers of the Army who

5. 102 CONG. REC. 13728, 84th Cong. 2d Sess., July 20, 1956.

6. *Id.* at p. 13729.

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

served in the Spanish-American War, a committee amendment proposing to extend such privileges to officers of the Navy, Marine Corps, and Coast Guard was held to be not germane.

In the 76th Congress, a bill[8] was under consideration which stated in part:[9]

> Be it enacted, etc., That the act of Congress approved April 23, 1904, authorizing the retirement to the next higher grade of officers of the United States Army who served in the Civil War is hereby extended to include those officers not above the grade of colonel who served in the War with Spain between April 21, 1898, and April 11, 1899.

The following committee amendment was offered:

> Page 1, line 8, after the figures, insert a colon and the following proviso: "*Provided,* That the advanced rank on the retired list shall be extended in like manner to those officers of the Navy, Marine Corps, and Coast Guard, who have been retired, or may be retired, in accordance with existing law for retirements in these respective services."

Mr. Carl Vinson, of Georgia, made the point of order that the committee amendment was not germane to the bill. The Speaker[10] sustained the point of order.[11]

Adding To Class in Original Amendment

§ 12.9 To an amendment prohibiting indirect foreign assistance to four designated countries, offered to a paragraph of a bill denying only direct assistance to those countries, an amendment adding other countries to the indirect prohibition contained in the original amendment was held germane thereto.

On Aug. 3, 1978,[12] during consideration of the foreign assistance appropriations for fiscal 1979[13] in the Committee of the Whole, Chairman Abraham Kazen, Jr., of Texas, overruled a point of order against an amendment to an amendment, holding that to a proposition prohibiting indirect foreign assistance to several foreign countries, an amendment including additional countries within that prohibition is

8. S. 839 (Committee on Military Affairs).

9. See 84 Cong. Rec. 8957, 76th Cong. 1st Sess., July 12, 1939.

10. William B. Bankhead (Ala.).

11. 84 Cong. Rec. 8958, 76th Cong. 1st Sess., July 12, 1939.

12. 124 Cong. Rec. 24232, 24244, 95th Cong. 2d Sess.

13. H.R. 12931.

germane. The proceedings were as follows:

The Clerk read as follows:

> Sec. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

MR. [C. W. BILL] YOUNG of Florida: Mr. Chairman, I offer an amendment. The Clerk read as follows:

> Amendment offered by Mr. Young of Florida: On page 11, line 15, after the word "directly" add "or indirectly".

MR. [TOM] HARKIN [of Iowa]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Harkin to the amendment offered by Mr. Young of Florida: Page 11, line 17, strike the period and insert the following: "*Provided*, That none of the funds appropriated pursuant to this act shall be obligated or expended to finance indirectly Chile, Argentina, Uruguay, Korea, Nicaragua, Indonesia, and the Philippines". . . .

MR. YOUNG of Florida: Mr. Chairman, I make the point of order that the gentleman's amendment to my amendment goes far beyond the scope of the original amendment and is, therefore, out of order. . . .

MR. HARKIN: . . . This amendment does not go beyond the scope of the gentleman's amendment because I have limited the amendment only to indirect aid and not to direct aid.

Therefore, it is in order. It would not be in order if I had covered both direct and indirect aid. The gentleman would be right in that case, but I have limited it only to indirect aid. . . .

MR. YOUNG of Florida: . . . In rebuttal to the gentleman's point, the amendment does not name countries. The amendment adds only the words "or indirectly."

The gentleman's amendment proceeds to add countries to that amendment. The original amendment does not add any countries.

MR. HARKIN: Mr. Chairman, that is why my amendment amends the gentleman's amendment.

THE CHAIRMAN: The Chair is ready to rule.

The section of the original bill to which the amendment of the gentleman from Florida (Mr. Young) refers does contain the names of four countries. The gentleman is amending a section with countries named in it and is in effect offering a further prohibition with respect to those four countries.

The amendment of the gentleman from Iowa (Mr. Harkin) refers to indirect aid, and all it does is to add additional countries.

MR. YOUNG of Florida: Mr. Chairman, may I make a parliamentary inquiry prior to the ruling?

THE CHAIRMAN: The gentleman will state it.

MR. YOUNG of Florida: It is my understanding under the rules that the amendment must be germane to the amendment as opposed to the bill.

THE CHAIRMAN: The amendment is germane to the amendment because it refers only to indirect aid and adds ad-

ditional countries to those affected by the gentleman's original amendment. But the main thrust of the amendment is to indirect aid, which is not changed by the amendment offered by the gentleman from Iowa (Mr. Harkin). The Chair respectfully overrules the point of order.

Penalty for Commission of Felony by Use of Firearm—Amendment Providing for Trial of Offense in Federal or State Court

§ 12.10 To a proposition making it a federal crime to use, during the commission of a felony that may be prosecuted in a federal court, a firearm, an amendment making it a crime, in a state where such activity is not already felonious, to carry a firearm during the commission of a felony and providing for the trial of such offense in either a state or federal court was held to be germane.

In the 90th Congress, a bill[14] was under consideration relating to the control of firearms. The following amendment to the bill was agreed to on July 19, 1968:[15]

(c) Whoever—

(1) uses a firearm to commit any felony which may be prosecuted in a court of the United States, or

(2) carries a firearm unlawfully during the commission of any felony which may be prosecuted in a court of the United States, shall be sentenced to a term of imprisonment. . . .

Subsequently, an amendment to the bill was offered which provided that:[16]

Whoever on or after January 1, 1971 in a State in which it is not a felony to use or unlawfully to carry a firearm in the commission of any felony in such State, uses a firearm to commit any felony or carries a firearm unlawfully during the commission of any felony in such State shall upon conviction be sentenced to a term of imprisonment. . . .

Concurrent jurisdiction for the enforcement of the provisions of this Act is hereby conferred upon the appropriate District Court of the United States and upon the State Court which shall try the person charged with the commission of the felony in which a firearm shall be used or unlawfully carried.

In disposing of a point of order raised against the amendment,[17] the Chairman[18] stated:[19]

14. H.R. 17735 (Committee on the Judiciary).

15. 114 CONG. REC. 22231, 22248, 90th Cong. 2d Sess.

16. 114 CONG. REC. 22789, 90th Cong. 2d Sess., July 23, 1968.

17. Mr. Emanuel Celler, of New York, objected on the ground that the amendment was not germane to the bill. *Id.* at p. 22789.

18. John J. Rooney (N.Y.).

19. 114 CONG. REC. 22789, 90th Cong. 2d Sess., July 23, 1968.

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:

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.

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;". . . .

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. . . .

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.

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—

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).

for use abroad was held not germane.

In the 83d Congress, a bill[5] was under consideration to discharge certain indebtedness of the Commodity Credit Corporation. The bill stated:[6]

Resolved, etc.—

DEPARTMENT OF AGRICULTURE

COMMODITY CREDIT CORPORATION

The Secretary of the Treasury is hereby authorized and directed to discharge indebtedness of the Commodity Credit Corporation to the Secretary of the Treasury by canceling notes issued by the Corporation to the Secretary of the Treasury . . . (2) in the amount of $129,553,795 for the net costs during the fiscal year 1953 . . . under the International Wheat Agreement Act of 1949 (7 U.S.C. 1641, 1642); and (3) in the amount of $2,064,060 for the funds transferred and expenses incurred through the fiscal year 1953 . . . under the head "Eradication of foot-and-mouth and other contagious diseases of animals and poultry" pursuant to authority granted in the Department of Agriculture Appropriation Act, 1953.

An amendment was offered as described above. The amendment stated in part:

Sec. 3. In order to make American farm commodities available to users in other countries on the same basis as farm commodities from other nations, all other agricultural commodities of whatever kind or character, title to which is in the Commodity Credit Corporation, unless already committed for sale, shall be offered for sale for use outside the continental United States, its Territories, and possessions, at prevailing or competitive world prices; *Provided, however,* That the President . . . may restrict . . . sales of such commodities for use in Communist-dominated countries. . . .

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

MR. [WALTER F.] HORAN [of Washington]: . . . The amendment seeks to introduce proposals which not only are not included in the joint resolution but are foreign to the basic act establishing the Commodity Credit Corporation. In effect it is an amendment of the law establishing the Corporation and therefore is in no sense germane to the proposition included in the joint resolution.

The Chairman, Leo E. Allen, of Illinois, sustained the point of order.[7] Subsequently, another amendment was offered which related to sale of commodities for use abroad, and which stated:

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: Before the semicolon, line 5, add the following: "*Provided,* commodities of at least an equal value are offered for sale by the Commodity Credit Corporation from its stocks at prevailing or competitive

5. H.J. Res. 358 (Committee on Appropriations).

6. See 100 CONG. REC. 897, 83d Cong. 2d Sess., Jan. 27, 1954.

7. *Id.* at p. 898.

world prices, for use outside the continental United States, its possessions or Territories."

Mr. Horan again raised the point of order that the amendment was not germane to the bill.

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

MR. WHITTEN: . . . This resolution before us today authorizes the Secretary of the Treasury to cancel certain notes of the Commodity Credit Corporation in the amount of $741 million.

The amendment which I have offered would authorize that action only under certain conditions. Those conditions are that commodities of an equal value be offered in world markets at prevailing prices, by the Commodity Credit Corporation.

The Chairman, however, again sustained the point of order.

Bill Concerning Federal Farm Appraisers—Amendment Making Officers of Farm Loan Associations Eligible for Appointment as Federal Appraisers; Requiring Approval of Certain Appraisals

§ 14.2 To that section of a bill authorizing federal farm appraisers to make appraisals for the public, an amendment was held to be not germane which related to the eligibility of officers of national farm loan associations for appointment as appraisers and which in certain instances required approval, by a second federal farm appraiser, of appraisals made by such officers.

In the 79th Congress, a bill[8] was under consideration which stated:[9]

APPRAISAL SYSTEM

Sec. 6. Land bank appraisers appointed pursuant to the provisions of section 3 to the Federal Farm Loan Act, as amended, shall hereafter be known as Federal farm appraisers and, in addition to their duties under laws heretofore enacted, they may, under rules prescribed by the Board, make appraisals for the public as provided in this section. Reports of Federal farm appraisers for the public shall be confined to the appraisal of property. . . .

The following amendment was offered:

Amendment offered by Mr. [William R.] Poage [of Texas] On page 9, line 18, strike out all of line 18 and the remainder of page 9 and on page 10 down to and including line 9, and insert the following: "Secretary-treasurers of national farm loan associations . . . shall be eligible for appointment as Federal farm appraisers; but when any mortgage loan is made by the Federal land bank upon the basis of an appraisal by a Federal farm appraiser who is the secretary-treasurer

8. H.R. 4873 (Committee on Agriculture).

9. 92 CONG. REC. 2446, 79th Cong. 2d Sess., Mar. 19, 1946.

of a national farm loan association, the mortgage may be pledged with a farm loan registrar as collateral for Federal farm loan bonds unless and until another appraisal of the property has been made by a Federal farm appraiser who is not secretary-treasurer of any national farm loan association and he approves the report of the first appraisal or submits a report of his own which is favorable."

Mr. John W. Flannagan, Jr., of Virginia, raised the point of order that the amendment was not germane to the bill. In support of the point of order, Mr. Clifford R. Hope, of Kansas, made the following remarks:

> . . . The purport of section 6 is to set up a system of public appraisal. . . . The gentleman from Texas offers an amendment which would strike out section 6 and would simply provide for a new method of selecting appraisers, or rather, for using a certain other official as an appraiser, making him eligible to be an appraiser. But it does not in any sense go to the question involved in section 6. . . .

The Chairman, Jerome B. Clark, of North Carolina, in ruling on the point of order, stated:[10]

> The Chair is of the opinion that the amendment offered by the gentleman from Texas sets up an entirely different method and runs in a different direction. The Chair holds that the amendment is not germane and therefore, sustains the point of order.

10. *Id.* at p. 2447.

Bill Authorizing Rivers and Harbors Projects—Amendment Authorizing Secretary of Interior To Dispose of Electrical Energy Generated

§ 14.3 To a bill authorizing construction of public works on rivers and harbors, an amendment providing for disposition, by the Secretary of the Interior, of electrical energy generated at these projects was held germane.

In the 78th Congress, during consideration of the river and harbor construction bill,[11] an amendment was offered which stated in part:[12]

> Amendment offered by Mr. [Joseph J.] Mansfield of Texas: Page 29, between lines 12 and 13, insert the following paragraph:
>
> Electric power . . . generated at projects authorized by this act . . . shall be delivered to the Secretary of the Interior, who shall . . . dispose of such power . . . in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. . . .

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

11. H.R. 3961 (Committee on Rivers and Harbors).

12. 90 CONG. REC. 2846, 78th Cong. 2d Sess., Mar. 21, 1944.

MR. [WILLIAM J.] MILLER of Connecticut: Mr. Chairman, I make the point of order that the amendment is not germane to the bill. This bill deals with rivers and harbors projects and with the powers of the Secretary of War. This amendment attempts to legislate and define the powers of the Secretary of the Interior.

The Chairman, John M. Costello, of California, in ruling on the point of order, stated:[13]

[T]he bill deals entirely with the matter of the construction of dams and the distribution of water, and actually the generation and disposition of power on various rivers and various projects. It appears to the Chair it would be futile to create these dams and not also allow for the distribution of the power that is being generated at these dams, and that, therefore, the amendment is germane to the legislation before the Committee.

Bill Authorizing President To Order Military Reservists to Active Duty With Civilian Conservation Corps—Amendment Authorizing President To Make Permanent Assignment to Corps

§ 14.4 To that section of a bill authorizing the President to order reserve military officers to active duty with the Civilian Conservation Corps, an amendment authorizing the President to assign certain reserve officers to a permanent section of the corps was held to be germane.

In the 75th Congress, a bill[14] was under consideration to establish the Civilian Conservation Corps. The following amendment was offered:[15]

Amendment offered by Mr. [Bertrand W.] Gearhart [of California]: Page 5, after "respectively", strike out the period, insert a colon and the following: "Provided, That qualified Reserve officers of the Army and qualified officers of the Naval and Marine Reserves on duty with the Civilian Conservation Corps as of June 30, 1937, and for at least 6 months prior thereto, and qualified Reserve officers of these services who have completed at least 2 years of active duty with the Civilian Conservation Corps and are not now on such duty, be assigned to a permanent section of the corps to be organized under the direction of the President, and such officers will be assigned to this section for a period without limitation. Reserve officers of the Army and officers of the Naval and Marine Reserves who are not now on Civilian Conservation Corps duty and who qualify may be taken into the permanent section of the corps as vacancies occur."

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

MR. [LISTER] HILL of Alabama: Mr. Chairman, I make the point of order

13. *Id.* at p. 2847.

14. H.R. 6551 (Committee on Labor).

15. 81 CONG. REC. 4394, 75th Cong. 1st Sess., May 11, 1937.

that the amendment is not germane to the section and is not germane to the bill.

This section of the bill simply authorizes the President to call Reserve officers to duty and then prescribes what their relative rank shall be when they are called to duty following the provisions of the National Defense Act. The amendment, as I understood from hearing it read, would set up a special organization of Reserve officers in the Civilian Conservation Corps. The amendment would change the organization of the Reserve officers so far as those now on duty or who have been on duty with the C.C.C. are concerned. . . .

In defending the amendment, the proponent, Mr. Gearhart, stated:

Mr. Chairman, the second section of the bill confers upon the President the power to assign Reserve officers to C.C.C. duty. The amendment which I offer merely grants additional authority to the President, after he has exercised the original authority conferred upon him by the first portion of the bill. It simply provides further authority in the President over the C.C.C. officers after these officers have been assigned to their duties.

The Chairman,[16] in ruling on the point of order, stated:

The Chair is convinced that the amendment is germane to the section in question. It simply modifies in a certain degree the discretion vested in the President in section 6 of the bill. Therefore, the point of order is overruled.

16. Edward E. Cox (Ga.).

Provisions To Regulate Financial Disclosure and Ethical Conduct of Executive Branch Employees—Amendment Providing for Special Prosecutor To Investigate Violations by Such Employees and by Others

§ 14.5 To a title of a bill confined to regulating the financial disclosure, ethical conduct and conflicts of interest by executive branch employees, an amendment changing existing law to provide a permanent procedure for appointment of a special prosecutor to investigate and prosecute violations, committed not only by executive branch employees, but by persons formerly employed or never employed in the executive branch, was held not germane.

During consideration of the Ethics in Government Act of 1977[17] in the Committee of the Whole on Sept. 27, 1978,[18] the Chair sustained a point of order against the following amendment:

17. H.R. 1.

18. 124 CONG. REC. 31974–77, 95th Cong. 2d Sess.

MR. [HENRY J.] HYDE [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hyde: On page 44 of the substitute, insert the following after line 9:

PART C—SPECIAL PROSECUTOR

SPECIAL PROSECUTOR

Sec. 226. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39—Special Prosecutor . . .

"§ 591. Appointment

"(a) Upon receiving any specific information that any of the persons described in subsection (c) of this section has—

"(1) knowingly authorized or engaged in any Federal criminal act or omission involving the abuse of Federal office; . . . or

"(3) violated any Federal criminal law relating to the obstruction of justice or perjury or conspired to violate any such Federal criminal law or to defraud the United States:

the Attorney General shall conduct, for a period not to exceed sixty days, such preliminary investigation as the Attorney General deems appropriate to ascertain whether the matter under investigation is so unsubstantiated that no further investigation or prosecution is warranted.

"(b) Upon receiving any specific information that any of the persons described in subsection (c) of this section has committed a violation of the Ethics in Government Act of 1977, as set forth in section 204 of such Act, the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(c) The persons referred to in subsections (a) and (b) of this section are as follows:

"(1) The President or Vice President.

"(2) Any individual serving in a position compensated at level I of the Executive Schedule under section 5312 of title 5 of the United States Code. . . .

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President. . . .

"§ 592. Prosecutorial jurisdiction; authority

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, all the investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice.

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I make the point of order that the gentleman's amendment is not germane.

Mr. Chairman, the gentleman's amendment seeks to add new language to title II of the bill. The new language amends title 28 of the United States Code to provide a mechanism for the appointment of a Special Prosecutor. It appears to be identical, save for one important change, to H.R. 9705, a bill

reported favorably by the Committee on the Judiciary last June 19. The reach of the gentleman's amendment goes far beyond the subject matter and scope of title II of the bill.

Title II is entitled "Executive Personnel Financial Disclosure Requirements." It is limited exclusively to people in the executive branch of Government. The provisions of the gentleman's amendment are not limited to people in the executive branch. His amendment covers people who are not even in the government—national campaign managers—as well as people in another branch—Members of Congress.

Title II of the bill is concerned with the disclosure of personal finances and provides for a civil penalty for failure to file or falsifying a disclosure report. The gentleman's amendment deals with criminal conduct that is not related to the financial disclosures required by title II. The criminal conduct covered includes obstruction of justice and criminal violations of the Federal election laws.

Mr. Chairman, the gentleman's amendment goes far beyond the scope and subject matter of title II and, I submit, is therefore not germane. . . .

MR. HYDE: . . . Mr. Chairman, the proposed amendment, I feel, is clearly germane. The basic test of germaneness is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII Cannon's Precedents of the House 2911; Deschler's Procedure, 28.5). The title of the bill gives some indication of its purpose and its text further underscores that purpose, that is, to effect ethics in government.

My amendment creates a mechanism to effect ethics in government as well as to enforce the provisions of section 204 of H.R. 1. Consequently, the fundamental purpose of the amendment is closely aligned with that of the bill itself.

Another test of germaneness is whether the subject matter of the amendment relates to the subject matter under consideration. (Deschler's Procedure, 28.3). Here, too, the relation of the amendment to the bill is clear. The subject matter of the bill is in broad terms the ethics of Government officials, which the subject matter of the amendment is the enforcement of these same ethical standards.

Another test of germaneness is whether the subject matter of the amendment lies within the jurisdiction of a committee other than that reporting the bill. This test is more clearly met than any other since the Judiciary Committee has reported in separate legislation a variant of the amendment I am offering.

Furthermore, it should be noted that the rule under which H.R. 1 is being considered specifically waives any points of order on grounds of germaneness against the substitute embodied in H.R. 13850. I submit that the language of this waiver is broad enough in both its letter and its spirit to also permit consideration of this amendment.

It is also noteworthy that the Senate passed bill (S. 555), of which H.R. 1 was one title, contained another title on appointment of Special Prosecutors. If H.R. 1, or the substitute, is passed by the House, there necessarily will be a conference pitting the Senate's comprehensive approach to ethics against a House-passed bill that covers only a fraction of the ground.

THE CHAIRMAN:[19] The gentleman from California (Mr. Danielson) makes a point of order against the amendment offered by the gentleman from Illinois (Mr. Hyde) on the grounds it is not germane to title II of the bill to which it is offered.

The gentleman from Illinois (Mr. Hyde) has made some very persuasive arguments with respect to the germaneness of the amendment to the entire bill, but the amendment offered by the gentleman from Illinois goes to title II of the bill, and for the reasons stated by the distinguished gentleman from California (Mr. Danielson), the Chair sustains the point of order.

Bill Creating Executive Agency To Protect Consumer Interests—Amendment To Confer Authority Upon Congressional Committees To Direct Agency To Intervene in Legal Proceedings

§ 14.6 To a bill creating an independent agency in the executive branch to protect consumer interests, an amendment in the form of a new section conferring upon Congressional committees with oversight responsibility for consumer interests the authority to direct that agency to intervene in administrative or judicial proceedings was held not merely to reserve to Congress a disapproval authority over the agency but to confer new power on Congressional committees, and was ruled out as beyond the jurisdiction of the Committee on Government Operations and beyond the scope of the bill.

During consideration of the Consumer Protection Act of 1975[20] in the Committee of the Whole on Nov. 6, 1975,[1] the Chair sustained a point of order against the following amendment:

MR. [ELLIOTT] LEVITAS [of Georgia]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Levitas: On page 25, following Section 13 of H.R. 7575 as reported, add the following new section:

Sec. 14(a) Whenever a committee of the Congress having specific oversight responsibility with respect to the operations of a Federal agency determines that the result of a proceeding or activity of such agency may substantially affect an interest of consumers, such committee may by resolution order the Administrator to intervene as a party or otherwise participate for the purpose of representing the interests of consumers, as provided in Section 6(a)(1) and (2).

(b) Whenever a Committee of the Congress having specific oversight responsibility with respect to the operations of a Federal agency determines that an intervention by the Administrator pursuant to Section

19. Edward P. Boland (Mass.).

20. H.R. 7575.

1. 121 CONG. REC. 35373, 35374, 94th Cong. 1st Sess.

6(a) is not properly representative of an interest of consumers, or that such intervention is one that does not substantially affect an interest of consumers, such committee may by resolution order the Administrator to withdraw such intervention as a party or to conduct such intervention in a manner consistent with such determination as the committee shall make by such resolution.

(c) The Administrator shall, at the direction by resolution of a committee of the Congress having specific oversight responsibility of the affected Federal agency, institute, or intervene as a party, in a proceeding in a court of the United States involving judicial review of any Federal agency action pursuant to the provisions of Section 6(d). . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make the point of order that this amendment is not germane. What it attempts to do is superimpose upon this executive agency a committee of the Congress having oversight. This committee, that is the Government Operations Committee, does not have jurisdiction over that particular aspect of the matter.

I also think this would be in contravention to the rules of the House and be changing the rules of the House, it seems to me.

On those bases I feel the amendment is not germane and make the point of order. . . .

MR. LEVITAS: Mr. Chairman, yesterday when the Chair ruled as out of order an amendment in the form of a substitute which I offered, it was on the basis that it would have removed a proposed agency from the executive branch into the congressional branch of Government. This amendment does not do that. It simply gives additional powers that can be exercised at the direction of the oversight committees and it does not attempt to shift the Agency's location from one branch of the Government to the other.

Since it has as its purpose the further protection of consumers by requiring the Administrator or the Agency to take action or modify proposed action in order to better protect the consumer interest, it is akin, it seems to me, to the fundamental purpose of the bill and therefore I submit is germane to the purposes of the bill. . . .

MR. [JACK] BROOKS [of Texas]: . . . I would like to point out in addition that this will give additional committees within the Congress the right to change the effectiveness of an executive agency. If we create this Agency and it works within the department, this amendment would give one committee, not the Congress of the United States but one committee, the right and the authority to interfere with the functioning of that Agency. I think it would be unconstitutional and certainly not in keeping with the prerogatives that we give to the Executive when we give him authority. Until we change the law an individual committee of the Congress does not have the right to tell the executive branch what to do and how to function under the law passed by the Congress. . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: . . . Mr. Chairman, I believe the point of order should be overruled. The bill creates an agency and grants certain powers to the agency. This amendment proposes to reserve certain of those powers that are granted.

The gentleman from Texas said it would be improper and not germane to

reserve those powers. I would say there is precedent for this type of amendment. In the Education Act Amendments of 1974, I believe it was, the Office of Education in HEW was given authority to adopt rules and regulations to implement the action. That legislation specifically reserved to the Congress and to the committees of the Congress the authority to review those rules and regulations before they took effect and to veto in effect any of the rules and regulations that the Congress felt were not in conformity with the intent of the Congress in passing the act.

So in making a grant of authority to an agency I believe we also have authority to reserve a certain overview and veto power or direction of the authority we are giving to the agency. I submit with those precedents this amendment should be in order. . . .

MR. LEVITAS: Mr. Chairman, I would like to point out one additional precedent that occurs to me and that is the Budget Control Impoundment Act that was adopted by the last Congress, which not only provides for congressional review of executive actions, but also authorizes an arm of the Congress to enforce those congressional decisions by taking legal actions in court.

I think that is certainly far less of an action than is contemplated by this amendment and which is for the protection of the consumer, which is the underlying purpose of this bill.

THE CHAIRMAN: [2] The Chair is ready to rule. In the opinion which the Chair gave yesterday on the point of order made to the amendment in the nature of a substitute offered by the gentleman from Georgia (Mr. Levitas), the Chair did not base that opinion strictly on the arguments reiterated by the gentleman from Georgia today. While the Chair cannot decide the constitutional questions raised, in the opinion of the Chair, the emphasis contained in the amendment on congressional oversight responsibilities and the authority conferred upon committees to order certain actions to be undertaken by the Consumer Office in furtherance of those committees' oversight function, is an issue which is not related to the scope of the pending bill. The effect of the amendment extends the oversight responsibilities and authority of House committees, a matter not within the jurisdiction of the Committee on Government Operations, and goes beyond the issue of merely reserving to Congress a disapproval authority over promulgated agency regulations.

Consequently, the Chair is constrained to support the point of order.

Bill Reforming Economic Regulation of Railroads—Amendment Relating to Diverse Issues Including Authority of Interstate Commerce Commission and Secretary of Transportation

§ 14.7 Where a bill reforming the economic regulation of railroads was being read for amendment by titles, and the title under consideration, entitled "railroad inter-carrier practices" dealt with diverse subjects, including bank-

2. Edward P. Boland (Mass.).

ruptcy and employee protection issues, an amendment to such title which (1) addressed those issues as well as railroad rates and rate-making, (2) included provisions requesting a study of the impact of possible tax law changes on railroads, and (3) conferred certain powers on the Interstate Commerce Commission, the Secretary of Transportation and other officials, was held germane even though portions of the amendment indirectly affected a previous title of the bill already perfected by amendment.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

§ 15. Amendments to Appropriation Bills; Rescission Bills

An amendment offered to a general appropriation bill must be germane to that part which is under consideration.[3] And where an amendment to a general appropriation bill relates to the appropriation of specific funds, it must be offered to the specific item of appropriation to which it applies. If offered to the general introductory statement preceding the specific appropriation, it may be ruled out as not germane.[4]

From the point of view of germaneness, an amendment limiting the use of funds by a particular agency funded in a general appropriation bill may be offered while the paragraph carrying the funds is pending, subject to clause 2 of Rule XXI, added in 1983, requiring the reading of the bill to have been completed, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill.[5] However, to

3. See the remarks of Chairman Franklin W. Hancock, Jr. (N.C.) at 81 CONG. REC. 3763, 75th Cong. 1st Sess., Apr. 22, 1937, made in the course of ruling on a point of order raised by Mr. Tarver to an amendment offered by Mr. Ellenbogen. Under consideration was H.R. 6523 (Committee on Appropriations), Agriculture Appropriations for 1938.

On one occasion, the Chairman remarked, in the course of ruling on the propriety of an amendment to a supplemental appropriation bill that, "If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered." See § 15.3, infra. The Chairman probably intended his remarks to have reference only to the particular context in which he made his ruling.

4. See § 15.2, infra.

5. See § 15.1, infra.

a paragraph containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph.[6]

A legislative provision which is permitted to remain in an appropriation bill may be amended by a germane proposition which does not add further legislation.[7] Thus, a legislative provision in a general appropriation bill, permitted to remain pursuant to a resolution waiving points of order against the bill, may be perfected by germane amendment.[8] Similarly, where an amendment to a general appropriation bill proposes a change in existing law but is permitted to remain because no point of order is raised against it, the amendment may be perfected by germane amendments.[9]

A Senate amendment proposing legislation on an appropriation bill may be amended by germane amendments.[10] Furthermore, while it has been held that a Senate amendment proposing legislation on a general appropriation bill may be subject to an amendment of a similar nature offered in the House, the requirement remains in such circumstances that the House amendment be germane to the Senate amendment.[11]

Germaneness is an express requirement of any amendment sought to be introduced pursuant to the "Holman Rule,"[12] which permits legislative matter in general appropriation bills where such matter reduces expenditures. Thus, it has been held that, to be in order under the Holman rule,

6. See § 15.38, infra.

7. See §§ 15.15 and 15.45, infra.

8. See § 15.35, infra.

9. See § 15.49, infra.

10. See § 27.10, infra.

11. See the proceedings at 116 CONG. REC. 41504, 41505, 91st Cong. 2d Sess., Dec. 15, 1970, in which a Senate amendment proposing legislation on a general appropriation bill (H.R. 17755 [Committee on Appropriations], comprising Department of Transportation appropriations for fiscal 1971) was reported back from conference in disagreement, pursuant to provisions of Rule XX clause 2 (see *House Rules and Manual* § 829 [1991]) prohibiting conferees from agreeing to certain Senate amendments. A motion to concur in the amendment with a further amendment was held to be in order, even though such further amendment was also legislative in nature. See the ruling of Speaker John W. McCormack (Mass.) at p. 41505.

12. See Rule XXI clause 2, *House Rules and Manual* § 844a (1991).

an amendment must not only retrench expenditures but must be germane to the provisions to which offered.[13] The amendment must not only show on its face an attempt to retrench but must be germane to a provision in the bill even though offered by direction of the committee having jurisdiction of the subject matter of the amendment.[14] To be germane, an amendment must affect only those funds carried in the bill. Thus, an amendment providing that appropriations "herein and heretofore made" shall be reduced by $70 million through the reduction of federal employees as the President determines was held to be legislative and not germane to the bill, since it went to funds other than those carried therein, and was therefore not within the Holman rule exception.[15]

Under current practice, moreover, an amendment that permanently changes existing law is not germane if offered to a bill making appropriations for one fiscal year. On May 21, 1969,[16] the Chair ruled that, to a bill making appropriations for one fiscal year, an amendment retrenching expenditures for that year but also permanently changing existing law, by abolition of the Commission on Executive, Judicial and Legislative Salaries, was not germane. The Chair relied on the principle[17] that, to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment rendering such legislation permanent is not germane. In so doing, the Chair effectively overruled an earlier line of precedents that had stood for the proposition that amendments which abolish agencies or functions in addition to reducing funds contained in a general appropriation bill are in order under the exception stated in Rule XXI, clause 2. Under those earlier rulings,[18] it was in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition was to reduce funds contained in the bill, even though the language provided permanent law, there being no distinction in the rule itself between permanent and temporary legislation. The germaneness rule as applied at

13. See §§ 15.14 and 42.57, infra.

For further discussion of the Holman rule and the rules with respect to legislation on appropriation bills generally, see Ch. 26, supra.

14. See 7 Cannon's Precedents § 1549.

15. See § 15.14, infra.

16. See § 15.23, infra.

17. See 8 Cannon's Precedents § 2915.

18. See 4 Hinds' Precedents § 3887; 7 Cannon's Precedents §§ 1507, 1509, and 1511.

present precludes amendments which provide for permanent change in law when offered to temporary legislation.[19]

An amendment is germane if drafted as a limitation on the use of funds appropriated,[20] provided the terms of the limitation are confined to funds in the bill. Thus, to provisions of a general appropriation bill, an amendment providing that no additional funds from "any other source" shall be expended for specified purposes is generally held to be not germane and to constitute legislation on an appropriation bill.[1]

It may not be germane to amend an appropriation bill to change the source of funding for a project or activity from one fund in the Treasury to another, especially where the effect of utilizing a special fund is to reduce funds otherwise available for a totally unrelated program or purpose.[2]

It has been held proper to amend a general appropriation bill to attach conditions to the use of the appropriated funds. Where certain funds appropriated by a general appropriation bill are to remain available beyond the fiscal year covered by the bill, an amendment may be germane which places certain restrictions, effective on a certain date that also falls after the expiration of the fiscal year, on the use of funds appropriated by the bill.[3]

Amendment Limiting Use of Funds by Agency Funded in Previous Title of Bill

§ 15.1 To the last title of a general appropriations bill, containing general provisions applying to funds carried throughout the bill, an amendment limiting the use of funds by an agency funded in a previous title of the bill was held germane.

An amendment limiting the use of funds by a particular agency funded in a general appropriations bill may be germane if offered at more than one place in the bill; thus, the amendment may be offered when the paragraph carrying such funds is

19. See § 24, infra.

20. See, generally, § 34, infra, for discussion.

1. See, for example, the ruling of Chairman Wilbur D. Mills (Ark.) at 97 CONG. REC. 4301, 82d Cong. 1st Sess., Apr. 24, 1951, with respect to a point of order made by Mr. Henry M. Jackson (Wash.) against an amendment offered by Mr. Boyd Tackett (Ark.). Under consideration was H.R. 3790 (Committee on Appropriations), the Interior Department Appropriation Bill of 1952.

2. See §§ 15.16, 15.22, and 15.39, infra.

3. See Sec. 15.27, infra.

pending, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill. An illustration of this principle can be found in the proceedings of July 16, 1979,[4] during consideration of H.R. 4393, Treasury, Postal Service and General Government Appropriations for fiscal 1980.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:

Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I reserve a point of order.

THE CHAIRMAN:[5] The gentleman will state the point of order.

MR. STEED: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .

MR. SYMMS: Mr. Chairman, the amendment [is] only a limitation of spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.

THE CHAIRMAN: The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

Place in Bill Where Restriction on Funds is Germane

§ 15.2 During consideration of a general appropriation bill, it was held that an amendment providing that no funds made available under the act shall be used for a certain purpose must be offered to the specific item of appropriation to which it applies, rather than to the general introductory statement preceding the specific appropriations.

In the 80th Congress, a bill[6] was under consideration making appropriations for foreign aid. The following language had been read:[7]

Be it enacted, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign aid for the period beginning April 3, 1948, and ending June 30, 1949, and for other purposes, namely:

The following amendment was offered:[8]

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4. 125 CONG. REC. 18807, 96th Cong. 1st Sess.

5. Richardson Preyer (N.C.).

6. H.R. 6801 (Committee on Appropriations).

7. See 94 CONG. REC. 7189, 80th Cong. 2d Sess., June 4, 1948.

8. *Id.* at p. 7190.

Amendment offered by Mr. [Emanuel] Celler [of New York]: Page 1, line 6, after the word "purposes", strike out the comma and the word "namely" and insert "on condition, however, that no moneys authorized for appropriation hereunder shall be paid or credited to any country which participates in or aids in acts of aggression, such acts of aggression to be determined by proclamation by the President of the United States, namely."

Mr. John Taber, of New York, raising a point of order, stated:

Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill and that it is not in order at this point in the bill and not germane.

The following exchange ensued:

MR. CELLER: I agree to the point of order, Mr. Chairman.

THE CHAIRMAN: The point of order is sustained.

Mr. Celler then offered an amendment which stated:

Amendment offered by Mr. Celler: Page 1, line 6, after the word "purposes", strike out the comma and the word "namely" and insert "but no funds made available under the authority of this Act shall be paid or credited to Great Britain, namely."

Mr. Taber raised the point of order that the amendment was not in order at that point in the bill. The Chairman,[9] in ruling on the point of order, stated:

The paragraph to which the gentleman from New York offers an amendment relates to the general provisions regarding the sums carried in the various titles and paragraphs in the bill. The amendment offered by the gentleman from New York relates to the appropriation of specific funds. The Chair feels that the amendment is not germane to this particular paragraph, and therefore sustains the point of order.

Parliamentarian's Note: Under clause 2 of Rule XXI as amended in the 98th Congress, limitation amendments are in order only at the end of the reading of the bill for amendment if the Committee of the Whole does not rise and report the bill to the House, and limitation amendments at that point may be germane if relating to funds in previous paragraphs of the bill.

Supplemental Appropriation Bill Covering Diverse Items—Amendment Relating to School Lunch Program as Germane Where Offered

§ 15.3 To a supplemental appropriation bill covering a number of items and agencies, an amendment proposing another appropriation authorized by law is germane.

In the 79th Congress, during consideration of a supplemental appropriation bill,[10] an amend-

9. W. Sterling Cole (N.Y.).

10. H.J. Res. 390 (Committee on Appropriations).

ment relating to the school lunch program was offered[11] after the reading of those provisions of the bill affecting the Price Decontrol Board. A point of order was raised against the amendment, as follows:

> MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, the amendment that is offered seems to me to be not germane to the section of the bill where it is offered.

The Chairman,[12] in ruling on the point of order, stated:

> The gentleman from Massachusetts [Mr. Wigglesworth] makes the point of order that the amendment is not germane. If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered. Therefore, the Chair overrules the point of order.

Deficiency Appropriation Bill To Cover Pay Raises in Department of Agriculture—Amendment Proposing Additional Funds To Implement School Lunch Program

§ 15.4 To that title of a deficiency appropriation bill making additional appropriations to cover pay raises in the Department of Agriculture, an amendment proposing additional funds to enable the Secretary of Agriculture to carry out the programmatic provisions of the National School Lunch Act of 1946 was held to be not germane.

In the 81st Congress, during consideration of the Second Deficiency Appropriation Bill of 1949,[13] an amendment was offered[14] as described above. A point of order was raised against the amendment, as follows:[15]

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I rise to make a point of order against the amendment that it is not germane at this point in the bill. Title II of the bill is limited to additional amounts for appropriations for the fiscal year 1949 to meet increased pay costs authorized by the act of July 3, 1948, and comparable increases granted by the administrative action pursuant to law, and so forth. . . .

The Chairman,[16] in ruling on the point of order, stated:

> The Chair is ready to rule. In view of the express intent of title II, increased pay costs, the point of order is sustained.

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11. 92 CONG. REC. 10472, 79th Cong. 2d Sess., July 30, 1946.

12. Herbert C. Bonner (N.C.).

13. H.R. 4046 (Committee on Appropriations).

14. 95 CONG. REC. 4177, 4178, 81st Cong. 1st Sess., Apr. 8, 1949.

15. *Id.* at p. 4178.

16. Wright Patman (Tex.).

Section of Supplemental Appropriation Bill Relating to Department of Agriculture—Amendment in Form of New Paragraph To Enable Secretary To Implement School Lunch Program

§ 15.5 To that section of a supplemental appropriation bill for diverse departments and agencies relating to appropriations for the Department of Agriculture, an amendment in the form of a new paragraph making an appropriation to enable the Secretary of Agriculture to carry out the provisions of the National School Lunch Act was held to be germane, it not being necessary that it relate to the immediately preceding paragraph.

In the 82d Congress, during consideration of a supplemental appropriation bill,[17] the following exchange took place which related to an amendment to that portion of the bill concerning appropriations for the Department of Agriculture:[18]

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

Salaries and Expenses, Defense Production Activities

For expenses necessary to enable the Department of Agriculture to carry out its functions under the Defense Production Act of 1950, as amended, $2,000,000.

MR. [WILLIAM A.] BARRETT [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Barrett: On page 30, after line 23, insert the following:

NATIONAL SCHOOL LUNCH PROGRAM

For an additional amount of $16,500,000 to enable the Secretary of Agriculture to carry out the provisions of the National School Lunch Act. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order against the amendment. I make the point of order that the language of the amendment and the paragraph are not germane to this point in the bill. This part of the bill relates entirely to the salaries and expenses of the defense production activities, while the amendment relates to a local, domestic operation.

THE CHAIRMAN:[19] The Chair is ready to rule. The language of the amendment provides an additional paragraph to the Department of Agriculture section of the bill. It is germane to this section, and the Chair, therefore, overrules the point of order.

17. H.R. 8370 (Committee on Appropriations).

18. 98 CONG. REC. 8514, 82d Cong. 2d Sess., June 28, 1952.

19. Francis E. Walter (Pa.).

Agriculture Appropriations—Restriction on Funds for Agricultural Adjustment Administration Committeemen

§ 15.6 To an agriculture appropriation bill, an amendment offered as a new section providing that "none of the funds appropriated in this act shall be used to pay the salaries . . . or expenses of more than one Agricultural Adjustment Administration committeeman in each county committee" was held to be in order.

In the 77th Congress, during consideration of the Agriculture Appropriation Bill of 1943,[20] an amendment was offered[1] as described above. A point of order was raised against the amendment, as follows:

> MR. [MALCOLM C.] TARVER [of Georgia]: . . . There are no funds carried in the bill to pay the salaries of county committeemen or community committeemen. . . . The amendment . . . does not have any relation to any funds carried in the pending bill. . . .
>
> . . . I offer the additional point of order that the amendment is certainly not germane to the portion of the bill to which it is offered, which has no reference to the work of the Agricultural Adjustment Administration.

The Chairman,[2] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Ohio is a limitation on all the funds appropriated in the pending bill. It appears to the Chair that it is simply a limitation upon those appropriations carried in the bill, and, therefore, the amendment is in order. The Chair overrules the point of order.[3]

Agriculture Appropriations—Prohibition on Use of Appropriations for Purchase of Chemical Pesticides

§ 15.7 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment was held to be germane which provided that no appropriation in the act be used for the purchase or application of chemical pesticides where such action would be prohibited by state or local law.

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20. H.R. 6709 (Committee on Appropriations).

1. 88 CONG. REC. 2452, 77th Cong. 2d Sess., Mar. 13, 1942.

2. Robert Ramspeck (Ga.).

3. See § 18.12, infra, for discussion of an amendment of a similar nature which was held improper because not germane to a specific paragraph to which it had been offered.

In the 91st Congress, a bill[4] was under consideration comprising Department of Agriculture appropriations for fiscal year 1970. The bill provided in part:[5]

> Plant and animal disease and pest control: For operations and measures, not otherwise provided for, to control and eradicate pests and plant and animal diseases and for carrying out assigned inspection, quarantine, and regulatory activities, as authorized by law, including expenses pursuant to the Act of February 28, 1947 as amended (21 U.S.C. 114b–c), $89,493,000 . . .: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by any State of at least 40 per centum. . . .

An amendment was offered[6] as described above. A point of order was raised against the amendment, as follows:

> MR. [JAMIE L.] WHITTEN [of Mississippi]: . . . In the first place, I do not know of any provision in this bill for the purchase of chemical pesticides.
>
> May I say further, Mr. Chairman, that the amendment before us goes to the State law, exempting or including pesticides based on those States which have passed State laws.
>
> On that basis, Mr. Chairman, I contend that the amendment is not germane. . . .

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

> The amendment notes certain exceptions within or substantially affecting States in circumstances in which the purchase or application of such pesticides would be prohibited by State law or regulation, or any citizen or instrumentality of State or local government.
>
> It is a well-established rule that an amendment to an appropriation bill is germane wherein it denies the use of funds for a specific purpose.
>
> The amendment offered by the gentleman from New York (Mr. Ottinger) appears to fall within that rule. It is a limitation upon the use of funds appropriated in the bill. It is a denial of the use of those funds for a specific purpose. Therefore, the Chair overrules the point of order.

Funds for Foreign Assistance Programs—Prohibition on Use of Funds To Pay Dues of United Nations Members

§ 15.8 To a bill providing funds for foreign assistance programs, an amendment to deny use of funds therein to pay arrearages or dues of members of the United Nations was held to be germane to the subject of the bill and in order as a limitation.

In the 87th Congress, a bill[8] was under consideration relating

4. H.R. 11612 (Committee on Appropriations).
5. See 115 CONG. REC. 13752, 13753, 91st Cong. 1st Sess., May 26, 1969.
6. *Id.* at p. 13753.
7. James C. Wright, Jr. (Tex.).
8. H.R. 13175 (Committee on Appropriations).

to foreign assistance appropriations. The following amendment was offered to the bill:[9]

> Amendment offered by Mr. [A. Paul] Kitchin [of North Carolina]: Add a new section to the title on page 8, after line 4, to read:
>
> "Sec. 113. None of the funds appropriated or made available pursuant to this act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages or dues of any member of the United Nations."

The following exchange[10] concerned a point of order raised against the amendment:

> MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Chairman, I make the point of order that the amendment is not germane to this bill. . . .
>
> THE CHAIRMAN:[11] The amendment says:
>
> > None of the funds appropriated or made available to this Act—
> >
> > That is this very bill.
>
> MR. GALLAGHER: This amendment was covered in the United Nations bond bill last week.
>
> THE CHAIRMAN: That may be so, but it is still germane to this bill because it deals with funds contained in this bill. The Chair therefore overrules the point of order.

Special Relief Appropriation Bills—Amendment Relating to Construction of Federal Buildings

§ 15.9 To a bill making appropriations for work relief and relief, an amendment was held to be germane which proposed a program of construction of federal public buildings and which provided in part that "with a view to relieving country-wide unemployment the Postmaster General and the Administrator, in the selection of towns or cities in which buildings are to be constructed, shall endeavor to distribute the projects equitably throughout the country."

In the 76th Congress, during consideration of a bill[12] making appropriations for work relief and relief, an amendment was offered[13] as described above. A point of order was raised against the amendment, as follows:[14]

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment, first,

9. 108 CONG. REC. 20187, 87th Cong. 2d Sess., Sept. 20, 1962.

10. *Id.* at pp. 20187, 20188.

11. Wilbur D. Mills (Ark.).

12. H.J. Res. 544 (Committee on Appropriations).

13. 86 CONG. REC. 6756, 6757, 76th Cong. 3d Sess., May 23, 1940.

14. *Id.* at p. 6757.

that it is not germane to the joint resolution, this being a relief bill, and the amendment being one authorizing a public-buildings program and making appropriations therefor, and second, that it is not germane to this part of the joint resolution.

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

In the opinion of the Chair, in view of the fact that this is a bill for work and work relief and provides specifically, in certain portions of it, as in lines 14 and 15, of page 3, for public buildings, the point of order should not be sustained. . . .

In view of the fact that there are specific designations of public buildings and appropriations made for them in this joint resolution, which is for work and work relief, and inasmuch as the amendment offered by the gentleman from Mississippi proposes erection of public buildings which would give work and work relief, it seems to the Chair that it is germane to the bill. . . .

—*Amendment Appropriating Funds for To Public Works Administration for Loans To Finance Employment Projects*

§ 15.10 To a bill making appropriations for work relief and relief, an amendment appropriating money to the Public Works Administration and authorizing the Commissioner of Public Works with the approval of the President to make loans from such funds to various public organizations to finance employment projects was held to be germane.

In the 76th Congress, during consideration of a bill[16] comprising appropriations for work relief and relief, an amendment was offered which stated in part:[17]

Amendment offered by Mr. [H. Jerry] Voorhis of California: Page 33, line 7, add a new title as follows:

"TITLE II

"Section 1. There is hereby appropriated to the Public Works Administration out of any money in the Treasury not otherwise appropriated, the sum of $500,000,000, and the Commissioner of Public Works . . . is hereby authorized . . . to make loans from this fund to States, Territories, possessions, or political subdivisions . . . to . . . aid in financing projects which will provide new employment; (b) to organizations created pursuant to law or under the authority of any public body to operate without profit . . . to . . . aid in financing projects . . . which will produce new employment, will be devoted to public use and are within any one of the following classes: Hospitals, health centers, clinics, colleges [and the like]."

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

15. Fritz G. Lanham (Tex.).

16. H.J. Res. 544 (Committee on Appropriations).

17. 86 CONG. REC. 6760, 76th Cong. 3d Sess., May 23, 1940.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the rest of the bill, it being a program involving the granting of funds to States, cities, counties, and other municipalities without any requirement that the money be used for relief. . . .

The Chairman,[18] in ruling on the point of order, stated:[19]

In accordance with the former ruling of the Chair,[20] and the further fact that the bill before us provides for funds to be paid to States, Territories, and so forth, the Chair thinks the amendment germane, and therefore overrules the point of order.

—*Amendment Extending Life of Agency Not Referred to in Bill*

§ 15.11 To a bill appropriating money for relief and work relief programs to be administered by the President through existing governmental agencies, an amendment proposing to extend the life of a temporary agency not referred to in the bill was held to be not germane.

In the 75th Congress, during consideration of a relief appropriations bill,[1] the following amendment was offered:[2]

Amendment offered by Mr. [Alfred F.] Beiter [of New York]: Page 3, after line 24, add a new paragraph, as follows:

"In order to maintain or increase employment by providing for useful public-works projects of the kind and character for which the Federal Emergency Administrator of Public Works (hereinafter called the Administrator) has heretofore made loans or grants pursuant to title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, or the Emergency Relief Appropriation Act of 1936, the Federal Emergency Administration of Public Works is hereby continued until June 30, 1939, and the funds hereinbefore allocated to the Federal Emergency Administration of Public Works shall be used for the making of loans or grants to finance or aid in the financing of such projects, and in addition thereto the Administrator is hereby authorized to use funds on hand which have accrued from the sale of securities and funds which will be received from the sale of securities for the making of loans or grants to finance or aid in the financing of such projects. . . ."

A point of order was raised against the amendment, as follows:[3]

MR. [CLIFTON A.] WOODRUM [of Virginia]: . . . [T]he amendment goes

18. Fritz G. Lanham (Tex.).

19. 86 CONG. REC. 6760, 6761, 76th Cong. 3d Sess., May 23, 1940.

20. See § 15.9, supra.

1. H.J. Res. 361 (Committee on Appropriations).

2. 81 CONG. REC. 5024, 75th Cong. 1st Sess., May 25, 1937.

3. *Id.* at pp. 5024, 5025.

very much beyond the scope of the purposes of the relief act under consideration. In the first place, it undertakes to extend the life of the Public Works Administration to June 30, 1939, beyond the scope of the present act. In the second place, it amends the Relief Acts of 1935 and 1936 by changing the powers of the Reconstruction Corporation. . . .

I think the whole purpose of this amendment is an effort to revive an agency that expires by operation of law and to extend its powers, and to amend other acts not in any way connected with the subject matter under consideration.

Mr. Clarence Cannon, of Missouri, stated, with respect to the point of order:[4]

. . . It is true that the amendment proposes changes in law but these proposed changes are in laws which are not affected by this bill. The amendment, therefore, is not germane to the pending bill. . . .

The Chairman,[5] in sustaining the point of order, stated:

The amendment offered by the gentleman from New York [Mr. Beiter] in addition to providing for many matters, provides for extension of the Public Works Administration, an agency of the Government not carried in this bill, and handled heretofore by other legislation. The amendment also pertains to certain powers of the Reconstruction Finance Corporation, about which there is nothing in this bill. As the gentleman from Virginia has pointed out, it also pertains to certain provisions of the independent offices appropriation bill, still pending in the Congress.

Because of the fact the amendment attempts to extend an agency of the Government not covered by this bill and yet to be handled by the Congress, the Chair feels the amendment is not germane to this bill. . . .

—*Amendment Authorizing Agency To Use Funds From Sale of Securities*

§ 15.12 To a bill appropriating money for relief and work relief, an amendment proposing to appropriate money to an existing federal agency and authorizing the agency to use funds from the sale of certain securities was held to be not germane.

In the 75th Congress, during consideration of a relief appropriations bill,[6] the following amendment was offered:[7]

Amendment offered by Mr. [Alfred F.] Beiter [of New York]: Page 3, after line 24, add a new paragraph, as follows:

"In order to maintain or increase employment by providing for useful public-works projects of the kind and char-

4. *Id.* at p. 5025.
5. John J. O'Connor (N.Y.).
6. H.J. Res. 361 (Committee on Appropriations).
7. 81 Cong. Rec. 5025, 75th Cong. 1st Sess., May 25, 1937.

acter for which the Federal Emergency Administrator of Public Works . . . has heretofore made [certain loans and grants], the funds hereinbefore allocated to the Federal Emergency Administration of Public Works shall be used for the making of loans and grants to finance or aid in the financing of such projects, and in addition thereto the Administrator is hereby authorized to use funds on hand which have accrued from the sale of securities and funds which will be received from the sale of securities, for the making of loans or grants to finance or aid in the financing of such projects in accordance with existing law."

Mr. Clifton A. Woodrum, of Virginia, having raised a point of order against the amendment, the Chairman[8] ruled as follows:

The only objectionable feature of this amendment from the standpoint of germaneness is the authorization of the Federal Emergency Administration of Public Works to use funds "from the sale of securities." . . .

By reason of the fact that this amendment . . . does pertain to the use of funds from the sale of securities, about which nothing is contained in the pending bill, the Chair feels constrained to sustain the point of order.

Mr. Millard F. Caldwell, of Florida, then offered a similar amendment, which was held to be germane because it eliminated the provision as to the use of funds from the sale of securities.

8. John J. O'Connor (N.Y.).

Holman Rule Requirement of Germaneness

§ 15.13 To be in order under the Holman rule, an amendment proposing legislation on an appropriations bill must be germane and, in particular, must retrench expenditures under the bill sought to be amended.

In the 77th Congress, during consideration of a deficiency appropriations bill,[9] an amendment was held to be not germane which purported to retrench expenditures by excluding from the benefits of the Civil Service Retirement Act the President, the Vice President, and Members of Congress. The following proceedings[10] related to such amendment:

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I make the point of order that the amendment is not germane to the bill, that it is legislation on an appropriation bill, and is out of order. . . .

MR. [DONALD H.] MCLEAN [of New Jersey]: . . . There are exceptions to the rule that an appropriation bill cannot carry legislation, and I call the Chair's attention to the Holman rule. That rule provides that if the legisla-

9. H.R. 6548 (Committee on Appropriations).

10. 88 CONG. REC. 1157, 77th Cong. 2d Sess., Feb. 9, 1942.

tion would result in the saving of expenditures it is not subject to a point of order. . . .

THE CHAIRMAN:[11] . . . The amendment offered by the gentleman from New Jersey is clearly not germane to the bill under consideration. If it were germane it would be legislation on an appropriation bill. It does not in any way retrench expenditures under this bill. For two very good reasons, therefore, the Chair sustains the point of order.

Reduction Affecting Funds in Other Acts Not Germane Under Holman Rule

§ 15.14 To a bill providing supplemental appropriations for certain specified departments of government, an amendment which would affect appropriations in other Acts for virtually all departments and agencies of government is not germane and not a proper retrenchment under the Holman Rule.

In the 89th Congress, a bill[12] was under consideration comprising supplemental appropriations for fiscal 1967. The following amendment was offered to the bill:[13]

Amendment offered by Mr. [Frank T.] Bow [of Ohio]: . . . add a new section as follows:

"Sec. 803. . . . appropriations herein and heretofore made for personal services . . . shall, as the President shall determine, be reduced by not less than $70,000,000 through the reduction, below the number otherwise authorized under appropriations herein and heretofore made, of not less than 10,000 full-time permanent civilian Federal employees."

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

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that the amendment goes beyond the scope of this bill. It applies to funds that are contained in other legislation and to funds that are made available by previous law. . . .

I raise the further point, Mr. Chairman, that the gentleman's amendment would require additional duties of the President, and for that reason is subject to the point of order that it is legislation on an appropriation bill.

Mr. Bow stated in response:

I acknowledge that [the amendment] deals with personnel and appropriations in other legislation as well as in this bill, but the whole subject matter is the reduction of personnel and the retrenchment of Federal expenditures. That follows the Holman rule.

The Chairman,[14] in sustaining the point of order, stated:

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11. Howard W. Smith (Va.).

12. H.R. 18381 (Committee on Appropriations).

13. 112 CONG. REC. 27424, 89th Cong. 2d Sess., Oct. 18, 1966.

14. James G. O'Hara (Mich.).

The Chair notes that the Holman rule, in clause 2 of rule 21, specifies that to fall within the exception provided by this rule, the amendment must be germane to the subject matter of the bill. The bill before the Committee provides supplemental appropriations for certain governmental activities—activities specified in this bill. The amendment goes much further than this, and with three exceptions would be applicable to all departments and agencies of the Government.

The citations brought to the attention of the Chair by the gentleman from Ohio—all of them, as far as the Chair can determine, involved appropriation bills that dealt with the activities of some department, and the amendments provided for limitations or retrenchments of activities carried in the bill, and were germane to the bill before the Committee.

Subsequently, Mr. Bow offered the following amendment:[15]

Amendment offered by Mr. Bow: . . . add a new section as follows:

"Sec. 803. Notwithstanding any other provision, appropriations herein . . . shall . . . be reduced . . . by not less than $1,500,000,000 through substitution by reduction and transfer of funds previously appropriated for governmental activities that the President . . . shall have determined to be excess to the necessities of the services and objects for which appropriated."

A point of order was again raised, as follows:

MR. MAHON: . . . [T]he amendment goes far beyond the scope of this bill and applies to funds made available by other laws for which appropriations are not provided in the pending measure.

I make the further point of order that the amendment would obviously impose additional duties on the President.

The Chairman again sustained the point of order, and explained the operation of the Holman rule as follows:

The Chair feels that the amendment is clearly legislation. . . .

Therefore, if the amendment were to be permitted it would have to qualify as the gentleman has attempted to qualify it, under the Holman exception, under the Holman rule, rule XXI, clause 2.

In the opinion of the Chair, the Holman exception is inapplicable in this instance for three reasons.

First, the payment from a fund already appropriated of a sum which otherwise would be charged against the Treasury has been held not to be a retrenchment of expenditures under the Holman rule. . . .

Second, it seems to the Chair that the language proposed by the gentleman from Ohio [Mr. Bow] authorizes the reappropriation of unexpended balances, a practice prohibited by clause 5 of rule XXI.

Third, the amendment goes to funds other than those carried in this bill and is not germane.

Restriction on Funds in Other Acts

§ 15.15 To that provision in an appropriation bill prohib-

15. 112 CONG. REC. 27425, 89th Cong. 2d Sess., Oct. 18, 1966.

iting aid to one nation unless a certain condition is met, an amendment prohibiting aid under that or any prior appropriations act to another nation until that nation takes certain actions, and referring to funds provided in other acts, was held to be not germane.

In the 90th Congress, a bill[16] comprising foreign aid appropriations for fiscal 1968 was under consideration which, in part, prohibited aid to the United Arab Republic except under certain conditions. Points of order had been waived against the bill. The following amendment was offered: [17]

> Amendment offered by Mr. [Harold R.] Gross [of Iowa]: On page 13, line 14, strike the period, insert a colon, and add the following: "*Provided* further, That none of the funds provided in this Act or any predecessor Act shall be made available to the State of Israel until the Government of that country provides full and complete reparations for the killing and wounding of more than 100 United States citizens in the wanton, unprovoked attack in June 1967 by Israel's military aircraft and torpedo boats on the United States naval vessel, the Liberty."

A point of order was raised against the amendment, as follows: [18]

> MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, this amendment goes beyond the appropriation of funds in this and other preceding acts.

Mr. Gross stated in response:

> Mr. Chairman, this is clearly a limitation upon an appropriation bill; that the funds not be expended for the stated purpose unless the limitations are met.

The Chairman,[19] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Iowa [Mr. Gross] refers to funds provided in this act or any predecessor act. It covers an area not covered by the amendment in the bill.
>
> In the opinion of the Chair, it is clearly additional legislation and is not germane to the . . . bill.

Amendment Relating to Funds From "Other Sources"

§ 15.16 To a paragraph of a general appropriation bill, an amendment providing that no additional funds from "any other source" shall be expended for specified purposes was held to be not germane.

In the 82d Congress, during consideration of the Interior De-

16. H.R. 13893 (Committee on Appropriations).
17. 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967.
18. *Id.* at p. 32969.
19. Charles M. Price (Ill.).

partment Appropriations Bill of 1952,[20] an amendment was offered[1] whose purpose was described by Mr. Boyd Tackett, of Arkansas, the proponent, as follows:[2]

> My amendment merely limits [the Southwestern Power Administration] to the exact amount this Congress gives them. In other words, my amendment would prohibit the Southwestern Power Administration from getting money from some other source and hiding it from this Congress.

Mr. Henry M. Jackson, of Washington, raised the point of order that the amendment was not germane to the bill.[3] The Chairman,[4] in ruling on the point of order, stated:[5]

> The provision of the bill sought to be amended has to do with construction by the Southwestern Power Administration. The bill before the House provides an appropriation of a specific amount of money for this purpose. The amendment offered by the gentleman from Arkansas [Mr. Tackett] has reference to funds from sources other than those contained in the bill before the committee; therefore it goes beyond the scope and the purposes of the bill presently before the committee.
>
> . . . The Chair sustains the point of order.

Continuing Appropriations for Certain Agencies—Restriction Affecting Other Funds

§ 15.17 To a joint resolution "continuing" appropriations for one month, an amendment placing a restriction on the total administrative budget expenditures for the fiscal year and thus affecting funds not continued by the bill was held to be not germane.

In the 90th Congress, during consideration of a bill[6] continuing appropriations through October 1967, the following amendment was offered:[7]

> Amendment offered by Mr. [Frank T.] Bow [of Ohio]: On line 5 strike out the period, insert a semicolon and the following: "and that the joint resolution of June 30, 1967 (Public Law 90–38) as amended by Public Law 90–75 and as amended herein, is further amended by adding the following:
>
> "Sec. 105. Notwithstanding any other provision of law, net aggregate administrative budget expenditures during the fiscal year ending June 30,

20. H.R. 3790 (Committee on Appropriations).

1. 97 Cong. Rec. 4300, 82d Cong. 1st Sess., Apr. 24, 1951.

2. *Id.* at p. 4301.

3. *Id.* at p. 4300.

4. Wilbur D. Mills (Ark.).

5. 97 Cong. Rec. 4301, 82d Cong. 1st Sess., Apr. 24, 1951.

6. H.J. Res. 849 (Committee on Appropriations).

7. 113 Cong. Rec. 26957, 26958, 90th Cong. 1st Sess., Sept. 27, 1967.

1968 shall not exceed $131,500,000,000 . . . ."

A point of order was raised against the amendment, as follows:[8]

MR. [GEORGE H.] MAHON [of Texas]: . . . The amendment of the gentleman from Ohio seems clearly not to be in order because it is not germane. It limits the expenditure of money not in the bill and not covered in the resolution and it rescinds money not in the resolution and not contained in the pending measure.

In response to the point of order, the Speaker[9] stated:[10]

The joint resolution before the House extends the provisions of Public Law 90–38, which currently expires on September 30, 1967, through October 31, 1967.

The amendment offered by the gentleman from Ohio [Mr. Bow] proposes to further amend Public Law 90–38 by adding two new sections to the law—the first placing a limitation on net aggregate administrative budget expenditures during fiscal 1968, the second requiring a $5 billion reduction, through the apportionment process, in administrative budget expenditures. . . .

Public Law 90–38 provides "continuing appropriations" for certain departments and agencies of the Government. Its provisions cease to be effective when regular appropriation bills become law. Since several appropriation acts have been signed by the President, the provisions of Public Law 90–38 do not apply to all fiscal 1968 funds.

The amendment, on the other hand, goes to the total administrative budget. Its application goes beyond the scope of Public Law 90–38.

Citing precedents "which stand for the general proposition that to a bill limited in its application to certain departments and agencies of Government, an amendment applicable to all departments and agencies is not germane," the Speaker sustained the point of order.[11]

Supplemental Appropriations for Relief—Amendment Imposing Prohibition on Use Not Limited to Funds in Bill

§ 15.18 To a joint resolution making supplemental appropriations for relief, an amendment prohibiting use of federal relief money for political purposes but not limiting the prohibition to funds appropriated by the pending bill, was held to be not germane.

The proceedings of Feb. 16, 1938, relating to House Joint Resolution 596, making supplemental appropriations for relief, are discussed in § 9.19, supra.

8. *Id.* at p. 26959.
9. John W. McCormack (Mass.).
10. 113 CONG. REC. 26959, 26960, 90th Cong. 1st Sess., Sept. 27, 1967.
11. *Id.* at p. 26960.

Provision Rescinding Agency's Funds for One Purpose—Amendment Imposing Conditions on Availability of all Funds for Agency

§ 15.19 To a proposition rescinding an agency's funds for research and education on the subject of motor vehicle seat belts and passive restraints, an amendment conditioning the availability of all of that agency's funds on certain findings with respect to state compliance with federal standards for mandatory seat belt use was conceded to be not germane, in that it affected regulatory operations and was not confined to research and education funds.

During consideration of H.R. 2577 (12) in the House on July 31, 1985,(13) a point of order against a motion to recede and concur with an amendment to the pending proposition was conceded and therefore sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:(14) The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 262: Page 75, lines 14 and 15, strike out "$7,500,000 or so much thereof as may be available on May 2, 1985" and insert "$2,000,000". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 262 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "no funds shall be obligated until the Secretary has made a complete, definitive and binding ruling on the compliance of each state mandatory safety belt use law that has been enacted as of the date of this act with the minimum criteria set forth in Federal Motor Vehicle Safety Standard 208. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I make a point of order regarding amendment No. 262. The point of order is that that amendment is nongermane to the Senate amendment and so is violative of the rules of the House relative to this point.

MR. WHITTEN: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Mississippi concedes the point of order. The point of order, therefore, is sustained.

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12. Supplemental Appropriations, fiscal 1985.

13. 131 CONG. REC. 21832–34, 99th Cong. 1st Sess.

14. Philip R. Sharp (Ind.).

Bill Containing Funds for Allowances for Former President Nixon and Other Agencies—Amendment Delaying Availability of all Funds Pending Restitution by President Nixon

§ 15.20 While it may be in order on a general appropriation bill to delay the availability of certain funds therein until a nonfederal recipient meets certain qualifications so long as the contingency does not impose new duties on federal officials or directly change existing law, the contingency must be related to the funds being withheld and cannot affect other funds in the bill which are not related to that factual situation; thus, to a general appropriation bill containing funds not only for certain allowances for former President Nixon, but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until Nixon has made restitution of a designated amount to the United States government was held to be not germane where that contingency was not related to the availability of other funds in the bill.

In the proceedings of Oct. 2, 1974,[15] relating to supplemental appropriations for fiscal 1975,[16] the points of order made against the amendment in question were largely based on the contention that the amendment constituted legislation on an appropriation bill. Most points of order against amendments delaying the availability of funds pending an unrelated contingency are based on the issue of germaneness, and in the Chair's ruling it appeared that the defect in the amendment was that its scope was so broad as to affect funds in the bill other than those to which the limitation was directly related—in other words, that the amendment was not germane.

> MR. JAMES V. STANTON [of Ohio]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. James V. Stanton: On page 14, line 5 after the period insert:
>
> "Sec. 203. No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution to the United States Government in the amount of $92,298.03 as previously determined by the Joint Committee on Internal Revenue Taxation on page 201 of its report dated April 3, 1974.". . .

15. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess.

16. H.R. 16900.

MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

This amendment would impose some duty upon an agency of Government in this bill. The Internal Revenue Service is the only agency that can collect taxes. This obviously would require duties not now required by law. It is obviously legislation in an appropriation bill, and therefore it is subject to a point of order. . . .

THE CHAIRMAN:[17] The Chair is prepared to rule.

The Chair has examined the amendment. . . . It merely delays the availability of certain funds here appropriated until a certain state of facts exist.

It does not impose any duty upon a Federal official, in the opinion of the Chair. The only duty it imposes by its terms, would be upon President Nixon, who is no longer a Federal official. . . .

If the gentleman from Texas (Mr. Eckhardt) wants to be heard on the point of order, the Chair will withhold his final ruling. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . The Chair is undoubtedly correct, that this does not impose additional duties under the standards set out in various cases. However, the objection of the gentleman from Texas (Mr. Mahon), as I understand it, is that this does not impose additional duties but creates substantive law. It establishes a liability in effect on the President of the United States, which liability does not exist by any judicial determination unless this action is taken by this body.

Mr. Chairman, what we are in effect doing is passing a special bill with respect to liability of the President of the United States for an amount of money that has only been determined by a committee of this House and not by a court. If we pass this, we are in effect saying that until he pays a certain amount of money, which we say he owes by virtue of passing a law today, he will not receive money that he would otherwise receive.

I find this a very, very extensive legislative determination, one which I would have doubts about on constitutional grounds, even if it were brought up as a separate piece of legislation.

I understand that the question of constitutionality is not before the Chair with respect to a point of order, but I merely point that out in emphasizing the great substantive effect of this amendment. . . .

MR. [CHARLES S.] GUBSER [of California]: . . . (T)he word "restitution," if I understand the English language correctly . . . would imply that the funds were held by Richard Nixon illegally. Therefore if we . . . allow this amendment to stand, we are clearly creating what should be a judicial decision, and we are giving it legislative sanction, and it is therefore legislation on an appropriation bill. Therefore I think the point of order should be sustained. . . .

MR. STEED: Mr. Chairman, this amendment says "no funds in this act", and that means if this amendment is adopted unless former President Nixon paid this amount of money the whole bill is dead. If that does not constitute legislation on an appropriation bill I do not know what does.

17. James C. Wright, Jr. (Tex.).

THE CHAIRMAN: The Chair must observe that the Chair is not in a position to rule as suggested by the gentleman from Texas (Mr. Eckhardt) on a question of constitutionality. The gentleman's point may quite well be valid, but the Chair is not in a position to rule on constitutionality, nor is the Chair in a position to rule upon the validity of the commentary offered as to whether or not the Joint Committee on Internal Revenue Taxation may or may not have established this precise figure as being owed. . . .

The Chair is . . . impressed by the most recent comment made by the gentleman from Oklahoma (Mr. Steed) wherein the gentleman from Oklahoma points out that by the terms of the amendment itself funds under the entire act and not just funds for the former President, would be inhibited. Let the Chair read the amendment.

> No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution.

The Chair is persuaded that the availability of some of the funds in the act for other purposes will be based upon an unrelated contingency, and the Chair is prepared to state on the basis of the additional argument made since his preliminary determination that he has changed his opinion regarding the scope and effect of the amendment and sustains the point of order.

Senate Amendment Striking Provision Prohibiting Funds for Continental Shelf Lease Sale—House Amendment Restricting Use of Funds in Bill or any Other Act

§ 15.21 To a proposition limiting the use of funds in a bill for a particular purpose, an amendment limiting the use of funds in other Acts and for a purpose more general in scope is not germane; thus, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking out a House provision prohibiting the use of funds in the bill for a designated Outer Continental Shelf lease sale in California, a House amendment prohibiting the use of funds in the bill or in any other Act for that lease sale and other California lease sales was conceded to be non-germane as more general in scope.

On Oct. 5, 1983,[18] during consideration of the Department of the Interior appropriations for fiscal 1984 (H.R. 3363) in the House, a point of order was conceded and sustained in the circumstances de-

18. 129 CONG. REC. 27319, 27320, 98th Cong. 1st Sess.

scribed above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[19] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 95: Page 38, strike out all after line 21 over to and including line 15 on page 40.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 113. (a) No funds in this or any other act may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning area described in (1) through (4) below. No funds may be expended for lease or sale of lands within the area described in (1) through (4) so long as adjacent State Tidelands continue to be designated as State Oil and Gas Leasing Sanctuary pursuant to Sec. 6871.1 et seq. of the California Public Resources Code . . .

(1) An area of the Department of the Interior Southern California Planning Area off the coastline of the State of California Oil and Gas Leasing Sanctuary as described by Sec. 6871.1 et seq. of the California Public Resources Code in effect September 29, 1983 . . .

(4) An area within the boundaries of the Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by Department of the Interior, Bureau of Land Management Public Land Order 4587 . . . .

(b) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands in OCS Lease Sale #80 which lie within an area located off the coastline of the State of California Oil and Gas Leasing Sanctuary as defined by Sec. 6871.1 et seq. California Public Resources Code in effect September 29, 1983 . . . .

(c) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning area, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Santa Monica Bay, State of California, which lies within a line on the California (Lambert) Plane Coordinate System . . . .

(f) In OCS Lease Sale 80, lease or sale of lands affecting the responsibilities of the Department of Defense shall be with the concurrence of the Secretary of Defense. . . .

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Speaker, I make a point of order against Senate amendment No. 95, the point of order being that under rule XVI, clause 7, the provisions are not germane.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

19. Dale E. Kildee (Mich.).

Bill Appropriating Money From Reclamation Fund—Amendment To Increase Appropriation From General Fund of Treasury

§ 15.22 To language in an appropriation bill appropriating money for specific projects from the reclamation fund, an amendment proposing to increase the appropriation "from the general fund of the Treasury" was held to be not germane.

In the 80th Congress, during consideration of Interior Department appropriations of 1948,[20] an amendment was offered[1] as described above. A point of order was raised against the amendment, as follows:[2]

> MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to this section of the bill in that this section deals with the reclamation fund and not the general fund of the Treasury.

The Chairman[3] sustained the point of order.

20. H.R. 3123 (Committee on Appropriations).
1. 93 CONG. REC. 4081, 4082, 80th Cong. 1st Sess., Apr. 25, 1947.
2. *Id.* at p. 4082.
3. Earl C. Michener (Mich.).

Appropriation for One Year—Amendment Permanently Changing Law

§ 15.23 To a bill making appropriations for the current fiscal year, an amendment permanently changing existing law was held not germane to the bill, and thus was not in order as a "retrenchment" of expenditures even though it tended to reduce expenditures for that year.

In the 91st Congress, a bill[4] was under consideration making supplemental appropriations for the fiscal year, including funds to cover increased pay costs resulting from the implementation of the report of the Commission on Executive, Judicial, and Legislative Salaries. The following amendment was offered to the bill:[5]

> Amendment offered by Mr. Hall: On page 61, after line 4 insert the following:
>
> GENERAL PROVISIONS
>
> The Commission on Executive, Judicial, and Legislative Salaries established under Public Law 90–206 is hereby abolished. The salary increases recommended by the Presi-

4. H.R. 11400, Supplemental Appropriations, fiscal 1970 (Committee on Appropriations).
5. 119 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969.

dent as a result of the actions of said Commission are hereby rescinded.

Mr. George H. Mahon, of Texas, pointing out that the bill under consideration was a supplemental appropriation bill, objected to the amendment on two grounds, first, that it constituted legislation on an appropriation bill, and, second, that it was not germane to the bill.[6] In defending the amendment, Mr. Durward G. Hall, of Missouri, stated in part:

> Now, of course, under the restrictions or rescindments or actions under rule XXI and the "Holman rule," we can, in an appropriation bill, take action by the act of the House to eliminate anything that costs additional expense from the General Treasury and that has been acted on previously.
>
> I think that the amendment is in order. Certainly it is germane. Certainly it is a retrenchment on its face.

The Chairman,[7] however, ruled that the amendment was not in order. He stated:

> . . . The Chair has examined the amendment and the precedents, and would call attention of the House to Cannon's Precedents, volume 8, page 480, section 2914, which reads as follows: "to a section proposing legislation for the current year an amendment rendering such legislation permanent was held not to be germane."
>
> Then, in section 2915: "to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment proposing to make the provision permanent legislation was held not to be germane."
>
> The Chair therefore rules that the amendment offered by the gentleman from Missouri is not germane and therefore not in order; and the Chair sustains the point of order.

Parliamentarian's Note: This precedent, based on 8 Cannon's Precedents Sec. 2915, represents the current practice under the germaneness requirement of the Holman rule; it effectively overrules an earlier line of precedents which stood for the proposition that it is in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition is to reduce funds contained in the bill, even though the language may provide permanent law, there being no distinction in the Holman rule itself between permanent and temporary legislation. The present practice and the earlier rulings are discussed in the introduction to this section.

—Amendment Permanently Changing Law Affecting Eligibility

§ 15.24 To a proposition appropriating funds for a program for one fiscal year, an amendment permanently amending the authorizing

6. *Id.* at p. 13270.
7. Chet Holifield (Calif.).

law relating to eligibility for funding in any fiscal year is more general in scope, amends another law, and is not germane.

On Oct. 5, 1983,[8] during consideration of H.R. 3363[9] in the House, the Chair held that, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking funds for a certain fisheries program, a House amendment permanently amending the authorizing law to provide authority for funding for a state ineligible under existing law was not germane and the point of order was conceded and sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[10] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 16: Page 10, lines 10 and 11, strike out "; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f)".

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: '; $4,000,000, to remain available until expended, for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f), of which $500,000 shall be made available to the State of Idaho without regard to the limitation as stated in 16 U.S.C. 757e and without regard to the Federal cost sharing provisions in 16 U.S.C. 757a–757f: *Provided*, That 16 U.S.C. 757e is amended by adding the following new sentence: 'The State of Idaho shall be eligible on an equal standing with other states for Federal funding for purposes authorized by sections 757a to 757f of this title.'". . .

MR. [JOHN B.] BREAUX [of Louisiana]: . . . My point of order is pursuant to clause 7 of rule XVI, the provisions of which indicate that [the amendment] is not germane.

Mr. Speaker, I make this point of order for two reasons, if the Speaker would want me to be heard at this time.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

—*Amendment Affecting Permanent Appropriation and Permanently Modifying Procedures for Consideration of Appropriation Bills*

§ 15.25 To a general appropriation bill providing funds for one fiscal year, an amendment changing existing law

8. 129 CONG. REC. 27313, 27314, 98th Cong. 1st Sess.
9. The Department of the Interior Appropriations for fiscal 1984.
10. Dale E. Kildee (Mich.).

by imposing restrictions on a permanent appropriation for compensation for Members of Congress, and furthermore amending the rules of the House and Senate to modify procedures for consideration of appropriation bills in subsequent years, was ruled out of order as legislation on an appropriation bill and as not germane, in that such amendment enlarged the scope of the bill and was partly within the jurisdiction of the Committee on Rules.

On June 29, 1987,[11] during consideration of H.R. 2714[12] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [DANIEL E.] LUNGREN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: Page 31, after line 25, insert the following new sections:

Sec. 309. Subsection (c) of section 130 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes" (approved October 1, 1981; Public Law 97–51) is amended by striking out "Effective" and by inserting in lieu thereof "(1) Except to the extent provided by paragraph (2), effective" and by inserting at the end thereof the following new paragraph:

"(2) If all general appropriation bills for any fiscal year have not been presented to the President for signature under section 7 of Article I of the Constitution before the beginning of that fiscal year, then the appropriation contained in paragraph (1) shall not be effective with respect to such fiscal year.".

Sec. 310. It shall not be in order in either the House of Representatives or the Senate to consider the general appropriation bill making appropriations for the legislative branch for any fiscal year unless and until all other general appropriation bills for such fiscal year have been presented to the President for signature under section 7 of Article I of the Constitution. . . .

MR. [VIC] FAZIO [of California]: Mr. Chairman, this amendment violates the Rules of the House in several instances, as follows:

First, it goes beyond the bill under consideration, amending the continuing resolution, and as such is not germane. This is a violation of rule XVI, clause 7.

Second, the amendment constitutes legislation on an appropriations bill and as such is in violation of clause 2 of rule XXI.

Third, in effect, this amendment amends the Rules of the House, a subject which is under the jurisdiction of the Committee on Rules. . . .

MR. LUNGREN: Mr. Chairman, I would have to concede that this is legislation on an appropriation bill. Unfortunately, this is the only manner in which this subject seems to be able to be raised. . . .

THE CHAIRMAN:[13] The Chair is prepared to rule.

11. 133 CONG. REC. 18082, 18083, 100th Cong. 1st Sess.

12. The Legislative Branch Appropriations, fiscal 1988.

13. William J. Hughes (N.J.).

The gentleman from California [Mr. Lungren] has conceded the point of order raised by the chairman of the subcommittee, the gentleman from California [Mr. Fazio], and the point of order is sustained.

Provision Imposing Diverse Conditions Upon Availability of Funds—Amendment To Permanently Change Law Affecting Eligibility of Recipients

§ 15.26 To a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of certain recipients was conceded to go beyond the scope of the categories of legislative changes contained therein and to be nongermane.

The proceedings of Dec. 10, 1981, relating to House Joint Resolution 370, continuing appropriations for fiscal 1982, are discussed in Sec. 23.4, infra.

Restriction on Funds Applicable Beyond Fiscal Year Covered by Bill

§ 15.27 To an appropriation bill for the Department of Defense, an amendment was held to be germane which sought to implement certain policies, already required by law to be put into effect, by providing that none of the funds appropriated by the act be used, after a certain date, extending beyond the fiscal year covered by the bill, to finance military operations by United States forces in Vietnam where some funds in the bill were available beyond that fiscal year.

In the 92d Congress, during consideration of Department of Defense appropriations for fiscal 1972,[14] the following amendment was offered:[15]

Amendment offered by Mr. [Andrew] Jacobs [Jr., of Indiana]: On page 48, immediately following line 7, add the following new section under Title VII:

"Sec. 745. In line with Title VI of the 1971 Military Procurement Act calling for termination of all U.S. military operations in Indochina at the earliest practicable date and for the prompt and orderly withdrawal of all U.S. military forces at a date certain, subject to the release of all American prisoners and an accounting for all Americans missing in action, and notwith-

14. H.R. 11731 (Committee on Appropriations).

15. 117 Cong. Rec. 41838, 92d Cong. 1st Sess., Nov. 17, 1971.

standing any other provisions in this Act, none of the funds appropriated by this Act shall be used to finance any military combat or military support operations by U.S. forces in or over South Vietnam, North Vietnam, Laos or Cambodia, after November 7, 1972, if all American prisoners shall have first been released and all Americans missing in action shall have been accounted for."

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

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the amendment on two grounds:

First, very simply, the November 7, 1972, date goes beyond the fiscal year for which this appropriation is being made;

Second, and I think most important, is the final paragraph, which was also written into the Boland amendment: "if all American prisoners shall have first been released and all Americans missing in action shall have been accounted for."

This provision places an additional responsibility and duty upon someone, but there is nothing in the amendment as to who would have that responsibility and duty. The amendment provides that all prisoners must have been released or accounted for. I repeat that this is an additional responsibility in legislation in this amendment. Therefore I urge my point of order.

The following remarks were made in response to the point of order: (16)

MR. JACOBS: . . . So far as the responsibility is concerned, this is only a provision that the amendment will take effect on the happening of an event. That event may or may not happen. It places no responsibility on anyone. . . .

MR. [SIDNEY R.] YATES [of Illinois]: . . . I should like to point out, in response to the remarks of the distinguished gentleman from Ohio [Mr. Bow], that there are funds provided in the bill for programs that go beyond the end of the fiscal year.

The Chairman,(17) in ruling on the point of order, stated:

The Chair is ready to rule. The Chair will point out, first, that there are funds in the bill that do go beyond this fiscal year, and therefore holds that the termination date included in the amendment of the gentleman from Indiana does not render the amendment not germane. . . .

For these reasons, the Chair overrules the point of order.

Appropriation for Emergency Fuel Assistance—Amendment Delaying Availability Pending Enactment of Oil Windfall Profit Tax

§ 15.28 An amendment delaying the availability of an appropriation pending an unrelated contingency is not germane to an appropriation bill; thus, to a joint resolution appropriating funds to

16. *Id.* at p. 41839.

17. Daniel D. Rostenkowski (Ill.).

the Community Services Administration for emergency fuel assistance, an amendment prohibiting any of such funds from being obligated before the date of enactment of any law imposing an oil windfall profit tax was held to be not germane.

On Oct. 25, 1979,[18] during consideration of House Joint Resolution 430 in the House, the Speaker Pro Tempore[19] sustained a point of order against the following amendment:

> MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "None of the funds appropriated by this Act may be obligated before the date of the enactment of any Federal law imposing a windfall profit tax on producers of domestic crude oil.". . .
>
> MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, the amendment before us violates the rules of the House, inasmuch as it is not germane under clause 7, rule XVI.
>
> The amendment clearly goes beyond the bill and, in fact, addresses an entirely separate piece of legislation that is not referred to in any manner in House Joint Resolution 430.
>
> I urge the point of order be sustained.
>
> We have ample precedents, Mr. Speaker, of similar situations which clearly show that an amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. I cite Deschler's Procedure 28.4, Mr. Speaker. . . .
>
> MR. GIAIMO: . . . The amendment which I am offering here addresses itself to this legislation. It is simply a limitation and says none of the funds appropriated can be obligated before the date of enactment of any Federal law imposing a windfall profit tax.
>
> That is a simple limitation, which I think is not subject to a point of order. . . .
>
> THE SPEAKER PRO TEMPORE: The Chair is ready to rule.
>
> The Chair has examined several precedents and would like to point to chapter 28, section 4.11 of Deschler's Precedents:
>
> > To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane.
>
> The Chair sustains the point of order of the gentleman from Kentucky (Mr. Natcher).

—Amendment Restricting Use of Oil Windfall Profit Taxes for Any Other Purposes

§ 15.29 To a joint resolution appropriating funds to the Community Services Administration for emergency fuel

18. 125 CONG. REC. 29639, 29640, 96th Cong. 1st Sess.
19. Dan Rostenkowski (Ill.).

assistance, an amendment providing that notwithstanding any other provision of law, no portion of any oil windfall profit taxes imposed by law may be transferred to any other use except to the extent that the amount of such taxes exceeded the amount appropriated by the joint resolution, was conceded to be subject to the point of order that it was not germane.

During consideration of House Joint Resolution 430 in the House on Oct. 25, 1979,[20] a point of order against the following amendment was conceded and sustained:

> MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "Notwithstanding any other provision of law [whether enacted before, on, or after the date of the enactment of this Act], no portion of any windfall profit taxes imposed by Federal law on producers of domestic crude oil may be transferred to any other use except to the extent that the amount of such taxes exceeds the amount appropriated by this Act."
>
> MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. Giaimo).
>
> MR. GIAIMO: Mr. Speaker, I concede the point of order.
>
> THE SPEAKER PRO TEMPORE:[1] The gentleman from Connecticut (Mr. Giaimo) concedes the point of order and the Chair sustains the point of order.

Provision Restricting Availability of Funds Except Under Condition—Amendment Imposing Different Condition

§ 15.30 To a Senate amendment to a general appropriation bill prohibiting the availability of funds in any Act for salaries and expenses for the Office of the Assistant Secretary of Treasury for Enforcement and Operations after a date certain unless Congress enacts authorizing legislation for the Customs Service, a proposed substitute amendment restricting availability of funds in that bill for the same office unless specific categories of products, determined to have been produced by slave or convict labor in the Soviet Union, are barred from customs entry into the United States was conceded to be

20. 125 CONG. REC. 29639, 96th Cong. 1st Sess.

1. Dan Rostenkowski (Ill.).

not germane as a condition totally unrelated to that contained in the Senate amendment.

The proceedings of Nov. 7, 1985, during consideration of H.R. 3036 (Treasury and Postal Service appropriations for fiscal 1986), are discussed in § 27.27, infra.

Provision Directing Park Service To Lease Land—Substitute Prohibiting Use of Funds To Lease Property to Concessionaires

§ 15.31 For an amendment to a general appropriation bill directing the National Park Service to lease certain land at fair market rental value, a substitute prohibiting the use of funds in the bill for lease of that property by the National Park Service to concessionaires was held germane and a negative limitation on the use of funds which did not add legislation to that permitted to remain in the original amendment.

During consideration of H.R. 14231[(2)] in the Committee of the Whole on June 25, 1976,[(3)] the Chair overruled a point of order against the following amendment:

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 10, line 2, strike the period, insert a semicolon and the following:

Provided, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.

MR. [GILBERT] GUDE [of Maryland]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Gude as a substitute for the amendment offered by Mr. Yates: On page 27, between lines 18 and 19, insert the following:

"Sec. 109. No part of the appropriations made available under this title shall be available for the use of the Federal buildings located at 900 Ohio Drive, Haines Point in the District of Columbia by any concessioner of the National Park Service for any purpose."

MR. YATES: Mr. Chairman, I have a point of order against the amendment offered as a substitute by the gentleman from Maryland (Mr. Gude). . . .

Mr. Chairman, while this amendment has the appearance of a simple limitation, as a matter of fact, it is much more than that. The amendment prohibits the use of funds in the bill for use by a national park concessioner of a National Park Service building. The intent of the amendment is to

2. The Department of Interior Appropriation bill for fiscal 1977.

3. 122 CONG. REC. 20548–50, 94th Cong. 2d Sess.

evict the concessioner from the building. At the present time, the concessioner which occupies the building pays an annual rent and also pays for utilities and routine maintenance. If the concessioner vacates the building, the National Park Service must assume responsibility for maintenance and utility costs. The National Park Service estimates these costs to be about $26,000 per year.

Mr. Chairman, there are ample precedents in the rules of the House and I suggest that on page 551 under the Rules of the House, under section 843, ample precedents are cited to demonstrate that limitations on appropriation bills "must not impose new duties upon an executive officer."

Clearly this amendment imposes additional duties and responsibilities on the National Park Service. . . .

MR. GUDE: Mr. Chairman, I think this amendment provides nothing more than the Park Service merely targets a lease. I do not think it confers any responsibilities on them that they do not already have. I think it is clearly germane and in order. It is no less germane than the amendment offered by the gentleman from Illinois (Mr. Yates).

THE CHAIRMAN:[4] The Chair is prepared to rule.

The gentleman from Illinois (Mr. Yates) raises a point of order to the amendment offered as a substitute for the amendment offered by the gentleman from New York.

The question the Chair must decide is whether the substitute amendment is germane to the original amendment and whether it adds additional legislation to that which is already in the amendment of the gentleman from Illinois.

The substitute amendment of the gentleman from Maryland, in the opinion of the Chair, is germane—relating to leasing of the same property, and does not add additional legislation to that which is already in the original amendment. Rather, the substitute is a negative limitation on funds in the bill.

The Chair must, therefore, reluctantly overrule the point of order.

Provision Limiting Funds for Salary Increases for Members of Congress—Amendment To Further Restrict Funds for Salaries of Members Voting Against Increase

§ 15.32 To a proposition limiting the use of any fiscal 1980 funds to pay salary increases for Members of Congress above 5 percent while permitting top executive and judicial salaries to be increased by 7 percent, an amendment further restricting availability of those funds to pay salaries of those Members voting against any salary increase for Members contained in the pending joint resolution was held germane as an additional restriction on the use of the same funds, applied to the same category of recipients.

4. Walter Flowers (Ala.).

During consideration of House Joint Resolution 404 in the House on Sept. 25, 1979,[5] the Speaker overruled a point of order against the amendment described above, demonstrating that, to a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of those funds to a subcategory of the same recipients is germane. The proceedings were as follows:

H.J. RES. 404

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

Sec. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities. . . .

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year: Provided further, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980 except that in applying such limitation the term "at a rate which exceeds by more than 5.5 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 percent. . . .

MR. [GEORGE M.] O'BRIEN [of Illinois]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Brien: On page 5, strike lines 10 through 16.

On page 6, line 3, strike everything after "1980" through line 8, and insert a period. . . .

MR. [JOSEPH L.] FISHER [of Virginia]: Mr. Speaker, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: Page 5, beginning on line 3, strike out "(except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

5. 125 CONG. REC. 26135, 26136, 26138, 26140–43, 96th Cong. 1st Sess.

Page 5, strike out line 10 and all that follows down through "limitation" on line 4 of page 6 and insert in lieu thereof the following:

Notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980; except that in applying the limitation in such section 304 to the pay of offices and positions (other than Members of Congress) covered by that section the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting such pay increases to 7 percent, and in applying such limitation to the pay of Members of Congress. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Speaker, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser to the amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: After the substitute offered by the gentleman from Virginia add the following:

Notwithstanding any other provision of this resolution, no part of the funds appropriated by this Act for fiscal year 1980 shall be available to pay the salary of any Member at a rate which exceeds the salary rate payable for that office for September 30, 1978, if at any time in the consideration of this resolution that Member voted in a recorded vote for any amendment that has the effect of limiting the amount payable for Members of Congress to the rate payable for September 30, 1978. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: . . . I make the point of order that the amendment is not germane to the substitute. The amendment conditions the use of funds to pay salaries on the votes of Members of Congress on this resolution and, therefore, introduces new subject matter, both a Member's voting record and a new method of calculating pay depending on the Member's voting record. The amendment places nongermane restrictions on the use of funds and should be ruled out of order. . . .

THE SPEAKER:[6] . . . The Chair will rule that the Fisher substitute contains a selective restriction on the availability of funds in the bill by separating salaries of certain employees, as opposed to Members of the Congress of the United States, and that is in order. The amendment offered by the gentleman from New York (Mr. Peyser) is a further selective restriction on the availability of fiscal 1980 funds for the Members' pay.

The Chair feels that the amendment as offered by the gentleman from New York (Mr. Peyser) is germane to the Fisher amendment, and the point of order of the gentleman from Massachusetts (Mr. Conte) is overruled.

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6. Thomas P. O'Neill, Jr. (Mass.).

Provision Restricting Funds To Pay Salary Increases for Members—Amendment To Use Changes in Public Debt as Standard for Determining Funds Available for Salaries

§ 15.33 An amendment which conditions the expenditure of funds covered by a bill by adopting as a measure of their availability the monthly increase in the public debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress; thus, to a joint resolution making continuing appropriations and restricting the use of any fiscal 1980 funds to pay cost-of-living salary increases for Members of Congress and other federal employees above a certain percentage, an amendment prohibiting the use of all such funds to pay over 99 percent of Members' salaries in any month in which the public debt has been increased was held germane since not amending or affecting the public debt limit, but rather using that limit as an easily ascertainable standard by which to relate Members' salary entitlements to the entire Federal fiscal situation.

During consideration of House Joint Resolution 404 (continuing appropriations for fiscal year 1980), the Speaker overruled a point of order against the amendment described above. The proceedings of Sept. 25, 1979,[7] were as follows:

> MR. [KENNETH B.] KRAMER [of Colorado]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Kramer: Page 6, insert before line 13 the following: Notwithstanding any other provision of this joint resolution or any other provision of law, for any month immediately following any month during which the total public debt subject to the statutory debt limit, as reported in the monthly statement of the public debt published by the Department of the Treasury, indicates an increase from the level so reported during the preceding month, no part of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act may be used to pay the salary of any Member of the Congress at a rate greater than 99 percent of the rate which would be payable without regard to this sentence. . . .
>
> MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment is not germane.
>
> The amendment deals with the subject of Federal pay and has the pur-

7. 125 CONG. REC. 26150–52, 96th Cong. 1st Sess.

pose of limiting Federal pay. The amendment offered by the gentleman from Colorado (Mr. Kramer) introduces a new subject of a public debt, a completely new subject of public debt, and a different method of limiting Federal pay, that is, calculated relations between Federal pay and the public debt. . . .

MR. KRAMER: Mr. Speaker, I would like to quote from Deschler's Procedure, chapter 25, section 2.1 and also section 2.3. I think the precedents are very clear that this amendment is germane. I read as follows:

> A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI.
>
> The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.

Mr. Speaker, it is my understanding, in talking to the Parliamentarian's office, that a contingency amendment is, indeed, germane, provided that the contingency itself is within the scope of the performance of Congress.

I would ask that the amendment be ruled germane on that basis. . . .

THE SPEAKER:[8] The Chair is ready to rule on the point of order.

The amendment offered by the gentleman from Colorado (Mr. Kramer) provides a mechanism for measuring the ceiling to be placed on the amount of fiscal 1980 funds which can be available to pay salary increases for Members. The amendment does not in any way directly affect provisions of law relating to public debt levels during fiscal 1980.

As indicated in Deschler's Procedure, chapter 28, section 24.18, the Chair ruled on July 26, 1973, that an amendment which conditions the expenditure of funds in a bill by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other acts is germane, so long as the amendment does not directly affect the obligation and expenditure of other funds or the administration of other programs.

In the opinion of the Chair, the legislative standard stated in the amendment offered by the gentleman from Colorado as a measure of the amount of pay increase to be paid by fiscal 1980 appropriated funds is an easily ascertainable method of adjusting the availability of those funds in relation to the Federal financial situation as a whole, and is not drafted as a contingency which is dependent upon specific unrelated events or actions of Congress.

The gentleman's point of order is overruled.

Restriction on Use of Funds for Enforcement of OSHA Regulations Applicable to Small Farms—Amendment To Ensure Compliance by Congress With OSHA Requirements

§ 15.34 To a substitute amendment prohibiting the use of

8. Thomas P. O'Neill, Jr. (Mass.).

funds in a general appropriation bill for the enforcement of any regulation under the Occupational Health and Safety Act applicable to small farms, an amendment adding at the end thereof the requirement that such funds be expended to assure full compliance under that Act by Congressional Members and staff was held not germane.

The proceedings of June 24, 1976, relating to H.R. 14232 (Labor and Health, Education and Welfare appropriations for fiscal 1977), are discussed in § 8.20, supra.

Provision To Bar Use of Contributions to United Nations Program for Assistance to Cuba—Amendment To Make Provision Applicable to Any Country That Has Severed Diplomatic Relations

§ 15.35 To a provision in a general appropriation bill "That the President shall seek to assure that no contribution to the United Nations Development Program . . . shall be used for projects for . . . assistance to . . . Cuba," an amendment was held to be germane which sought to make the provision applicable to any country which has severed diplomatic relations with the United States.

In the 90th Congress, the foreign aid appropriation bill for fiscal 1968 (9) was under consideration, which provided in part: (10)

> International organizations and programs: For expenses authorized by section 302(a), $125,000,000: *Provided*, That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime: *Provided further*, That no part of this appropriation shall be used to initiate any project, activity, or program which has not been justified to the Congress.

The following amendment was offered:

> Amendment offered by Mr. [Paul C.] Jones of Missouri: On page 3, line 5, delete the words "That the President shall seek to assure that"; and further, on line 10, after the word "regime" add a comma and the words "or to any country which has severed diplomatic relations with the United States."

A point of order was raised against the amendment, as follows: (11)

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9. H.R. 13893 (Committee on Appropriations).

10. See 113 CONG. REC. 32886, 90th Cong. 1st Sess., Nov. 16, 1967.

11. *Id.* at p. 32887.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, this amendment does not serve just to perfect a legislative provision that might be protected by the rule adopted earlier, but it seeks to expand into a whole new area not contemplated in the present legislative provision and purports to deal with countries with which we have broken diplomatic relations. We would be adding a whole new section since the amendment is not limited to funds appropriated under this Act.

The Chairman,[12] in ruling on the point of order, stated:

The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order. Such legislative provisions can be perfected by germane amendments.

The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

Bill Permitting President To Allocate Appropriation to Agencies—Amendment To Allocate Portion to Specified Agency

§ 15.36 To a bill appropriating a certain sum and providing that the President may make allocations therefrom to various agencies of the government, an amendment proposing that a certain amount of such fund should be allocated to a specific agency of the government was held to be germane.

In the 75th Congress, during consideration of a relief appropriations bill,[13] an amendment was offered[14] as described above. Mr. John Taber, of New York, raised the point of order that the amendment was not germane. The Chairman,[15] in ruling on the point of order, stated:

The amendment offered by the gentleman from Florida . . . provides that part of the appropriation in this bill shall be allocated to one of the agencies of government, the Federal Administration of Public Works.

The Chair is of the opinion that the amendment is germane to the bill, and therefore overrules the point of order.

Bill Containing Funds for Agency—Amendment Containing Funds for Different Agency for Related Purpose

§ 15.37 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency

12. Charles M. Price (Ill.).

13. H.J. Res. 361 (Committee on Appropriations).

14. 81 CONG. REC. 5012, 75th Cong. 1st Sess., May 25, 1937.

15. John J. O'Connor (N.Y.).

for the same general purpose may not be germane although authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of Agriculture was held not germane.

On July 24, 1981,[16] during consideration of a bill[17] in the Committee of the Whole, Chairman Anthony C. Beilenson, of California, sustained a point of order against the following amendment:

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weaver: Page 16, line 19, insert immediately before the period the following: ", and *Provided further*, That $5,000,000 of the funds provided herein shall be made available to the Secretary of Agriculture for the establishment of pilot wood utilization projects and demonstrations as authorized by the Wood Residue Utilization Act of 1980, Public Law 96–554.".

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I make a point of order against the gentleman's amendment. . . .

The amendment is not germane to this paragraph of the bill nor to the bill as a whole. The wood residue program is authorized by Public Law 96–554, and clearly is to be administered by the Forest Service, Department of Agriculture, which is funded under the Interior appropriations bill.

This program was not authorized to be administered or funded by the Department of Energy, which is where the gentleman's amendment applies.

Under clause 7, rule XVI, it is stated that it is not in order during consideration in the House to introduce a new subject by way of amendment, and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.

I contend this amendment is not germane to this paragraph or this bill and is in violation of clause 7, rule XVI. . . .

MR. WEAVER: . . . [T]he Department of Energy now funds wood utilization programs. This bill is law. We are not changing existing law. We are referring only to existing law and it is an energy manufacturing program and, therefore, definitely germane to this bill.

THE CHAIRMAN: The Chair is prepared to rule on the point of order made by the gentleman from Alabama (Mr. Bevill).

For the purposes stated by the gentleman from Alabama, the distinguished chairman of the subcommittee, the point of order is sustained and the amendment is held not germane to the

16. 127 CONG. REC. 17226, 97th Cong. 1st Sess.

17. H.R. 4144, the Energy and Water Development Appropriations, fiscal 1982.

pending title of the bill, which relates only to the Department of Energy.

Paragraph Containing Funds for Agency—Amendment Increasing Amount by Transferring Funds From Other Accounts

§ 15.38 To a paragraph of a general appropriation bill containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph.

Where a paragraph of a bill, the Departments of Commerce, Justice, State and Judiciary Appropriations for fiscal 1986 (H.R. 2965), contained funds for the Federal Bureau of Investigation, but did not transfer funds from other accounts in the bill, an amendment increasing that budget authority by transfer from funds contained in a paragraph, not yet read, for the National Endowment for Democracy was ruled out as not germane. The proceedings of July 17, 1985,[18] were as follows:

THE CHAIRMAN:[19] The Clerk will read.

The Clerk read as follows: . . .

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand six hundred forty passenger motor vehicles . . . acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,194,132,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1987. . . .

MR. [CHARLES W.] YOUNG of Florida: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Florida: On page 15, in line 4, strike "$1,194,132,000," and insert in lieu thereof "$1,203,625,000, of which $9,493,000 shall be derived by transfer from the appropriation in this Act for "National Endowment for Democracy",".

Mr. Neal E. Smith, of Iowa, raised a point of order against the amendment:

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18. 131 CONG. REC. 19431, 19432, 19435–37, 99th Cong. 1st Sess.

19. George E. Brown, Jr. (Calif.).

MR. SMITH of Iowa: . . . My point of order is that it is in violation of clause 7, rule XVI. It involves an increase in the FBI by a transfer of funds. There are no transfers in the bill for the FBI. The money would be transferred from a source that is entirely different and unrelated, and therefore taking money that is intended for one purpose and transferring it to an entirely different purpose when it is offered as an amendment is not germane. . . .

MR. YOUNG of Florida: . . . The amendment does not violate section 303 of the Budget Act because the amendment does not provide new budget authority but rather provides funds by transfer from elsewhere in the bill.

The amendment does not violate rule XXI, clause 2, because it is in order to perfect a paragraph in the bill permitted to remain by a waiver of points of order, so long as the amendment does not add legislation or unauthorized items. A transfer of funds within the confines of an appropriation bill is not considered legislation, and clearly the amendment does not add unauthorized items. The amendment is germane to the bill which contains numerous other transfers. For example, I call to the Chair's attention page 6 and page 7, where there are numerous transfers from one fund to another in that section of the bill alone.

So I would hope that the Chair would overrule the point of order.

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

The Chair believes that the amendment is not germane to this paragraph because there are no other transfers involved in this particular paragraph and it would affect an account in an unrelated portion of the bill.

The Chair, therefore, upholds the point of order made by the gentleman from Iowa [Mr. Smith].

Bill Providing New Budget Authority—Amendment To Provide In Lieu Thereof for Transfer of Unexpended Balances of Funds Previously Appropriated

§ 15.39 It is not germane to change a direct appropriation of new budget authority from the general fund of the Treasury into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account; thus, to a bill providing new budget authority for emergency agricultural credit, an amendment contained in a motion to recommit with instructions to provide, in lieu of that new budget authority, for a transfer of unexpended balances of funds previously appropriated for a totally unrelated purpose was held to be not germane.

On Feb. 28, 1985,[20] during consideration of H.R. 1189[1] in the House, Speaker Pro Tempore Alan D. Wheat, of Missouri, sustained a point of order against a motion to recommit the bill with instructions to the committee of jurisdiction. The proceedings were as follows:

H.R. 1189

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Agricultural Credit Appropriations Act".

DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for guaranteed loans under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, $1,000,000,000, which shall be in addition to the $150,000,000 provided in Public Law 98–396 and the $500,000,000 made available by Public Law 98–473. Such funds shall be available in order that farm producers may obtain the necessary financing for calendar 1985 operations. Such funds shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans and the reduction in rate of interest. . . .

THE SPEAKER PRO TEMPORE: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conte moves to recommit the bill, H.R. 1189, to the Committee on Appropriations, with instructions to that committee to report the bill back to the House forthwith, with the following amendment.

On page 2, in line 10, after "$1,000,000,000," insert "to be derived by transfer from unobligated balances in the Energy Security Reserve.".

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I make a point of order against the motion to recommit with instructions in that it attempts to propose as instructions, language which would not have been in order directly as an amendment during the reading of the bill. The instructions include what is in effect a rescission which was not considered by the House and which would have violated clause 7 of rule XVI if there had been a reading of the bill for amendment.

The bill under consideration provides supplemental appropriations for fiscal year 1985. The gentleman's instructions would rescind funds appropriated in fiscal year 1980 for the Synthetic Fuels Corporation, a matter clearly not related to this bill.

Mr. Speaker, because the motion contains language not in order during consideration of the bill in the House, I believe it violates the germaneness rule of the House. I ask for a ruling of the Chair. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, the point of order should be overruled. An amendment in a motion to recommit with instructions

20. 131 CONG. REC. 4133, 4134, 4146, 99th Cong. 1st Sess.

1. Emergency Farm Credit Appropriation, fiscal 1986.

must be germane to the bill as a whole. Although the amendment does affect previously appropriated funds, so do several provisions of the bill itself.

On page 2, in lines 15 through 18, there is language that provides that funds in the bill "shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans." This language directly affects loans guaranteed with funds under existing law.

On page 3, in lines 2 through 14, there is language which provides for "review of FATM loans," and "deferral of principal and interest and the foregoing of foreclosure." This language directly affects loans held by the Farmers Home Administration.

On page 4, in lines 2 through 5, there is language directing the administrator of the Small Business Administration to use loan guarantee authority to restructure existing loans.

Taken as a whole, the bill clearly affects the use of previously appropriated funds and authority. My amendment, which also affects previously appropriated funds, is germane, and therefore I ask the Chair to overrule the point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Mississippi makes the point of order that the motion to recommit offered by the gentleman from Massachusetts (Mr. Conte) is not germane to the bill H.R. 1189. The bill reported from the Committee on Appropriations provides only new budget authority for emergency agricultural credit. The bill does not directly transfer or reappropriate any unexpended balances of appropriations nor does it rescind previously appropriated funds.

In the opinion of the Chair, the effect of the motion to recommit is to decrease sums already appropriated for a program—Synfuels payments for future defaults on loans guaranteed pursuant to the Energy Security Act—totally unrelated to the program under consideration—farm credit—and to convert into immediate budget outlays obligational authority which was not intended to represent any outlays except in the event of a future default. The amendment in the motion to recommit has the effect of transferring the original appropriation for Synfuels loan guarantees, a proposition not contemplated in the bill reported from the Committee on Appropriations. The Chair sustains the point of order.

Parliamentarian's Note: The instant ruling is important as it stands for the proposition that it is not germane to decrease sums already appropriated for a program totally unrelated to the proposition under consideration (in effect a rescission), and to convert into immediate budget outlays obligational authority which was not intended to represent any outlays except in the unlikely event of a future default. Of course, germaneness was the only test here, since the pending bill was not a general appropriation to which Rule XXI clause 6 would apply. In such a case, the amendment would clearly have been a

reappropriation in violation of that rule.

Rescission of Prior-year Appropriations

§ 15.40 To a bill reducing certain prior-year appropriations and containing a paragraph appropriating money "for grants to States for administration of unemployment compensation and employment service facilities" as authorized in another act, an amendment was held to be germane which provided that "any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized" since both the bill and amendment reduced prior-year appropriations.

In the 79th Congress, a bill[2] was under consideration reducing certain appropriations and contract authorizations available for the fiscal year 1946. The bill stated in part:[3]

> *Be it enacted, etc.,* That the appropriations and contractual authorizations of the departments and agencies available in the fiscal year 1946, and prior year unreverted appropriations, are hereby reduced in the sums hereinafter set forth, such sums to be carried to the surplus fund and covered into the Treasury immediately upon the approval of this act.
>
> TITLE I—EXECUTIVE OFFICE OF THE PRESIDENT, INDEPENDENT OFFICES, AND EXECUTIVE DEPARTMENTS
>
> EXECUTIVE OFFICE OF THE PRESIDENT
>
> *Office for Emergency Management*
>
> Foreign Economic Administration:
>
> Salaries and expenses, $5,226,461, and limitations under this head are hereby decreased as follows: (1) Travel within continental United States from "$234,000" to "$150,000," (2) reimbursement to employees for emergency or extraordinary expenses from "$75,000" to "$40,000," and (3) expenses of a confidential character from "$1,200,000" to "$25,000.". . .
>
> Office of Economic Stabilization:
>
> Salaries and expenses, $53,780, and limitations under this head are hereby decreased as follows: (1) Penalty mail

2. H.R. 4407 (Committee on Appropriations).
3. See 91 CONG. REC. 9846, 9850, 9851, 79th Cong. 1st Sess., Oct. 19, 1945.

costs from "$2,250" to "$1,500," (2) traveling expenses from "$4,500" to "$4,000," and (3) printing and binding from "$2,000" to "$1,600.". . .

EMERGENCY FUNDS APPROPRIATED TO THE PRESIDENT

Emergency fund for the President, national defense, $45,000,000.

Defense aid—lend-lease:

(1) Ordnance and ordnance stores, supplies, spare parts, and materials, $57,990,000.

(2) Aircraft and aeronautical material, $85,705,000. . . .

INDEPENDENT OFFICES

Civil Service Commission: Salaries and expenses, Civil Service Commission (national defense), $2,032,000.

Employees' Compensation Commission: Employees' compensation fund, $1,761,644.

Federal Communications Commission: Salaries and expenses, Federal Communications Commission (national defense), $930,000. . . .

SOCIAL SECURITY BOARD

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1946, for grants to States for administration of unemployment compensation and employment service facilities operated in conjunction therewith, as authorized in title III of the Social Security Act, approved August 14, 1935, as amended, $30,000,000, which shall be in addition to the amounts appropriated for such purposes in title II of the Labor-Federal Security Appropriation Act, 1946.

The following amendment was offered:

Amendment offered by Mr. [John W.] McCormack [of Massachusetts]: On page 8, line 10, after the period, strike out lines 11 through 20 and insert the following:

"On July 1, 1946, any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized in title III of the Social Security Act, approved August 11, 1935, as amended, and in the act of June 6, 1933, as amended, known as the Wagner-Peyser Act."

Mr. Everett M. Dirksen, of Illinois, raised the point of order that the amendment was not germane and that it was legislative in character. The Chairman,[4] in ruling on the point of order, stated:

In the opinion of the Chair, the amendment is obviously germane. It relates to the same subject as specified in the bill.

The following exchange ensued:

MR. [JOHN] TABER [of New York]: Mr. Chairman, this, to my mind, is the situation: The amendment is a rescission. The paragraph which is made in order under the rule is an appropriation; therefore the amendment is not in order.

4. Fritz G. Lanham (Tex.).

THE CHAIRMAN: In the opinion of the Chair, the amendment offered is germane to the paragraph which deals with appropriations for this purpose. The amendment offered also deals with appropriations for the same purpose. In the opinion of the Chair the amendment offered by the gentleman from Massachusetts is clearly germane and the Chair overrules the point of order. . . .

MR. [FRANCIS H.] CASE of South Dakota: I do not question the germaneness, but I heard the bill referred to as a legislative bill, and if it is interpreted as a legislative bill, the amendment making an appropriation, of course, would not be in order.

THE CHAIRMAN: This certainly is not a general appropriation bill but a bill with reference to rescission of appropriations. The only question which could occur from a parliamentary standpoint would be the question of germaneness. In the opinion of the Chair, the amendment is clearly germane. . . .

Germaneness—Guidelines Under Impoundment Control Act

§ 15.41 Debate concerning procedures under section 1011(3) of the Impoundment Control Act of 1974, suggested that only those amendments to a "rescission bill" would be germane which would (1) strike rescissions contained in the bill, (2) change the amount proposed to be rescinded but not to a figure in excess of that recommended by the President, or (3) add rescissions recommended by the president in the same message covered by the bill but not in excess of the proposed amount.

On Dec. 4, 1974,[5] the House resolved into the Committee of the Whole for the consideration of H.R. 17505 (a bill to rescind certain budget authority recommended in Presidential messages). During the course of the proceedings, the following occurred:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 17505) to rescind certain budget authority recommended in the messages of the President of September 20, 1974 (H. Doc. No. 93–361), October 4, 1974 (H. Doc. No. 93–365) and November 13, 1974 (H. Doc. No. 93–387), transmitted pursuant to section 1012 of the Impoundment Control Act of 1974; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1 hour and that the time be divided equally between the gentleman from Massachusetts (Mr. Conte) and myself.

5. 120 CONG. REC. 38192, 38193, 38202, 93d Cong. 2d Sess.

5. 120 CONG. REC. 38192, 38193, 38202, 93d Cong. 2d Sess.

THE SPEAKER:[6] Is there objection to the request of the gentleman from Texas?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 17505, with Mr. Bolling in the chair.

The Clerk read the title of the bill. . . .

THE CHAIRMAN:[7] Under the unanimous-consent agreement, the gentleman from Texas (Mr. Mahon) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

MR. MAHON: Mr. Chairman, the House in the consideration of this measure is breaking new ground. This is the first bill to be reported to the House as a result of the passage by the Congress of the Congressional Budget and Impoundment Control Act of 1974. We will remember that over a period of months there was considerable controversy between the legislative branch and the executive branch over the withholding of funds to carry out various programs that had been approved by Congress and had been appropriated for by the Congress.

This new act provides a process for rescission in a special way which has not heretofore existed. . . .

Mr. Chairman, for the benefit of Members and others, I will ask permission to insert at this point in the Record an explanation of the Impoundment Control Act which is title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). It is brief and simple but, in my judgment, useful:

SUMMARY OF RESCISSION AND DEFERRAL PROVISIONS OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Title X of this Act provides two ways for the President to terminate or defer spending that the Congress has provided—either through a budget rescission or a budget deferral. In each case, Congress has the opportunity to overturn the President and to require that the funds it originally provided be made available for obligation.

RESCISSION OF BUDGET AUTHORITY

When the President decides not to use all or part of the money which the Congress has provided for a program, he must send a rescission message to the Congress. The House and Senate then have 45 days in which to approve the President's proposal through a rescission bill canceling the budget authority previously made available. *This bill must be passed by the House and Senate and signed by the President.* If this is not done within 45 days of the date of the Presidential message containing the proposed rescission, the money must then be made available for obligation.

DEFERRAL OF BUDGET AUTHORITY

When the President proposes to delay spending for some project or program for some period of time not beyond the end of the fiscal year, he must send a budget deferral message to the Congress.

6. Carl Albert (Okla.).

7. Richard Bolling (Mo.).

The President may then defer spending according to his proposal unless and until *either the House or Senate passes* an impoundment resolution disapproving the proposed deferral. As opposed to the rescission process, this requires action by only one House. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I have a question for the gentleman from Massachusetts (Mr. Conte). This being, I believe, the maiden voyage of this kind of legislation in the House, I am not fully aware of what rights a common, garden-variety Member of the House has to amend this bill.

I understand that there was some $8 billion in the foreign aid pipeline as of last July 1, the beginning of this fiscal year. Would it be within the prerogative of a Member of the House, just an ordinary Member, to offer an amendment to this bill, to perform a rescission on the money in the pipeline for the foreign giveaway program?

MR. [SILVIO O.] CONTE [of Massachusetts]: . . . No, it would not be in order because we would be limited here to the subject matters and the maximum amounts that the President sent up for rescission, and since that is not a part of that package, no one can get a crack at it in this bill. Let me further explain.

Let me point out to the gentleman from Iowa that section 1011(3) of the Budget and Impoundment Control Act states that a "rescission bill means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012 . . . "

The statement of purpose, and the enacting clause, of H.R. 17505 contain citations to section 1012 of the Impoundment Control Act of 1974, in order to insure that the bill is a rescission bill, within the meaning of Public Law 93–344.

Accordingly, amendments to the bill are limited as follows:

First, the committee amendments, of which two are substantive, striking the rescissions for REA and REAP;

Second, amendments which would strike rescissions in the bill, or change the amount rescinded, provided the amount in the amendment is equal to or less than, the amount proposed in the Presidential message; and

Third, amendments which would add rescissions, provided the rescission to be added has been proposed by the President in a message cited in the enacting clause of the bill, and the amount is equal to, or less than, the amount proposed by the President. . . .

THE CHAIRMAN: The Clerk will read.

The Clerk read as follows:

NATIONAL PARK SERVICE

Contract authority provided for the fiscal year ending June 30, 1973 by section 105(a)(10) of the Federal-Aid Highway Act of 1970 (Public Law 91–605) for "Parkways" is rescinded in the amount of $10,461,000. . . .

THE CHAIRMAN: The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike "IV" and insert "III".

The committee amendment was agreed to.

MR. MAHON: Mr. Chairman, I move that the Committee do now rise and

report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 17505) to rescind certain budget authority recommended in the messages of the President of September 20, 1974 (H. Doc. 93–361), October 4, 1974 (H. Doc. 93–365) and November 13, 1974 (H. Doc. 93–387), transmitted pursuant to section 1012 of the Impoundment Control Act of 1974, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

MR. MAHON: Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

THE SPEAKER: Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Parliamentarian's Note: The statement made by Mr. Conte, above, reflects the agreed-upon parameters of amendments to the rescission bill concurred in by the Chairman of the Committee of the Whole, Richard Bolling, who was the chief sponsor and manager of the Budget and Impoundment Act in the 93rd Congress.

Specific Project Added to River and Harbor Projects

§ 15.42 To that portion of the Civil Functions, Department of the Army, Appropriation Bill pertaining to river and harbor projects, an amendment in the form of a new paragraph providing an appropriation for a specific inland waterway previously authorized by law was held to be germane.

In the 81st Congress, during consideration of the Civil Functions, Department of the Army, Appropriation Bill of 1950,[8] the following amendment was offered:[9]

Amendment offered by Mr. [John E.] Rankin [of Mississippi]: Page 8, after line 8, insert the following new paragraph:

"Tennessee-Tombigbee inland waterway: For the prosecution of the works of improvement with respect to the Tombigbee and Tennessee Rivers heretofore authorized by law (Public Law 522, 79th Cong.) $3,000,000."

8. H.R. 3734 (Committee on Appropriations).

9. 95 CONG. REC. 3141, 81st Cong. 1st Sess., Mar. 24, 1949.

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

> MR. [CLARENCE A.] CANNON [of Missouri]: I make the point of order, Mr. Chairman, that the amendment is not germane at this point in the bill, and therefore not in order.

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

> This is the part of the bill that covers projects of this kind. I have prepared this amendment to carry out the mandate of Congress 2 years ago and the recommendation of the Army engineers. This amendment merely introduces a new section after line 8 on page 8 and provides for funds to begin construction of this great inland waterway. . . .

A further point of order was made as follows:

> MR. [JOHN] TABER [of New York]: The provision for rivers and harbors is entirely included in the paragraph beginning at line 10 on page 5 of the bill and ending on line 8, page 8, and all amendments relating to additional rivers and harbors projects would have to be offered within that paragraph. . . .
>
> I think that it must be offered as an amendment to the figure $176,000,000 on page 6, line 22, where all provisions for rivers and harbors are included.

The ruling of the Chairman (10) was as follows:

> . . . The Chair invites attention to the fact that the paragraph of the bill now under consideration relates to rivers and harbors, maintenance and improvements of existing river and harbor works. The gentleman from Mississippi offers an amendment . . . which seeks to add a new paragraph under the same heading of rivers and harbors, maintenance and improvements of existing river and harbor work. The Chair invites attention to the fact that the pending amendment relates to the prosecution of work on improvements with respect to certain rivers as heretofore authorized by law. The Chair is constrained to believe that the amendment is in order as a new paragraph and, therefore, overrules the point of order.

Appropriation Bill—Amendment To Raise Revenue

§ 15.43 To a bill appropriating money, an amendment proposing to raise revenue is not germane.

For discussion of this principle, see 8 *Cannon's Precedents* § 3038; and see the proceedings of Apr. 26, 1932, at 75 Cong. Rec. 8982, 8983, 72d Cong. 1st Sess. See also clause 5(b) of Rule XXI as added by the 98th Congress in 1983, providing that: No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be

10. Jere Cooper (Tenn.).

in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time. Rule XXI clause 5(b) is discussed further at Deschler's Procedure (1987 supp.) Ch. 17, §§ 17.12 et seq. For general discussion of committee jurisdiction, see Ch. 17 §§ 26 et seq., supra. Also of interest are Ch. 26 (legislation on appropriation bills) and Ch. 13 §§ 13 et seq. (House prerogatives with respect to revenue measures), supra.

Amendment Enlarging Scope of Provision by Striking Language

§ 15.44 To that provision in a general appropriation bill requiring deposit in the Treasury of all receipts from sale of electric power in the "southeastern power area," an amendment striking out the limitation with respect to geographic area was held to so enlarge the scope of the provision sought to be amended as to present a different subject and to be not germane.

In the 82d Congress, during consideration of the Interior Department Appropriation Bill of 1952,[11] an amendment was offered[12] as described above. A point of order was raised against the amendment, as follows:

> MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Arkansas on the ground that it is not germane to the matter now under consideration and that it is legislation on an appropriation bill; and that it changes the scope and purpose of the bill.

The Chairman,[13] in sustaining the point of order, cited the principle that, "if the effect of striking out the language [is to so alter] the scope and import of the text as to present a subject different from that under consideration, it is not germane."[14]

Different Methods of Apportionment of Funds Among States

§ 15.45 To an appropriation bill an amendment striking out a legislative provision stating that certain funds "shall be apportioned among the States in accordance

11. H.R. 3790 (Committee on Appropriations).
12. 97 CONG. REC. 4294, 82d Cong. 1st Sess., Apr. 24, 1951.
13. Wilbur D. Mills (Ark.).
14. 97 CONG. REC. 4295, 82d Cong. 1st Sess., Apr. 24, 1951.

with regulations promulgated by the Secretary" and inserting a provision that such funds be made available to the states pursuant to a specified provision of existing law was held to be in order as a germane amendment which did not add further legislation.

In the 83d Congress, the Departments of Labor, and Health, Education, and Welfare and related Independent Agencies Appropriation Bill of 1955 (15) was under consideration, which provided in part:

OFFICE OF VOCATIONAL REHABILITATION

. . . For payments to States . . . in accordance with the Vocational Rehabilitation Act, as amended (29 U.S.C. ch. 4) . . . $21,000,000. . . . *Provided further,* That the funds herein appropriated shall be apportioned among the States in accordance with regulations promulgated by the Secretary to insure equitable maintenance and improvement of State programs . . . . (16)

The following amendment was offered: (17)

Amendment offered by Mr. [John E.] Fogarty [of Rhode Island]: Page 17, line 15, strike out "shall be apportioned among the" and strike out all of lines 16 through 20, inclusive, and in lieu thereof insert the following: "shall be made available to the States in accordance with the provisions of section 3 (a) of Public Law 113, 78th Congress, approved July 6, 1943."

Mr. John Taber, of New York, having raised a point of order against the amendment, the Chairman (18) ruled as follows: (19)

It is well established that if a legislative provision is permitted to remain in an appropriation bill, it may be amended by a germane proposition which does not add further legislation. This amendment provides a method of apportionment different from what is specified in the pending bill. It deals with money in the bill and its apportionment. Therefore, it is germane. The provision in the bill certainly grants wide, discretionary power to the Secretary of the Department as to how money in the paragraph shall be apportioned among the States, and under this provision of the bill the Secretary seems not to be bound by prior laws governing the matter. The pending amendment is also legislation, but it would narrow authority granted by the bill, and would confine the Secretary to the provisions of an existing law. Therefore the amendment does not add further legislation, and, as already stated, it is germane. . . .

15. H.R. 9447 (Committee on Appropriations).

16. 100 CONG. REC. 7963, 83d Cong. 2d Sess., June 9, 1954.

17. *Id.* at pp. 7963, 7964.

18. Donald W. Nicholson (Mass.).

19. 100 CONG. REC. 7964, 83d Cong. 2d Sess., June 9, 1954.

Appropriation To Maintain National Forests—Amendment To Make the Appropriation Available for Payment to States

§ 15.46 To that paragraph in an appropriation bill making an appropriation for protection, maintenance and development of national forests, an amendment was held to be not germane which sought to make the appropriation available for certain payments to states.

In the 82d Congress, during consideration of the Department of Agriculture Appropriations Bill of 1952,[20] an amendment was offered whose purpose was explained by the proponent as follows:[1]

> MR. [CLAIR] ENGLE [of California]: Mr. Chairman, the purpose of this amendment is to earmark $1,350,000 which is money illegally taken away from the western counties by the Forest Service. That money was due to these counties under the Forest Management Act of May 23, 1908, which provides that 25 percent of all moneys received during any fiscal year from each national forest shall be paid at the end of the year to the State in which the national forest is situated, to be expended as the State legislatures may prescribe for the benefit of public schools and public lands of the county or counties in which the national forest is situated.

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

> MR. [JOHN] TABER [of New York]: I make a point of order against the amendment on the ground that it is not germane to the paragraph to which offered, that it is not authorized by law, and that it is legislation on an appropriation bill.
>
> The Chairman,[2] in ruling on the point of order, stated:
>
> The paragraph to which the amendment is offered makes an appropriation for specific purposes, namely, for the "administration, protection, use, maintenance, improvement, and development of the national forests," thus the paragraph provides money for narrowly defined use only on national forests, which belong to the Federal Government.
>
> The amendment in question seeks to make available a part of this appropriation for a purpose entirely different from the purposes spelled out in the paragraph of the bill. . . . Regardless of the use to which the States could put the money, the payment of claims to States as outlined . . . is in no wise germane to the administration, protection, et cetera, of national forests. Building State roads and schools is even further remote from expenditures on Federal forests.

20. H.R. 3973 (Committee on Appropriations).

1. 97 CONG. REC. 5217, 82d Cong. 1st Sess., May 10, 1951.

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

Provisions Restricting Funds for Activities of Legal Services Corporation—Amendment Applying Some Substantive Provisions of Federal Law to Corporation

§ 15.47 To a Senate amendment to a general appropriation bill subjecting funds for the Legal Services Corporation to a comprehensive series of restrictions on its activities for that fiscal year and reconstituting its board of directors, a proposed amendment also applying to that corporation "with respect to the use of funds in the bill" certain substantive provisions of Federal criminal and civil law not otherwise applicable to it was held not germane.

The proceedings of Oct. 26, 1989, relating to the conference report on H.R. 2991, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, are discussed in § 34.37, infra.

Unrelated Method of Reducing Expenditure

§ 15.48 To a joint resolution providing for continuing appropriations for certain governmental functions pending enactment of regular appropriation bills and curtailing certain government expenditures, an amendment requiring the Bureau of the Budget to compile and report to each Member of the House the total federal expenditures in his congressional district and directing the Members to take certain steps to effect a reduction in expenditures, was ruled not germane as a method of reducing expenditures unrelated to reductions in the joint resolution.

In the 90th Congress, a joint resolution[3] was under consideration continuing appropriations for fiscal 1968. The following proceedings[4] related to the propriety of a proposed amendment:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Charles S.] Joelson [of New Jersey] Strike out everything after the first paragraph and add the following after the first paragraph:
>
> "The Bureau of the Budget shall . . . submit to each Member of the House of Representatives a list of federal expenditures . . . in the congressional district represented by each Member . . . for the 1968 fiscal year.

---

3. H.J. Res. 888 (Committee on Appropriations).

4. 113 CONG. REC. 29290, 90th Cong. 1st Sess., Oct. 18, 1967.

". . . Each Member . . . shall . . . submit to the chairman of the House Appropriations Committee a list of recommended elimination or reduction of Federal spending in the congressional district represented by him or her . . . ."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the joint resolution. It would impose additional duties on the Bureau of the Budget and would require reports of committees which are not now required. . . .

MR. JOELSON: Mr. Chairman, the amendment is directed at the reduction of expenditures in each congressional district to the tune of 5 percent of the total expenditures in each district. As I understand the resolution under consideration, its purpose is to reduce spending by 5 percent. My amendment would merely establish a different way of accomplishing this purpose. Therefore, I submit that the amendment is germane.

THE CHAIRMAN:[5] Reading the amendment offered by the gentleman from New Jersey, in the opinion of the Chair the amendment includes a directive to the Bureau of the Budget and provides for an investigation by Members of the House and a review by the Committee on Appropriations. The Chair thinks the points made by the gentleman from Texas are well taken. The Chair sustains the point of order.

5. Charles A. Vanik (Ohio).

Provision Authorizing President To Make Reductions With Assistance of Budget Director—Amendment To Authorize Budget Director To Hold Certain Funds in Reserve or Make Certification as to Necessity for Release

§ 15.49 Where an amendment to a general appropriation bill sought to reduce appropriations and contract authorizations and to authorize the President to make such reductions with the assistance of the Director of the Bureau of the Budget, a substitute for such amendment was held to be germane and not to add additional legislation which required the Director of the Bureau of the Budget to place in reserve, from funds available for administrative expenses, certain amounts not to be released for expenditure unless the Director certifies that maintenance of essential government services so requires.

In the 81st Congress, during proceedings relating to a general appropriation bill for 1951,[6] an

6. H.R. 7786 (Committee on Appropriations).

amendment was under consideration which provided:[7]

> Amendment offered by Mr. [Albert] Thomas [of Texas]: On page 411, following line 21, insert a new chapter, as follows:
>
> "CHAPTER X–A. GENERAL REDUCTIONS IN APPROPRIATIONS AND CONTRACT AUTHORIZATIONS
>
> "Reductions in appropriations and contract authorizations contained in this act are hereby made in the sum of $500,000,000 [and the President is hereby authorized, with the aid and assistance of the Director of the Bureau of the Budget, to make such reductions totaling $500,000,000 in appropriations and contract authorizations contained in this act, including funds for Government corporations]. . . ."

Despite its legislative features, no point of order was made against the Thomas amendment. To such amendment, the following amendment was offered:[8]

> Amendment offered by Mr. [Clarence A.] Cannon [of Missouri] as a substitute for the amendment offered by Mr. Thomas: On page 411, after line 21, insert the following:
>
> "In apportioning funds for the fiscal year 1951, the Director of the Bureau of the Budget shall place in reserve not less than 5 percent of the amounts available for administrative expenses and such reserves shall not be released for expenditure unless the Director of the Bureau of the Budget shall certify that maintenance of essential Government service so requires."

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

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment submitted by the gentleman from Missouri on the ground that it is legislation on an appropriation bill, that it adds additional duties to be performed by an executive officer of the Government.

The Chairman,[9] in ruling on the point of order, stated:

> The Chair has examined the amendment very carefully and is of the opinion that the amendment is in order as a substitute for the Thomas amendment. The Chair might point out that the Thomas amendment contained some legislative features. The substitute offered by the gentleman from Missouri is germane and does not, in the opinion of the Chair, add any additional legislation. The Chair, therefore, overrules the point of order.

Amendment to Legislative Provision

§ 15.50 Where an amendment to a general appropriation bill is technically improper because proposing a change in existing law, but is per-

7. 96 CONG. REC. 6812, 81st Cong. 2d Sess., May 10, 1950. See also § 15.50, infra.

8. *Id.* at p. 6813.

9. Jere Cooper (Tenn.).

mitted to remain through the failure to raise a point of order, the amendment may be perfected by germane amendments.

In the 81st Congress, during consideration of a general appropriation bill,[10] an amendment was under consideration authorizing the President, assisted by the Director of the Bureau of the Budget, to make certain reductions in appropriations.[11] To such amendment, an amendment was offered to require the Director of the Bureau of the Budget to place in reserve a certain portion of the amounts available for administrative expenses, such reserves not to be released for expenditure except under certain conditions.[12] In ruling on a point of order made by Mr. James G. Fulton, of Pennsylvania, the Chairman[13] stated:

> The gentleman from Missouri [Mr. Cannon] has offered a substitute amendment which has been reported. The gentleman from Pennsylvania [Mr. Fulton] has made a point of order against the amendment.
>
> The Chair . . . is of the opinion that the amendment is in order as a substitute for the Thomas amendment. The Chair might point out that the Thomas amendment contains some legislative features. The substitute offered by the gentleman from Missouri is germane and does not . . . add any additional legislation.
>
> The Chair, therefore, overrules the point of order.

Expenditure Limitation in Dollar Amount - Amendment Increasing Limitation Pursuant to Formula

§ 15.51 To a provision in a general appropriation bill fixing an expenditure limitation in a dollar amount for a fiscal year, an amendment increasing the limitation by an amount to be computed pursuant to a specified formula was held to be germane.

On May 21, 1969,[14] the Committee of the Whole had under consideration a section of an appropriation bill setting a limitation on expenditures for the fiscal year at $192,900,000,000. An amendment was offered increasing the limitation by an amount equal to certain budgetary fixed costs.

A point of order was raised against the amendment, on the

10. H.R. 7786 (Committee on Appropriations).

11. See 96 CONG. REC. 6812, 81st Cong. 2d Sess., May 10, 1950. See also § 15.49, supra.

12. *Id.* at p. 6813.

13. Jere Cooper (Tenn.).

14. 115 CONG. REC. 13271, 91st Cong. 1st Sess. Under consideration was H.R. 11400, Supplemental Appropriations for fiscal 1970.

grounds that it constituted legislation. Acknowledging that legislative provisions in that portion of the bill itself were not subject to the point of order, because the House had adopted a resolution[15] waiving such points of order, the Member making the objection (George H. Mahon, of Texas) contended that the waiver pertained only to matter contained in the bill, not amendments to the bill. The Chairman, relying on the principle that a provision as to which points of order have been waived may be perfected by germane amendment, overruled the point of order. The proceedings were as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Jeffery] Cohelan of California: On page 62, line 3, add the following as a new section:
>
> "(c) The limitation set forth in subsection (a), as adjusted in accordance with the proviso to that subsection, shall be increased by an amount equal to the aggregate amount by which expenditures and net lending (budget outlays) for the fiscal year 1970 on account of items designated as "Open-ended programs and fixed costs" in the table appearing on page 16 of the Budget for the fiscal year 1970 may be in excess of the aggregate expenditures and net lending (budget outlays) estimated for those items in the April review of the 1970 budget."
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is legislation on an appropriation bill.
>
> Mr. Chairman, the rule pertaining to title IV only protects what is in the bill, not amendments to the bill.
>
> THE CHAIRMAN [Chet Holifield, of California]: The Chair is ready to rule.
>
> The Chair has examined title IV. This is a new subparagraph to title IV. Title IV is legislation in a general appropriation bill, and all points of order have been waived in title IV, as a result of it being legislation. Therefore the Chair holds that the amendment is germane to the provisions contained in title IV and overrules the point of order.

§ 16. Consent Calendar Bills

The rule requiring germaneness of amendments is applicable to amendments, including a committee amendment, to a Consent Calendar bill.[16]

Appointment of Additional Army Officers—Amendment To Establish Optometry Corps

§ 16.1 To a bill to provide for the appointment of additional commissioned officers in the regular army, a committee amendment providing

15. See H. Res. 414 at 115 CONG. REC. 13246, 91st Cong. 1st Sess., May 21, 1969, waiving points of order against Title IV of H.R. 11400.

16. See, for example, § 16.1, infra.

for the establishment of an Optometry Corps in the Medical Department of the Army was held to be not germane.

The following proceedings in the 79th Congress[17] related to a question of the germaneness of a committee amendment to the above-described Consent Calendar bill:

> The Clerk called the bill (H.R. 6817) to provide for the appointment of additional commissioned officers in the Regular Army, and for other purposes. . . .
>
> With the following committee amendment:
>
> After line 14, page 1, of the bill add the following:
>
> "Sec. 2. There is hereby established in the Medical Department of the Army, a corps to be known as the Optometry Corps. . . .
>
> "Sec. 3. To be eligible for appointment in the Optometry Corps, a candidate must be a graduate of a recognized optometry school or college approved by the Surgeon General.". . .
>
> MR. [W. STERLING] COLE of New York: Mr. Speaker, I make a point of order against the committee amendment on the ground that it is not germane to the bill.
>
> THE SPEAKER: The Chair holds that the point of order made by the gentleman from New York is well taken and sustains the point of order.

B. APPLICATION OF RULE TO PARTICULAR FORMS OF AMENDMENT OR PROPOSITION

§ 17. In General; Amendment to Special Rule; Amendment to Concurrent Resolution

The rule requiring germaneness of amendments has been applied to many forms of propositions having amendatory effect. Similar variety of application can be found with respect to the matter proposed to be amended.

The form in which an amendment is offered, or the form of the proposition to which it is offered, may affect the determination of whether the amendment is germane. Thus, whether an amendment adds a new title to a bill[18] or adds language to an existing title[19] may affect the determination of whether the amendment is germane.

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17. 92 CONG. REC. 9111, 9112, 79th Cong. 2d Sess., July 16, 1946. The Speaker was Sam Rayburn (Tex.); under consideration was H.R. 6817 (Committee on Military Affairs).

18. See Sec. 19, infra.

19. See § 19, infra.

When judging the germaneness of an amendment to a proposition under consideration (and originating) in the House, the amendment must relate to the subject matter of the pending text under immediate consideration. In sections 2, supra, and 18, infra, it is demonstrated that an amendment must be germane to the pending portion of the bill to which offered, or to the amendment to which offered, as the case may be, whether the amendment is in the form of a motion to strike out and insert, to strike out, or to insert. Similarly, section 21, infra, indicates that perfecting amendments to amendments in the nature of a substitute or to substitute amendments need to be germane to the inserted language contained in said substitutes, it being irrelevant whether or not the perfecting amendment might be germane to the underlying (perhaps broader) bill which said substitute seeks to strike out and replace. The language of the underlying bill proposed to be stricken is not taken into consideration when determining the germaneness of a second degree amendment to a substitute proposing to insert other language. It is only the pending text under immediate consideration against which the germaneness of proposed amendments thereto is judged. This test of germaneness is consistent with Rule XIX governing the permissible degree of amendments in the House (for general discussion of amendments, see Volume 9 of this work). At this stage the House has not finally adopted any version of a House-passed bill and is free to reject the pending amendment(s) and proceed to other differently drafted amendments which may present another test of germaneness to the bill as a whole.

> An amendment offered to change a concurrent resolution to a joint resolution would probably not be germane since the fundamental purpose of a joint resolution is to enact a law and not just state the sense of Congress as to a matter in question. Precedents which appear to be to the contrary involved instances in which the House was proceeding by unanimous consent.[20] In another instance, a motion to recommit a simple resolution with instructions to substitute therefor a Senate-passed bill was ruled out as not germane on substantive grounds, but the Chair indicated in passing that such a point of order would probably rest also on the basis that a bill has the force of law, whereas a resolution does not.[21]

A resolution from the Committee on Rules providing for the consideration of a bill relating to a

20. See 7 Cannon's Precedents § 1037, 1046, 1075.

21. See 8 Cannon's Precedents § 3446.

certain subject may not be amended by a proposition providing for the consideration of another and not germane subject matter.[22] To a special order providing for the consideration of one measure, an amendment providing for the consideration of (and waiving points of order against) an unrelated and nongermane measure is itself not germane.

Although the Committee on Rules may report as part of a special order provisions making in order any amendment, whether or not germane, a special order providing for the consideration of a bill may not be amended on the floor of the House to make in order the consideration of an amendment which under the precedents of the House would not be germane if offered to that bill.[1]

Rule Applicable Only to Amendments

§ 17.1 The germaneness rule applies to amendments and not to language of the bill as introduced.

Where, during consideration of a bill[2] generally making appropriations for foreign aid, objection was made by Mr. Harold R. Gross, of Iowa, to a provision relating to allowances for postage stamps and other items for Members, the Chairman[3] ruled as follows:[4]

> This matter is a part of the bill reported to the House and now being considered in the Committee of the Whole, a general appropriation bill. The Chair cannot sustain a point of order on the basis that it does not relate to some other matter in the appropriation bill. It is part of the bill before the Committee of the Whole.

Pro Forma Amendment

§ 17.2 A pro forma amendment was held to be germane to a bill which sought to repeal a section of existing law and which was being considered under an open rule.

The following exchange took place in the 89th Congress:[5]

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22. See 8 Cannon's Precedents Sec. 2956; 5 Hinds' Precedents §§ 5834–36.

1. For discussion of proceedings under a special rule waiving points of order based on germaneness, see § 45, infra.

2. H.R. 9499 (Committee on Appropriations).

3. Wilbur D. Mills (Ark.).

4. 109 Cong. Rec. 24753, 88th Cong. 1st Sess., Dec. 16, 1963.

5. 111 Cong. Rec. 18639, 18640, 89th Cong. 1st Sess., July 28, 1965. Under consideration was H.R. 77 (Committee on Education and Labor) repealing section 14(b) of the National Labor Relations Act. See § 41.2, infra, for further discussion of the bill.

THE CHAIRMAN:[6] For what purpose does the gentleman from Oklahoma [Mr. Albert] rise?

MR. [CARL] ALBERT: Mr. Chairman, I move to strike out the last word. . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, in view of the past rulings of the Chair in relation to amendments to this bill as to their being germane, I submit the gentleman's amendment is not germane.

MR. ALBERT: Mr. Chairman, there was never a point of order less in order than the point the gentleman just made.

Mr. Chairman, there are words in this bill and they can be stricken.

THE CHAIRMAN: The Chairman overrules the point of order.

Mr. Albert, upon being recognized, made these general observations about the "germaneness" rule:[7]

. . . [The rule of germaneness] is a rule which this Congress has followed since 1789. It is a rule which has been insisted upon by Democrats and Republicans alike ever since the Democratic and Republican Parties have been in existence.

It is the rule without which this House could never complete its legislative program if there happened to be a substantial minority in opposition.

One of the great things about the House of Representatives and one of the things that distinguish it from other legislative bodies is that we do operate on the rule of germaneness.

No legislative body of this size could ever operate unless it did comply with the rule of germaneness. . . .

Amendments to Special Rules—Amendment Providing for Consideration of Nongermane Matter

§ 17.3 To a special rule reported from the Committee on Rules providing for the consideration of a bill on one subject, an amendment waiving the germaneness rule to provide for the additional consideration of an unrelated amendment to the bill is not germane; the provisions of Rule XVI clause 7 apply to amendments to special rules, in order to prohibit that from being accomplished indirectly which cannot under the germaneness rule be done by direct amendment.

On May 29, 1980,[8] the precedents (cited in the Speaker's ruling) which preclude the offering of a nongermane amendment to a special order that would substitute the consideration of one proposition for another unrelated proposition, were extended to preclude the offering of an amendment to a special rule which

6. Leo W. O'Brien (N.Y.).

7. 111 CONG. REC. 18640, 89th Cong. 1st Sess., July 28, 1965.

8. 126 CONG. REC. 12667, 12668, 12672, 12673, 96th Cong. 2d Sess.

would have permitted the additional consideration of a nongermane amendment to a bill. During consideration of a resolution reported from the Committee on Rules providing for the consideration of a joint resolution relating to a temporary extension of the public debt limit, an amendment to the resolution was proposed, to make in order an amendment to the joint resolution disapproving an import fee imposed by the President pursuant to the Windfall Profit Tax Act. The resolution reported from the Committee on Rules stated:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7428)) to extend the present public debt limit through June 30, 1980, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .
>
> MR. [ROBERT E.] BAUMAN [of Maryland]: . . . I will oppose the previous question so that I can offer a substitute rule that will make in order an amendment that will forbid the President to impose the 10-cents-a-gallon import fee. May I urge opposition to the previous question which will, in fact, be a vote on whether one is for or against the 10-cent-a-gallon increase in gasoline and oil prices in this country. . . .
>
> THE SPEAKER:[9] The question is on ordering the previous question.
>
> The question was taken; and the Speaker announced that the noes appeared to have it.
>
> MR. [RICHARD W.] BOLLING [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Sergeant at Arms will notify absent Members.
>
> The vote was taken by electronic device, and there were—yeas 74, nays 312, not voting 47, as follows: . . .
>
> So the previous question was not ordered. . . .
>
> MR. BAUMAN: Mr. Speaker, I offer an amendment in the nature of a substitute.

9. Thomas P. O'Neill (Mass.).

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Bauman: Strike out all after the resolving clause and insert in lieu thereof the following:

", That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. . . . No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and it shall further be in order, any rule of the House to the contrary notwithstanding, to consider an amendment consistent of the provisions of House Joint Resolution 531 as reported by the Committee on Ways and Means. Debate on said amendment shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. . . .

MR. BOLLING: Mr. Speaker, I make a point of order that the substitute offered by the gentleman from Maryland is nongermane to House Resolution 682, the rule providing for consideration of H.R. 7428, the temporary extension of the debt limit.

Mr. Speaker, it is a basic premise of parliamentary procedure that it is not permissible to do indirectly by amendment to a rule what may not be done directly. In other words, it is not permissible to offer to a resolution providing a special order for one bill, an amendment to include another unrelated bill.

House Resolution 682 only makes in order H.R. 7428, the temporary extension of the debt limit. An amendment to disapprove the oil import fee is not germane to H.R. 7428. Therefore, it is not germane to offer a substitute amendment for the rule which would make in order, by waiving the germaneness rule, an amendment otherwise not germane to the original proposition—in this instance H.R. 7428.

THE SPEAKER: Does the gentleman from Maryland (Mr. Bauman) desire to be heard on the point of order?

MR. BAUMAN: I do, Mr. Speaker.

Mr. Speaker, the point of order goes to the heart of the question of germaneness. There is no question that if the Committee on Rules had reported the rule now pending that I proposed, House Joint Resolution 531 would in fact have been in order as an amendment because the Committee on Rules has the power to make it in order.

Certainly the subject matter dealt with, that is to say the importation taxation of crude oil and the gasoline import fee, is within the jurisdiction of the Committee on Ways and Means as is the debt limit extension. I think, because of the overall question of economic policy involved in a 30-day extension of the national debt limit and the amount of revenue raised by the import fee, that they are in fact related very intimately, and I would suggest that the subject matter is germane. . . .

THE SPEAKER: The Chair is prepared to rule.

The Chair is guided by several precedents in determining whether an

amendment to an order of business resolution, making in order an amendment which is not germane to the bill, should be held not germane to the resolution. The decisions contained in Hinds' Precedents, volume V, sections 5834 through 5836 stand for the proposition that it is not in order to substitute the consideration of one measure for the consideration of another unrelated measure by amendment to an order of business resolution. As cited on page 491 of the *House Rules and Manual*, on September 14, 1950, the House had under consideration a special order from the Committee on Rules taking from the Speaker's table a House bill with Senate amendments, disagreeing to said amendments and agreeing to a conference. To that resolution, an amendment was offered providing that all Senate amendments except one be disagreed to, that the House amend one of the Senate amendments, insist thereon, and agree to a conference. The Senate amendment at issue proposed a study of excess profits tax legislation, and the proposed amendment thereto would have enacted excess-profits tax legislation, and sent that amendment to conference. Speaker Rayburn ruled that the amendment was not germane to the resolution, stating specifically that it was "a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject matter."

The Chair has anticipated similar points of order against amendments to order of business resolutions in the past, and has been prepared to rule, as he does now, that such an amendment is not permitted to an order of business resolution under clause 7, rule XVI. For the reasons stated by the gentleman from Missouri, and because a viable mechanism exists within the rules of the House and within the Committee on Rules to address the issues presented by the pending amendment, the Chair sustains the point of order.

§ 17.4 A resolution providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for consideration of another matter which is not germane.

On Sept. 14, 1950, the Speaker cited this long-standing principle in ruling on a point of order against an amendment that had been offered after rejection of the previous question on a special rule.[10] The Speaker ruled on that date that, to a resolution providing that the House disagree to a Senate amendment that directed a joint committee to conduct a study of excess-profits tax legislation and further directed the appropriate committee to report such legislation, an amendment providing that the House concur in the Senate amendment

10. H. Res. 842, providing for consideration of H.R. 8920, a bill to reduce excise taxes and for other purposes, with Senate amendments thereto.

with an amendment actually enacting excess-profits tax legislation was not germane. The proceedings are discussed in detail at § 27.11, infra.

—*Amendment Proposing Changes in Rules of House*

§ 17.5 An amendment proposing changes in the Rules of the House is not germane to a proposition not containing such changes; thus, to a special order waiving certain points of order against a general appropriation bill not reported for three days and containing unauthorized items, legislation and reappropriations, but not waiving points of order against any nongermane amendment, an amendment in the nature of a substitute waiving all points of order against a nongermane amendment to be offered to the bill, constituting a change in House Rules by providing a privileged procedure for expedited review of an agency's regulations was held not germane.

During consideration of House Resolution 560 in the House on Aug. 13, 1982,[11] the Speaker sustained a point of order against the amendment described above. The proceedings were as follows:

> MR. [LEO C.] ZEFERETTI [of New York]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> > Resolution waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes
> >
> > *Resolved*, That upon the adoption of this resolution it shall be in order, clause 7, rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20 . . . and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7,

11. 128 CONG. REC. 20969, 20975–78, 97th Cong. 2d Sess.

line 1 through page 8, line 2 . . . *Provided* That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

[A motion for the previous question was rejected.]

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Lott:

Strike all after the resolving clause and insert in lieu thereof the following: "that upon the adoption of this resolution it shall be in order, clause 7, Rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, Rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2 . . . It shall be in order to consider amendments to said bill printed in the Congressional Record of August 12, 1982, by and if offered by Representative Broyhill of North Carolina and Representative Levitas of Georgia, and all points of order against said amendments are hereby waived.". . .

MR. ZEFERETTI: Mr. Speaker, I make a point of order that the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. Lott) is not germane to House Resolution 560, the rule providing for the consideration of H.R. 6957, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

Under the rules of the House and the precedents by which we are guided it is not in order to amend an order of business resolution or, as we commonly refer to it, a rule, to accomplish by indirect means that which may not be achieved by direct means.

In other words, it is not in order to amend a rule to allow the offering of an amendment to a bill or resolution which otherwise would not be germane.

Mr. Speaker, the Broyhill-Levitas amendment provides legislative veto over certain FTC regulations and would provide expedited procedures in the House and an accelerated discharge petition procedure.

Mr. Speaker, this amendment amends the rules of the House and is clearly within the jurisdiction of the Rules Committee and not germane to this bill.

The Chair has very clearly set out this principle. Most recently on May 29, 1980, the Chair sustained a point of order which was made against the offering of an amendment to House Resolution 682 providing for the consideration of H.R. 7428, the temporary extension of the debt limit.

In that instance an amendment to the rule was offered to allow an oil import fee amendment to be offered to the debt limit bill.

The amendment obviously was not germane to the bill and the Chair

ruled that an amendment to the resolution making it in order also would not be germane.

The substitute amendment to the rule offered by the gentleman from Mississippi (Mr. Lott) would make in order amendments to H.R. 6957 which are not germane to the bill and, therefore, clearly would not be germane to House Resolution 560. . . .

MR. LOTT: . . . The point of order has been made on this substitute rule saying it is not germane to the original rule.

The test of germaneness, though, is whether an amendment addresses the same purpose as that which seeks to amend the purpose of the House Resolution 560, and that purpose is to waive certain points of order against numerous provisions of the bill, H.R. 6957; namely, either legislative provision or unauthorized programs or agencies.

This substitute rule only makes one minimal change at the end of the rule which was read. It makes in order two amendments printed in yesterday's Record and waives all points of order against those amendments.

The purpose of this substitute is, therefore, the same as the purpose of the original rule, to waive points of order against certain legislative provisions.

I do not think it will do any good to claim that this rule is nongermane because one of the amendments goes to the jurisdiction of another committee, since all of the legislative provisions go to the jurisdiction of a number of other legislative committees and that is the purpose of the rule originally offered and my substitute. . . .

THE SPEAKER:[12] . . . The Chair is ready to rule.

The gentleman from New York (Mr. Zeferetti) makes the point of order that the amendment offered by the gentleman from Mississippi (Mr. Lott) to House Resolution 560 is not germane to that special order as reported from the Committee on Rules. Specifically, House Resolution 560 waives certain points of order against H.R. 6957, the Commerce, Justice, State, and Judiciary appropriation bill for fiscal 1983, because the report on that bill has not been available for 3 days and because certain provisions in that bill are unauthorized by law or contain changes in existing law in violation of clause 2, rule XXI. Nothing in that special order waives points of order against nongermane amendments which might be offered to the bill.

The precedents of the House on page 492 of the House Rules and Manual indicate that a resolution reported from the Committee on Rules providing for consideration of a bill relating to a certain subject may not be amended by an amendment which would permit the additional consideration of a nongermane amendment to the bill. In the opinion of the Chair, the amendment to be made in order not only constitutes legislation on an appropriation bill but would be nongermane if offered to H.R. 6957. Nothing in that general appropriation bill amends the rules of the House, and the amendment which would be made in order provides a privileged procedure for expedited review of FTC regulations, and constitutes a change in the rules of the House. The precedents indicate that

12. Thomas P. O'Neill (Mass.).

such rules changes are not germane to a bill not containing rules changes. P. 506—House Rules and Manual. Although the procedures contained in the amendment are the same as those currently contained in the FTC Improvement Act of 1980 with respect to congressional review, section 21 of that act ceases to be effective after September 30, 1982. The amendment would, therefore, constitute a change in law for fiscal 1983. The Chair rules that the amendment is not germane to House Resolution 560 and sustains the point of order.

Amendment to Concurrent Resolution

§ 17.6 While a concurrent resolution providing for an adjournment of the Senate to a day certain is amendable, the Speaker indicated in response to a parliamentary inquiry that an amendment providing a sine die adjournment of the Senate would not be germane.

The following perhaps jocose proceedings occurred on Mar. 13, 1974:[13]

The Speaker laid before the House the Senate concurrent resolution (S. Con. Res. 75) providing for an adjournment of the Senate from Wednesday, March 13, 1974, to Tuesday, March 19, 1974.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 75

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business today, Wednesday, March 13, 1974, it stand adjourned until noon, Tuesday, March 19, 1974.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry. . . . [W]hat is the import of the resolution?

THE SPEAKER:[14] It is an adjournment resolution enacted by the Senate, for the Senate only, until Tuesday next. The Senate is asking the consent of the House. . . .

MR. GROSS: Is it subject to amendment, Mr. Speaker?

THE SPEAKER: It is a privileged resolution.

MR. GROSS: Mr. Speaker, I would be constrained to make it a sine die adjournment for the other body.

THE SPEAKER: The Chair feels that that is not germane.

§ 18. Amendment Offered to Particular Paragraph, Section, or Title

An amendment must be germane to the particular paragraph,[15] section or title of the bill to which it is offered. Thus, the Chairman may rule out an amendment as not being germane to that section to which it was offered as a motion to strike out

13. 120 CONG. REC. 6550, 93d Cong. 2d Sess.

14. Carl Albert (Okla.).

15. See, for example, 89 CONG. REC. 1158, 78th Cong. 1st Sess., Feb. 19, 1943.

and insert, without passing on the germaneness of the amendment to the bill as a whole.[16]

To an amendment proposing to add a new paragraph to a section of a bill, an amendment providing that certain procedures not be permitted "under this section" has been ruled out as not germane, as not confined to the narrow subject of the amendment to which offered.[17]

It should be noted that an amendment, ruled out as not germane to that part of an appropriation bill to which offered, has been permitted by unanimous consent to be offered to a different paragraph to which it was germane where the reading of the bill for amendment had progressed beyond the proper paragraph.[18]

It is, of course, proper to offer perfecting amendments to a title even when a motion to strike the matter sought to be amended is pending.[19] When such a perfecting amendment to text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out.[20]

16. See § 18.3, infra.

17. See § 18.6, infra.

18. See § 18.14, infra.

19. As to amendments generally, see Ch. 27.

20. See § 19.13, infra.

The germaneness of an amendment may depend on the point in the reading of the bill at which it is offered. It may happen that an amendment is ruled out because it is not germane to a particular part of the bill, and a similar amendment be allowed subsequently when the scope of the bill has been broadened by additional paragraphs passed in the reading.[1] An amendment that might be considered germane if offered at the end of the reading of the bill for amendment may not be germane if offered during the reading, before all the provisions of the bill are before the Committee of the Whole for consideration. On one occasion, during consideration of a bill relating only to procurements by the Department of Defense, an amendment concerned with duties of the Comptroller General in connection with defense contracts was at first ruled out as not germane to the part of the bill to which offered, since at that point in the reading of the bill no reference had been made to any agency of government other than the Department of Defense.[2] Subsequently, however, when the scope of the bill had been broadened by additional paragraphs passed in the reading,

1. *Id.*

2. See § 18.1, infra.

a similar amendment was held to be in order.[3]

Where an amendment is offered to one part of a bill, a substitute amendment which relates to a different part of the bill is not germane to the original amendment.[4]

Review by Comptroller General of Defense Contracts

§ 18.1 During consideration of a bill authorizing military procurement for the current fiscal year, an amendment authorizing the Comptroller General to conduct certain audits of defense projects and contracts and requiring designated contractors to file certain data with the General Accounting Office was held to be not germane to the portion of the bill to which offered.

In the 91st Congress, during consideration of the military procurement authorization bill for fiscal 1970,[5] the following amendment was offered:[6]

> Amendment offered by Mr. [Charles W.] Whalen [Jr., of Ohio]: Add a new section to title IV:
>
> "Sec. 410. (a) After January 1, 1970, the Secretary of Defense, in cooperation with the Comptroller General, shall develop a reporting system for major acquisition programs. . . .
>
> "(e) The Comptroller General shall, through test checks, and other means, make an independent audit of the reporting system developed by the Secretary of Defense. . . .
>
> "(f) The Comptroller General shall make independent audits of major acquisition programs and related contracts where, in his opinion, the costs incurred or to be incurred . . . and the effectiveness of performance achieved . . . are such as to warrant such audits. . . .
>
> "(g) Procuring agencies and contractors holding contracts selected by the Comptroller General for audit under subsection (f) shall file with the General Accounting Office such data, in such form and detail as may be prescribed by the Comptroller General, as the Comptroller General deems necessary or appropriate to assist him in carrying out his duties."

No reference to the Comptroller General or the General Accounting Office had been made in the reading of the bill up to the point at which the amendment was of-

3. See § 18.2, infra.

4. See the ruling of Chairman George A. Dondero (Mich.) at 94 Cong. Rec. 7768, 80th Cong. 2d Sess., June 10, 1948. Under consideration was H.R. 6396 (Committee on the Judiciary), relating to admission into the United States of certain displaced persons.

5. H.R. 14000 (Committee on Armed Services).

6. 115 Cong. Rec. 28442, 91st Cong. 1st Sess., Oct. 3, 1969.

fered. The following point of order was raised against the amendment:

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I make a point of order that the amendment is not germane to title IV. . . .

The Chairman,[7] in ruling on the point of order, stated:[8]

> The gentleman from Ohio (Mr. Whalen) has offered an amendment inserting a new section in title IV of the bill. . . . The amendment would give the Comptroller General authority to make independent audits of the reporting system developed by the Secretary, as well as authority to obtain records from the defense contractors involved.
>
> Nothing in this title involves the General Accounting Office or the Comptroller General. . . .
>
> . . . The amendment is not germane to this title and the Chair sustains the point of order.

A similar amendment was, however, held to be germane when offered after the reading of further provisions of the bill.[9]

§ 18.2 To a military procurement authorization bill, which stated in its "general provisions" that "the Committees on Armed Services are authorized to utilize the services . . . of any government agency," an amendment directing the Comptroller General to review defense contracts was held to be germane.

On Oct. 3, 1969, during proceedings relating to a military procurement authorization bill for fiscal 1970,[10] Mr. Samuel S. Stratton, of New York, offered a motion to strike all of the title under consideration.[11] The following amendment was then offered:[12]

> Amendment offered by Mr. [Andrew] Jacobs [Jr., of Indiana] to title V: On page 17, immediately after line 13 insert the following:
>
> "Sec. 505. (a) The Comptroller General of the United States (hereinafter in this section referred to as the "Comptroller General") is authorized and directed, as soon as practicable after the date of enactment of this section, to conduct a study and review on a selective basis of the profits made by contractors and subcontractors on [certain] contracts . . . .
>
> "(b) Any contractor or subcontractor referred to in subsection (a) of this section shall, upon the request of the Comptroller General, prepare and submit to the General Accounting Office such information as the Comptroller General determines necessary or ap-

7. Daniel D. Rostenkowski (Ill.).

8. 115 CONG. REC. 28443, 91st Cong. 1st Sess., Oct. 3, 1969.

9. See § 18.2, infra.

10. H.R. 14000 (Committee on Armed Services).

11. 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969.

12. *Id.* at pp. 28454, 28455.

propriate in conducting any study and review authorized by subsection (a) of this section."

A point of order was raised against the Jacobs amendment, as follows:[13]

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I submit that this amendment is not germane because the amendment before embodied is to strike the section. How can you have an amendment to a section that is to be stricken?

The Chairman[14] stated in response:

The Chair has gone through the precedents and has found that where the Committee of the Whole has agreed that the further reading of a title of a bill is dispensed with and open to amendment at any point, a perfecting amendment adding a new section may be offered notwithstanding the fact that an amendment proposing to strike out the title is pending. Perfecting amendments to a title in a bill may be offered while there is pending a motion to strike out such title.

The Chairman then rejected a further contention by Mr. Joe Skubitz, of Kansas, that the Jacobs' amendment was not germane to "the Stratton amendment." Subsequently, the following exchange occurred:

MR. STRATTON: Mr. Chairman, a point of order. My recollection is that on a previous amendment, the Chair ruled it out of order because it brought in another agency.[15]

THE CHAIRMAN: That was because the Whalen amendment was not germane to that title or section of the bill.

MR. STRATTON: Does not that same point lie against this amendment?

THE CHAIRMAN: The Chair has ruled that the Jacobs amendment is germane to Title V.

Naval Authorization Bill

§ 18.3 To that section of a bill authorizing the President to suspend certain naval construction in the event of naval arms limitation agreements being entered into by the United States, an amendment proposing certain fundamental naval policies and bearing no relation to the section being amended was held not germane.

In the 75th Congress, a naval authorization bill[16] was under consideration which provided in part:[17]

Sec. 10. That in the event of international agreement for the further limitations of naval armament to which the United States is signatory, the

13. *Id.* at p. 28455.
14. Daniel D. Rostenkowski (Ill.).
15. See the ruling discussed in § 18.1, supra.
16. H.R. 9218 (Committee on Naval Affairs).
17. See 83 CONG. REC. 3698, 75th Cong. 3d Sess., Mar. 18, 1938.

President is hereby authorized and empowered to suspend so much of its naval construction as has been authorized as may be necessary to bring the naval armament of the United States within the limitation so agreed upon, except that such suspension shall not apply to vessels actually under construction on the date of the passage of this act.

The following committee amendment was offered:

Page 5, line 21, strike out all of section 10 and insert in lieu thereof the following:

"Sec. 9. It is declared to be the fundamental naval policy of the United States to maintain a Navy in sufficient strength to guarantee our national security, not for aggression, but to guard the continental United States. . . .

"It is further declared to be the policy of the United States that an adequate naval defense means not only the protection of the Canal Zone, Alaska, Hawaii, and our insular possessions, but also a defense that will keep any potential enemy many hundred miles away from our continental limits."

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

MR. [BERTRAND H.] SNELL [of New York]: . . . There is not a single word in this bill that pertains to anything else but the building of various types of ships for the Navy. . . .

Mr. Chairman, this is an entirely new subject brought forward in the form of an amendment which has for its purpose the definition of a naval policy for the United States. I have some doubt whether this would even come under the jurisdiction of the Committee on Naval Affairs; but whether it does or not, it is an entirely new subject and one that cannot be offered as an amendment to the bill we are considering at the present time.

Mr. Maury Maverick, of Texas, in support of the point of order, stated:

. . . [T]he amendment of the committee is not germane to this bill. . . . The amendment claims to concern naval policy, but it concerns foreign policy.

The Chairman,[18] in ruling on the point of order, stated:[19]

The sole ground upon which the Chair sustains the point of order is that this amendment . . . is not germane to section 10, for which it was substituted.

The Chair does not believe it is necessary to pass upon the question of whether the matter is germane to the whole bill or upon the question of jurisdiction of committees of the House.

Neutrality Act—Amendment Concerning Export of Arms to Belligerents

§ 18.4 To that section of a joint resolution authorizing the President to issue a proclamation that a state of war ex-

18. John J. O'Connor (N.Y.).

19. 83 CONG. REC. 3699, 75th Cong. 3d Sess., Mar. 18, 1938.

ists between foreign states, an amendment proposing that upon issuance of such proclamation it shall be unlawful to export arms or ammunition to such states was held not germane.

In the 76th Congress, during consideration of the Neutrality Act of 1939,[20] an amendment was offered[1] as described above. Mr. Luther A. Johnson, of Texas, raised the point of order that the amendment was not germane to the section under consideration.[2] The Chairman,[3] in ruling on the point of order, stated:

> The Chair invites attention to the fact that section 1 of the pending resolution provides only that the President shall have authority to issue a proclamation as to the existence of a state of war between foreign states and to name those states. Paragraph (b) of section 1 further provides that whenever the conditions which caused the President to issue any proclamation under the authority of this section has ceased to exist he shall revoke the same. . . .
>
> The Chair . . . invites attention to the provisions of section 4 which, among other things, provide that whenever the President shall have issued a proclamation under the authority of section 1 it shall thereafter be unlawful except in accordance with such rules and regulations as the President shall prescribe to export, or transport, or attempt to export or transport . . . articles or material.
>
> The Chair is . . . of the opinion that if the gentleman's amendment be in order it would have to be offered to section 4 and not to section 1. The Chair, therefore, sustains the point of order.

§ 18.5 To that section of a joint resolution authorizing the President to issue a proclamation that a state of war exists between foreign states, an amendment relating to shipment of arms to belligerent states, and striking specified portions of the entire joint resolution, was held to be not germane.

In the 76th Congress, the Neutrality Act of 1939[4] was under consideration, which provided in part:[5]

> Section 1. (a) That whenever the President shall find that there exists a state of war between foreign states . . . the President shall issue a proclamation naming the states involved. . . .

The following amendment was offered:[6]

20. H.J. Res. 306 (Committee on Foreign Affairs). See the section read at 84 CONG. REC. 8282, 76th Cong. 1st Sess., June 29, 1939.
1. *Id.* at p. 8312.
2. *Id.* at p. 8313.
3. Jere Cooper (Tenn.).
4. H.J. Res. 306 (Committee on Foreign Affairs).
5. 84 CONG. REC. 8282, 76th Cong. 1st Sess., June 29, 1939.
6. *Id.* at pp. 8313, 8314.

Amendment offered by Mr. [Andrew C.] Schiffler [of West Virginia]: Strike out page 2, line 1, all of pages 2, 3, 4 . . . to and including, and all of lines 1, 2, 3, 4 . . . and 17 on page 14, and insert and include the following as a new paragraph:

"EXPORT OF OTHER ARTICLES AND MATERIALS

"Section 1. (a) Whenever the President shall have issued a proclamation under the authority of section 1 of Senate Joint Resolution 51 as enacted into law, first session, Seventy-fifth Congress, and he shall thereafter find that the placing of restrictions on the shipment of certain articles or materials in addition to arms, ammunition, and implements of war from the United States to belligerent states . . . is necessary to promote the security . . . of the United States . . . he shall so proclaim, and it shall thereafter be unlawful, except under such limitations and exceptions as the President may prescribe . . . for any American vessel to carry such articles or materials to any belligerent state. . . ."

A point of order was raised against the amendment, as follows:[7]

MR. [LUTHER A.] JOHNSON [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to the section to which it is offered.

Mr. Schiffler contended that the amendment was germane "because it may be considered as an amendment as well as a substitution for all of the provisions of House Joint Resolution 306." The Chairman[8] stated:

The gentleman from West Virginia [Mr. Schiffler] offered an amendment which, as the Chair understands it, in effect is to strike out all after the enacting clause of the pending resolution down to and including a certain part at page 13, which would include the striking out of a number of provisions or sections of the bill which have not yet been read.

Relying on the rule that a substitute for an entire bill may be offered only after the first paragraph has been read or after the reading of the bill for amendment has been concluded,[9] the Chairman sustained the point of order.

Prior to the above ruling, Mr. Harold Knutson, of Minnesota, had offered an amendment[10] which similarly related to shipment of materials to belligerent states and which sought to strike the first section of the resolution and insert other language. The Chairman ruled the amendment out of order because it affected all sections of the bill, not just the section sought to be amended.[11]

7. *Id.* at p. 8314.

8. Jere Cooper (Tenn.).

9. The Chairman referred to an earlier ruling, appearing at 84 CONG. REC. 8288, 76th Cong. 1st Sess., June 29, 1939.

10. *Id.* at pp. 8311, 8312.

11. *Id.* at p. 8312.

Legislative Reorganization Bill—Amendment Referring to Practices "Under this Section"

§ 18.6 During consideration of that section of a legislative reorganization bill modifying a rule of the House with respect to calling committee meetings, it was held that, to an amendment to such section adding a paragraph relating to selection of temporary committee chairmen, an amendment referring to proxy voting and other practices "under this section" was not germane.

During consideration of that part of the Legislative Reorganization Act of 1970[12] relating to the calling of committee meetings, the following amendment was offered:[13]

> Amendment offered by Mr. [Dante B.] Fascell [of Florida]: Section 102 of title 1 is amended by adding a new subsection on page 8 after line 19:
>
> "(f) Whenever the chairman of any standing committee is unable to discharge his responsibilities, the committee by majority vote shall designate a member with full authority to act as chairman until such time as the chairman is able to resume his responsibilities."

To such amendment, an amendment was offered which stated:[14]

> Amendment offered by Mr. [Marion G.] Snyder [of Kentucky]: to the amendment offered by Mr. Fascell: add the following language to the Fascell amendment, after the period:—"Proxy voting shall not be permitted under this section and three (3) days notice of any proposal under this section shall be given in writing to all committee members."

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

> MR. [H. ALLEN] SMITH of California: . . . We are not talking about proxies in this particular section. I do not think the amendment is germane to the amendment as offered by the gentleman from Florida.

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

> MR. SNYDER: . . . [W]hile we are not talking about proxy voting in this section, we are talking about the method by which you might de-designate the chairman of the committee and in that regard and when you do that by a vote, then, I think it should be germane. . . .

The Chairman,[15] without elaboration, ruled that the amendment was not germane to the Fascell amendment.

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12. H.R. 17654 (Committee on Rules).

13. 116 CONG. REC. 24036, 24040, 91st Cong. 2d Sess., July 14, 1970.

14. *Id.* at p. 24040.

15. William H. Natcher (Ky.).

Title of Postal Revenue and Federal Salary Act Relating to Federal Salaries—Amendment Concerning Appointment of Postmasters

§ 18.7 Where a bill consisted of three titles, relating respectively to postal rates, federal salaries, and the mailability of certain material, an amendment concerning the appointment of Postmasters by the Postmaster General, which was offered to the title of the bill relating to federal salaries, was held to be not germane to such title.

In the 90th Congress, during consideration of the Postal Revenue and Federal Salary Act of 1967,[16] the following amendment was offered to the bill:[17]

> Amendment offered by Mr. [William A.] Steiger of Wisconsin: On page 75, immediately below line 2, insert the following:
>
> "APPOINTMENT OF POSTMASTERS BY POSTMASTER GENERAL
>
> "Sec. 223. Section 3311 (relating to method of appointment of postmasters) of title 39, United States Code, is amended to read as follows:
>
> "'§3311. Method of appointment
>
> "'(a) The Postmaster General shall appoint postmasters at post offices of the first, second, and third classes in the competitive civil service without term. He shall make the appointments in accordance with the civil service laws and rules. . . .'"

A point of order was raised against the amendment, as follows:[18]

> MR. [MORRIS K.] UDALL of Arizona]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the title of the bill now under consideration and is not germane to the bill itself.
>
> The bill now under consideration deals with salaries of the classified service, the Foreign Service, and other salary systems and procedures. There is nothing here about the appointment of Federal employees.

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

> MR. STEIGER of Wisconsin: . . . The bill H.R. 7977 purports to adjust certain postage rates, and for other purposes. Title II of the bill, in various and sundry places in that title, at pages 75 and 76 particularly, title 39 of the United States Code, which is the very title to which my amendment is directed, would be amended. Therefore, it would seem to me most appropriate that this bill is open to amendment in relation to title 39, since the bill itself is aimed at that very title.

The Chairman,[19] in ruling on the point of order, stated:

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16. H.R. 7977 (Committee on Post Office and Civil Service).

17. 113 CONG. REC. 28649, 28650, 90th Cong. 1st Sess., Oct. 11, 1967.

18. *Id.* at p. 28651.

19. Charles M. Price (Ill.).

. . . The title under consideration deals solely with compensation of governmental employees. The amendment deals with the appointment of postmasters by the Postmaster General. The Chair therefore holds that it is not germane to the title under consideration and sustains the point of order.

Parliamentarian's Note: H.R. 7977, as reported to the House, consisted of three titles amending, respectively, three separate parts of title 39, USC: Title I of the bill amending the code to adjust postal rates; Title II amending the code to adjust federal salaries; and Title III amending the code to prohibit mailing of certain pandering materials. Had the Steiger amendment relating to the appointment of postmasters been offered as a new title at the end of the bill, with the purpose of amending a fourth part of Title 39, USC, relating to that subject, the proposed amendment probably would have been held to be germane.

"Miscellaneous" Title of Agriculture Bill—Amendment Concerning Determination as Made "Under Various Provisions" of Bill

§ 18.8 During consideration of a bill establishing programs for producers of various agricultural commodities, it was held that, to the title containing miscellaneous provisions, amendments were germane which related to determination of the acreage "eligible as set aside under the various provisions of this Act," and to certain restrictions on the use of such acreage.

In the 91st Congress, during consideration of the Agricultural Act of 1970,[20] the following amendments were offered:[1]

Amendments offered by Mr. [Paul] Findley [of Illinois]: Page 57, beginning on line 21, insert:

"Sec. 805. The Secretary is directed to establish . . . an inventory for each state which will show:

"(1) The cropland other than conserving base which was diverted under a program or tilled in the crop years 1968 or 1969 or prior to August 1 in 1970; and

"(2) The total conserving base in 1970.

"Only the acreage in subsection (1) shall be eligible as set aside under the various provisions of this Act. . . ."

Page 57, after line 21, add the following new section:

"Sec. 806. Notwithstanding any other provision of this Act, the Secretary shall not permit grazing or harvesting of any acreage diverted or set aside pursuant to this Act. . . ."

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20. H.R. 18546 (Committee on Agriculture).

1. 116 Cong. Rec. 27499, 91st Cong. 2d Sess., Aug. 5, 1970.

Mr. William R. Poage, of Texas, having raised a point of order against the amendments, Mr. Findley stated in response:

> Mr. Chairman, this comes under the general provisions title of the bill. The conserving base concept applies to wheat, feed grains, and cotton. So it seems to me sufficient to offer the amendment under the general provisions title rather than to offer three separate amendments. Inasmuch as the subject matter of this amendment is dealt with in its entirety by the bill itself, it seems to me to be fairly germane.

The Chairman pro tempore,[2] in ruling on the point of order, stated:

> The Chair has examined the amendments. We are now on title VIII, general and miscellaneous provisions of the bill. It is the opinion of the Chair that the matters referred to in the amendments do refer to matters that can be considered in the general and miscellaneous provisions of the bill and are germane thereto. Therefore, the Chair overrules the point of order.

Title of Revenue Bill Relating to Tax Liens—Amendment Concerning Publication of Names

§ 18.9 To that title of a revenue bill relating to tax liens on securities, transfers of worthless securities, and the like, an amendment relating to the publication of names of taxpayers was held not germane.

On June 19, 1939, the Revenue Bill of 1939[3] was under consideration, which provided in part:[4]

> TITLE IV—MISCELLANEOUS AMENDMENTS
>
> Sec. 402. Tax on transfers of worthless securities by executor, etc.
>
> Section 1802(b) of the Internal Revenue Code (relating to the tax on transfers of capital stock and similar interests) is amended by inserting at the end thereof the following new paragraph:
>
> "The tax imposed by this subsection shall not be imposed upon any delivery or transfer by an executor or administrator to a legatee, heir, or distributee of shares or certificates of stock if it is shown to the satisfaction of the Commissioner that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer."

The following amendment was offered:

> Amendment offered by Mr. [William J.] Miller [of Connecticut]: Page 39, after the period on line 15, insert a new section, as follows:
>
> It shall be unlawful for any person to sell . . . any copy . . . of any

2. Neal Smith (Iowa).

3. H.R. 6851 (Committee on Ways and Means).

4. See 84 CONG. REC. 7500, 76th Cong. 1st Sess., June 19, 1939.

list . . . authorized to be made public by this act or by any prior act relating to the publication of information derived from income-tax returns. . . .

Mr. Jere Cooper, of Tennessee, raised the point of order that the amendment was not germane to the title under consideration. The Chairman,[5] in sustaining the point of order, stated:

The title under consideration deals with transfers of worthless securities. The amendment offered by the gentleman from Connecticut [Mr. Miller] deals with making public the names of income-tax payers. The amendment is clearly not germane. . . .

The following exchange ensued:[6]

MR. MILLER: I intended to have [the amendment] read as a new section.

THE CHAIRMAN: The Chair understood it was a new section under title IV, and the amendment offered by the gentleman is not germane to the subject matter of title IV.

—*Amendment Concerning Excise Taxes*

§ 18.10 To that title of a revenue bill relating to tax liens on securities, transfers of worthless securities, and the like, an amendment relating to excise taxes was held not germane.

5. Fritz G. Lanham (Tex.).
6. 84 CONG. REC. 7500, 7501, 76th Cong. 1st Sess., June 19, 1939.

On June 19, 1939, the Revenue Bill of 1939[7] was under consideration, containing provisions as described above.[8] The following amendment was offered:[9]

Amendment offered by Mr. [James W.] Mott [of Oregon]: On page 39, in line 15, insert a new section, as follows:

"Section 3424 (of the Internal Revenue Code) is amended by striking out the following:

"The tax imposed by this subsection shall not apply to lumber of northern white pine (Pinus strobus), Norway pine (Pinus resinosa) and western white pine."

Mr. Jere Cooper, of Tennessee, raised the point of order that the amendment was not germane to the title under consideration. The Chairman,[10] noting that, "an amendment must be germane to the title under which it is offered," observed that, "Section 3424 of the revenue law, sought to be amended . . . is classified in the general revenue law under 'Manufacturers excise and import taxes,'" whereas the title under consideration related to taxes on securities. He then sustained the

7. H.R. 6851 (Committee on Ways and Means).
8. See Sec. 18.9, supra, for further discussion of the provisions cited.
9. 84 CONG. REC. 7501, 76th Cong. 1st Sess., June 19, 1939.
10. Fritz G. Lanham (Tex.).

point of order, and the following exchange ensued:

> MR. MOTT: Suppose this amendment were offered as a new title in the pending bill; would it then be germane or not? . . .
>
> THE CHAIRMAN: If the Chair understands the gentleman's parliamentary inquiry, the Chair will state in reply that in the Internal Revenue Code, section 3424, sought to be amended by the amendment offered by the gentleman from Oregon, is under the classification of "Manufacturers' excise and import taxes." Title IV has nothing to do with that subject, but excise taxes are dealt with under title I of the pending bill. Consequently, if the amendment had been germane it would have been germane under title I of the bill rather than under title IV. It would not be in order or germane as a new title, by reason of the fact there is already a title in the bill dealing with the subject matter to which the amendment would have been germane.

Appropriation for Public Works—Amendment Proposing Funds for Survey

§ 18.11 To that section of an appropriation bill providing funds for construction of public works, an amendment proposing funds for a survey was held to be not germane.

In the 86th Congress, during consideration of a bill[11] making appropriations for certain civil functions administered by the Department of the Army, an amendment was offered[12] as described above. Mr. Louis C. Rabaut, of Michigan, having raised a point of order[13] against the amendment, the Chairman[14] ruled as follows:

> The amendment should have been offered under the section of the bill dealing with general investigations and not the section dealing with construction. The amendment is not germane to this part of the bill.

Paragraph Appropriating Funds for Rural Electrification Administration—Amendment Placing Prohibition on Use of Any Funds in Bill

§ 18.12 To that paragraph of an agriculture appropriation bill making appropriations for the Rural Electrification Administration, an amendment providing "That during the period of the war . . . no part of [the] money appropriated under this bill shall be expended for administrative services" relating to the construction of facilities in specified areas was held to be not germane.

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11. H.R. 7509 (Committee on Appropriations).

12. 105 CONG. REC. 10056, 86th Cong. 1st Sess., June 5, 1959.

13. *Id.* at p. 10057.

14. Hale Boggs (La.).

In the 77th Congress, during consideration of the Agriculture Appropriation Bill of 1943,[15] an amendment was offered[16] as described above. Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane. The Chairman,[17] in ruling on the point of order, stated:

> The gentleman's amendment does not simply apply to rural electrification. The gentleman's amendment applies to everything appropriated in the bill. . . .
>
> The Chair is of the opinion that since the amendment is directed to the entire bill, it is not germane to this paragraph and therefore the point of order is sustained.[18]

Unanimous Consent To Offer Amendment to Different Section of Bill

§ 18.13 An amendment, ruled out as not germane to that part of an appropriation bill to which offered, has been permitted by unanimous consent to be offered to a different paragraph to which it was germane but which has already been passed in reading for amendment.[19]

Total Sum Appropriated for Weather Bureau—Amendment Relating to Paragraph About Collecting Weather Information

§ 18.14 To that part of a general appropriation bill relating to the total sum appropriated for the Weather Bureau, an amendment was held to be not germane which appropriated a sum for a specific Weather Bureau station and which related to another paragraph appropriating sums for collecting and disseminating weather information.

In the 75th Congress, during consideration of a portion, described above, of a bill[20] comprising Agriculture Appropriations for 1938, the following amendment was offered:[1]

> Amendment offered by Mr. [Henry] Ellenbogen [of Pennsylvania]: Page 22,

15. H.R. 6709 (Committee on Appropriations).
16. 88 Cong. Rec. 2445, 77th Cong. 2d Sess., Mar. 13, 1942.
17. Robert Ramspeck (Ga.).
18. See § 15.6, supra, for discussion of an amendment which sought in similar fashion to limit the use of appropriated funds, but which was offered as a separate section and held to be germane.
19. See § 18.14, infra.
20. H.R. 6523 (Committee on Appropriations).
1. 81 Cong. Rec. 3763, 75th Cong. 1st Sess., Apr. 22, 1937.

line 20, after the word "agriculture", add a new paragraph, as follows:

"The sum of $23,940 is appropriated for additional equipment and services for the Weather Bureau station at Pittsburgh, Pa."

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

MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Chairman, I raise the point of order that the paragraph sought to be added by the amendment is not germane to the portion of the bill to which it is offered, it being offered in connection with the total of the appropriation for the Weather Bureau, and following the language computing the entire division of Weather Bureau appropriation which has already been read.

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

MR. ELLENBOGEN: . . . This entire section deals with the Weather Bureau. The amendment offered not only deals with the item of two-million-and-some-odd-thousand dollars, on page 21, but deals with personnel as well as with gages, and could not properly be offered to any other section of the bill, because the amendment covers gages, telegraph charges, telephone wire, and telephone services, and some personnel to read those gages in the outlying districts. Therefore it is germane to the section entitled "Weather Bureau", and that section has not yet been passed.

The Chairman,[2] in ruling on the point of order, stated:

. . . The Chair takes the position that the amendment offered by the gentleman from Pennsylvania [Mr. Ellenbogen] is not germane because it is not offered at the proper place in the bill.

The Chair bases his ruling upon an opinion rendered by Mr. O'Connor, who stated in substance that there must be some orderly procedure in the consideration of appropriation bills as in the consideration of other bills, and proper amendments, whether in the nature of limitations or otherwise, should be offered at the proper place in the bill.

The Chair therefore sustains the point of order.

The following exchange ensued:

MR. TARVER: Mr. Chairman, I ask unanimous consent, in the interest of fair hearing and fair consideration of the proposal of the gentleman from Pennsylvania, that he be allowed to offer the amendment at the proper point in the bill.

THE CHAIRMAN: Is there objection to the request of the gentleman from Georgia?

There was no objection.

THE CHAIRMAN: The Clerk will report the amendment.

THE CLERK READ AS FOLLOWS:

Amendment offered by Mr. Ellenbogen: On page 21, line 21, strike out "$2,298,950" and insert in lieu thereof "$2,322,870."

Amendment as Not Germane to Section But Permissible if Offered as New Section

§ 18.15 Where a section of a bill authorized improvements for flood control on

2. Franklin W. Hancock, Jr. (N.C.).

several waterways, an amendment to such section providing that 'no funds under this act shall be allocated unless actual construction shall have been started prior to this date' was held not germane, although the Chair indicated that the amendment would be germane if offered as a new section.

In the 79th Congress, the following portion of a bill[3] relating to flood control was under consideration:[4]

> Sec. 17. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $150,000,000 for the prosecution of the initial stage of the comprehensive plan adopted by section 9a of the act approved December 22, 1944 (Public, No. 534, 78th Cong.), for continuing the works in the Missouri River Basin to be undertaken under said plans by the Secretary of the Interior.

An amendment was offered, as follows:[5]

> Amendment offered by Mr. [J. Harry] McGregor [of Ohio]: On page 28, line 3, after the period insert: "No funds under this act shall be allocated unless actual construction shall have been started prior to this date."

A point of order was raised against the amendment, as follows:[6]

> MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: . . . The language of the amendment has to do with allocations and appropriations. No funds are being allocated or appropriated in this bill. A moment's reflection will show that this language is utterly contradictory. This is an authorization bill authorizing something. Now he undertakes to say that that thing shall not be started. . . . I respectfully submit that this language here is not applicable to an authorization bill, and that the point of order should be sustained because this language is utterly inconsistent and contradictory in an authorization bill, and is certainly not germane to section 17. It is not offered as a new section.

The Chairman,[7] in ruling on the point of order, stated:[8]

> The amendment may not be germane to the particular section to which it is offered but the Chair does think it would be germane to the bill as a whole in the nature of a limitation. The Chair sustains the point of order, but calls attention to the fact that it could be offered as a new section to the bill..

Amendment as Germane to More Than One Title

§ 18.16 The test of germaneness of an amendment to a

3. H.R. 6597 (Committee on Flood Control).
4. See 92 CONG. REC. 7099, 79th Cong. 2d Sess., June 18, 1946.
5. *Id.* at p. 7108.
6. *Id.* at pp. 7108, 7109.
7. J. Bayard Clark (N.C.).
8. 92 CONG. REC. 7109, 79th Cong. 2d Sess., June 18, 1946.

bill being read for amendment by titles is its relationship to the title to which offered; even where the amendment would also have been germane to a previous title of a bill which has been passed in the reading, an amendment germane to the pending title is not subject to a point of order on the grounds that it indirectly affects, or is inconsistent with, an amendment adopted to a previous title.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

§ 18.17 To a diverse title of a bill reforming the economic regulation of railroads being read for amendment by titles, entitled "railroad intercarrier practices" but dealing also with bankruptcy and employee protection issues, an amendment addressing those issues as well as railroad rates and rate-making and including a provision requesting a study of the impact of possible tax law changes relating to railroads, was held germane even though portions of the amendment on rates indirectly affected a previous title of the bill already perfected by amendment.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

§ 19. Amendment Adding New Section or Title to Bill

The rule of germaneness does not require that an amendment offered as a separate section be germane to the preceding section of the bill; it may be sufficient that it is germane to the subject matter of as much of the bill as a whole as has been read,[9] or to the title to which offered.

To a bill being read for amendment by title, an amendment in the form of a new section within a title need not be germane to a specific section therein, it being sufficient that it be germane to the title as a whole.[10]

An amendment adding a new title to a bill being read for amendment by titles must be germane to the totality of titles considered up to that point.[11]

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9. See § 19.11, infra.

10. 122 CONG. REC. 30476, 30477, 94th Cong. 2d Sess., Sept. 15, 1976, discussed in § 11, supra.

11. See, for example, the proceedings of Oct. 18, 1979, relating to H.R. 3000,

An amendment adding a new section to the end of a bill must be germane to the bill as amended.

Where a perfecting amendment adding a new section to a title is offered pending a vote on a motion to strike out the same title, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out.[12]

On occasion, while holding an amendment not to be germane in the form in which offered, the Chair has indicated that the same amendment might be germane if offered as a new section.[13] Sometimes, moreover, an amendment which would be held not germane when offered to a particular title of a bill would be considered germane if offered as a new title.[14] And an amendment offered in the form of a new title in a bill may be germane to the bill even though the same amendment might be improper if offered as a substitute for another pending amendment.[15]

The general rule that an amendment must be germane to the portion of the bill to which offered is limited by the proposition that an amendment in the form of a new section or paragraph need not necessarily be germane to the section or paragraph immediately preceding it.[16] Each precedent should be examined separately to determine the structure of the bill to which the new section or paragraph is offered. See, for example, the proceedings of June 19, 1939,[17] where an amendment offered as a new section to a tax bill (to a title dealing with transfers of securities), was held not germane, since there was already a section dealing with the subject matter to which the amendment would have been germane (in a preceding title) and this section had been passed in reading for amendment.

In reading a bill by sections in the Committee of the Whole, it is not in order except by unanimous consent to return to a section which has been passed.[18] On occasion, however, an amendment proposing a new section which, in effect, would modify a section previously read and passed, has been held to be germane to the bill and in order.[19]

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the Department of Energy Authorization Act for fiscal 1980 and 1981, discussed in § 10.7, infra.

12. See § 19.13, infra.

13. See § 18.15, supra.

14. See § 18.7, supra.

15. See § 21.11, infra.

16. 8 Cannon's Precedents §§ Sec. 2932, 2935.

17. 84 CONG. REC. 7500, 7501, 76th Cong. 1st Sess.

18. See § 19.11, infra.

19. See § 19.11, infra.

An amendment may be germane at more than one place in a bill. Thus, where the first several sections of a bill pertain to one category within the subject under consideration, and the subsequent sections introduce other such categories, an amendment adding a further such category may be offered at either of two places: the point where, in the reading of the text, the sections dealing with the first category have been passed; or at the end of the text. An example may be found in the Record of the 91st Congress. The Committee of the Whole was considering a title of a bill[20] amending the rules of the House. The first several sections of the title related solely to the committee system, and the remainder of the sections broadened the scope of the title by amending other rules. The proponent of an amendment to the bill was desirous of withdrawing the amendment for the purpose of perfecting it with the understanding that it would be in order to offer the amendment at a later time. In response to a parliamentary inquiry, Chairman William H. Natcher, of Kentucky, indicated that a germane amendment in the form of a new section would be in order at the end of the title.[1]

20. H.R. 17654, Legislative Reorganization Act of 1970 (Committee on Rules).

1. See 116 CONG. REC. 26046, 91st Cong. 2d Sess., July 28, 1970 (parliamentary inquiry of Mr. Meeds).

New Title: Test of Germaneness

§ 19.1 The test of germaneness of an amendment adding a new title to a bill is its relationship to the bill read, as perfected by amendments.

The proceedings of Aug. 10, 1984, relating to H.R. 5640, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, are discussed in Sec. 4.10, supra.

New Title at End of Bill: Test of Germaneness

§ 19.2 Where an amendment is in the form of a new title to be inserted at the end of the bill, the Chair, in determining its germaneness, must consider the relationship of the amendment to the bill as a whole and as modified by the Committee of the Whole.

The proceedings of Oct. 8, 1985, during consideration of H.R. 2100, the Food Security Act of 1985, are discussed in Sec. 4.67, supra.

§ 19.3 The germaneness of an amendment adding a new title at the end of a bill is determined by its relationship to the bill as a whole in its perfected form.

The proceedings of July 11, 1985, during consideration of H.R.

1555, the International Security and Development Act of 1985, are discussed in Sec. 4.54, supra.

New Title as Germane to Portion of Bill Already Read; Special Rule Making Certain Proposals in Order

§ 19.4 An amendment offered as a new title need not be germane to the immediately preceding title or to the next title not yet read, it being sufficient that the amendment is germane to that portion of the bill already read; and where a resolution providing for the consideration of a bill makes in order a specific amendment to the bill, such amendment may be offered as a new title, and it need not be germane to an existing title.

In the 88th Congress, the Committee of the Whole was considering the Civil Rights Act of 1963,[2] pursuant to a resolution providing that certain specific proposals[3] would be in order as an amendment to the bill under consideration. Such proposals, relating to employment opportunities and economic advancement for Indians, were set forth in an amendment in the form of a new title to the bill.[4] The following exchange[5] concerned a point of order made against the amendment:

> MR. [EMANUEL] CELLER [of New York]: . . . Mr. Chairman, enough has been read of the amendment to indicate that it is subject to a point of order, and I make the point of order that we have not completed the reading of the bill, therefore this is not the proper place to consider the amendment.
>
> THE CHAIRMAN:[6] The Chair reminds the gentleman from New York that the amendment offered by the gentleman from South Dakota has been made in order by the resolution under which this bill is being considered. The gentleman is offering the amendment at this time, and the Chair would be impelled to hold that the amendment is in order.
>
> MR. CELLER: Mr. Chairman, a parliamentary inquiry.
>
> THE CHAIRMAN: The gentleman will state it.
>
> MR. CELLER: Mr. Chairman, would it be in order to offer this amendment to title VII, or must there be a new title read?
>
> THE CHAIRMAN: The gentleman from South Dakota is offering his amendment as a new title VIII to the bill.

2. H.R. 7152 (Committee on the Judiciary).
3. The proposals were embodied in H.R. 980.
4. 110 CONG. REC. 2738, 2739, 88th Cong. 2d Sess., Feb. 10, 1964.
5. *Id.* at pp. 2739, 2740.
6. Eugene J. Keogh (N.Y.).

Bill To Increase Supplies of Fossil Fuels and Promote Conversion to Coal—Amendment To Assist Industry in Liquefaction and Gasification of Coal

§ 19.5 To a bill designed to increase supplies of fossil fuels, and increase the use of domestic energy supplies other than petroleum through conversion to coal, and containing an entire title dealing with industrial conversion from oil and gas to coal, an amendment adding a new title providing government loans and other assistance to private industry for the construction and operation of facilities for the liquefaction and gasification of coal was held germane as within the scope of the bill.

On Sept. 18, 1975,[7] the Committee of the Whole having under consideration the Energy Conservation and Oil Policy Act of 1975 (H.R. 7014), an amendment was offered to add a new title to the bill to which a point of order was raised and overruled. The proceedings were as follows:

MR. [TIM LEE] CARTER [of Kentucky]: Mr. Chairman, I offer an amendment in the form of a new title to title VIII. The Clerk read as follows:

Amendment offered by Mr. Carter: On page 356, line 6, insert the following new Title and renumber subsequent Titles accordingly:

TITLE VIII—COAL GASIFICATION AND LIQUEFACTION DEVELOPMENT

Sec. 801. (a) The Administrator shall establish a program of assistance to private industry for the construction and operation of one or more facilities for the liquefaction and gasification of coal. In order to effectuate such program, the Administrator may make loans and issue guarantees to any person for the purpose of engaging in the commercial operation of facilities designed for the liquefaction or gasification of coal.

(b)(1) For the purpose of making loans or issuing guarantees under this section, the Administrator shall consider (A) the technology to be used by the person to whom the loan or guarantee is made or issued, (B) the production expected, (C) reasonable prospect for repayment of the loans. . . .

Sec. 802. (a) The Administrator is authorized . . .

(3) Each lease shall further provide that the lessee shall have options to purchase the facilities at any time within ten years after the date of the respective lease at a price to be agreed upon by the parties. Each option shall be conditioned, however, upon the right of the Administrator within the ten-year term to offer the facilities for sale at public auction and the lessee shall be entitled to purchase the facilities if he meets the highest bona fide offer in excess of the agreed option price. In order that an offer may be considered bona fide, it shall be offered by a bidder who shall have been determined by the Administrator to be financially

7. 121 CONG. REC. 29338–41, 94th Cong. 1st Sess.

and technically qualified to purchase and operate the facilities. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I raise a point of order that the amendment is not germane. . . .

The point of order is as follows: A reading of the amendment will show that under subsection 801(a), it would authorize a very large program of loans and grants for the construction and operation of facilities for the liquefaction and gasification of coal.

Nowhere else in the bill are there loans and grants, and nowhere else in the bill are there provisions for that kind of stimulus for the construction of facilities for the liquefaction or gasification of coal.

In addition to these loans and guarantees, the Administrator is vested with authority to guarantee performance of contracts of persons receiving loans from the administration for the purchase, construction, and acquisition of equipment and supplies necessary to construct and operate such a facility. This again, Mr. Chairman, is not within the purview of the bill.

In addition to this, construction plans and construction of facilities, further down under (d)(2), could be financed in whole or in part, including exploration and development.

In addition to this, the possibility of exemptions and exceptions from the air and water pollution laws are included under (c)(2)(d), or, rather, under paragraph (d).

To go along further, by no stretch of the imagination could my colleagues be anticipated to anticipate an amendment of this kind and character coming to this bill and relating to the air and water pollution laws. Indeed the language is sufficiently broad to make this exempt from State statutes, as well as from Federal statutes, and that is a matter clearly not before the committee at this particular time. Then we have the question of compliance with Federal and State air pollution laws. . . .

In addition to this, under section 802(a)(3), the amendment provides for acquisition of private interests in all such facilities as may have heretofore been constructed or acquired relating to gasification of coal and other types of energy uses. Again this goes far beyond the scope and sweep of the bill before the committee.

Again, under section 802(b)(1), these facilities could then be leased or rented under conditions and terms as agreed on by and between the parties, apparently without regard to existing Federal statutes relating to the sale, leasing, or disposal of real estate, and that is a matter which is under the jurisdiction of other committees and which is the subject of control under other statutes not presently before the House and not mentioned or alluded to in the provisions of H.R. 7014 now before the committee. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: As much as I am reluctant to do so, I would have to suggest to the chairman of the subcommittee that I think that the gentleman's amendment is germane.

I would like to cite the provisions of the purposes of the act, section 102. Item (3) in that section says, "to increase the supply of fossil fuels in the United States, through price incentives and production requirements."

The gentleman's amendment squares, it seems to me, specifically with that. As the gentleman from Kentucky (Mr. Carter) has pointed out, item (6) says "to increase the use of domestic energy supplies other than petroleum products and natural gas through conversion to the use of coal."

This would certainly encourage the use of coal.

Section 606 in the bill provides similar incentives to those provided by the amendment of the gentleman from Kentucky (Mr. Carter) for coal mines. Pollution requirements would not be overridden by the legislation or the legislative modification of the gentleman from Kentucky unless specified, that is, those existing pollution requirements would not be overridden unless they were specified in the amendment, and they are not specified in the amendment. They would, therefore, continue to apply.

It seems to me that the amendment of the gentleman from Kentucky specifically does encourage the development and use of additional fossil fuels by the various provisions in his amendment and that those provisions are in the bill and have been added by other amendments, and, therefore, would be germane to this legislation.

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

For substantially the reasons just outlined by the gentleman from Ohio (Mr. Brown), and in view of the fact that title III has several provisions going to the general issue of maximizing availability of energy supplies, including coal, and, as pointed out, title VI encourages industrial conversion from oil and gas to coal, for example, by a similar loan guarantee mechanism as proposed in the amendment, the Chair finds that the amendment inserting a new title is germane to the bill under consideration and overrules the point of order.

Energy Use and Conservation—Energy Used in Production of Beverage Containers

§ 19.6 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new title dealing with energy use in the production of certain non-energy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate energy production requirements of such products.

On Sept. 18, 1975,[9] it was demonstrated that the test of germaneness of an amendment adding a new title to a bill being read

8. Richard Bolling (Mo.).

9. 121 CONG. REC. 29322–25, 94th Cong. 1st Sess.

by titles is the relationship between the amendment and the bill as a whole. The proceedings during consideration of H.R. 7014[10] in the Committee of the Whole were as follows:

TITLE V—IMPROVING ENERGY EFFICIENCY OF CONSUMER PRODUCTS

PART A—AUTOMOBILE FUEL MILEAGE

Sec. 501. Definitions.

Sec. 502. Average fuel economy standards applicable to each manufacturer. . . .

PART B—ENERGY LABELING AND EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 551. Definitions and coverage.

Sec. 552. Test procedures.

Sec. 553. Labeling.

Sec. 554. Energy efficiency standards. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 331, after line 10, add the following:

TITLE VI—ENERGY LABELING AND EFFICIENCY STANDARDS FOR BEVERAGE CONTAINERS

DEFINITIONS AND COVERAGE

Sec. 601.—For purposes of this part—

(1) The term "beverage container" means a bottle, jar, can, or carton of glass, plastic, or metal, or any combination thereof, used for packaging or marketing beer or any other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form which is intended for human consumption. . . .

(4) The term "energy efficiency" means the ratio (determined on a national basis) of: The capacity of the beverage container times the number of times it is likely to be filled, to the units of energy resources consumed in producing such container (including such container's raw materials) and in delivering such container and its contents to the consumer.

The Commissioner, in determining the energy efficiency shall adjust any such determination to take into account the extent to which such containers are produced from recycled materials. . . .

LABELING

Sec. 603. The provisions of section 553, except paragraph (B) of subsection (a)(1), shall be applicable to beverage containers as defined in section 601. In addition, if the Commissioner determines that a beverage container achieves the energy efficiency target described in section 604, then no labeling requirement under this section may be promulgated or remain in effect with respect to such type. . . .

REQUIREMENTS OF MANUFACTURERS AND PRIVATE LABELERS

Sec. 605. The provisions of section 555 of this act with respect to consumer products to which a rule under section 553 applies shall be applicable to beverage containers as defined in section 601. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the point of order [is] on the ground that the amendment is not germane to the bill before us. The amendment seeks to impose effi-

10. The Energy Conservation and Oil Policy Act of 1975.

ciency standards on the manufacture of beverage containers. There is nothing in the bill relating to beverage containers. The amendment seeks to change efficiency standards imposed upon beverage containers themselves. There is nothing in this bill relating to beverage containers.

Furthermore, Mr. Chairman, not only is the amendment not germane to the bill but it also fails because it is not germane to the bill as amended because as the Chairman recalls all references to the efficiency standards have been removed from the bill with respect to industrial processes. If the amendment were to be offered relating to efficiency in manufacturing processes, it more appropriately should have been offered in sections relating to efficiency in manufacturing.

Those have now been deleted, of course. The amendment is not germane because it comes too late in the bill, for that matter, after it has been considered and acted upon in the House.

The amendment is very, very complex, setting up standards for efficiency in a whole series of devices. With regard to the mechanism we are under, this efficiency is judged and it goes into a lengthy complex set of judgments that must be exercised by the administrators with regard to this efficiency; but dealing solely with the question of bottles and containers. As I pointed out, there is no reference in the bill to bottles and containers. For that reason, the amendment is not germane. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . In Cannon's Procedures of the House of Representatives, the rule of germaneness occurs at section 794. It says that while the committee may report a bill embracing different subjects, it is not in order during the consideration of a bill to introduce a new subject. . . .

Mr. Chairman, the nature of the new subject in this legislation, it seems to me, is embraced in section 604 of the amendment as submitted by the gentleman from Vermont (Mr. Jeffords), in which we are not dealing with the set of standards of the operation of appliances as we were in the appliance section, or automobiles, as we were in the automobile standards section; but rather in the design of a nonenergy consuming product which the author of the amendment seeks to prohibit with reference to its possibilities of reuse. It gives the authority to the Secretary to prohibit a product on the basis of its design. So we are, in effect, impacting on the product with reference to the manufacture of the product in some mechanical or energy-consuming way. That, it seems to me, is a new direction or a new subject under the rule of germaneness, as opposed to the other approaches which the bill as reported out of the committee has taken. It is an area which I rather doubt comes under the purview of our committee, in that the purview of the committee relates to the consumption of energy as such and the licensing of that energy and the pricing of it and so forth. . . .

MR. [PHILLIP H.] HAYES of Indiana: Mr. Chairman, I simply wanted to add in regard to the standard . . . of looking to the fundamental purpose of an amendment in qualifying its germaneness, that this particular amendment would seek to add for the first time in the bill a class of product which does not in and of itself consume an average

annual per household energy factor, nor does it consume in and of itself energy at all. . . .

MR. JEFFORDS: Mr. Chairman, never have I had an opportunity to tell so many distinguished gentlemen that they are wrong at the same time. First, let us go back to the basics here. What are we concerned with when we talk about the germaneness? Let us look at the legislative manual.

The fundamental purpose of an amendment is that it must be germane to the fundamental purpose of the bill. What is the fundamental purpose?

Let us take a look at the title, "Energy Conservation and Oil Policy Act of 1975." Look what we are trying to do. We are trying to conserve energy. Let us take a look at title III, with its broad powers over the whole area of development of petroleum. There are tremendous powers over the whole industry in allocation, production, as to where the industry goes. . . .

Let us get to the argument made by many, and that is it is different because we are talking about energy consumed in the production of the consumer product rather than the consumer himself.

The FEA is not going to go around this country chasing after people with electric toothbrushes to see whether they brush properly or to see whether they are plugged in properly. They are going to go to the manufacturer and say, "You have a toothbrush here that has to have a certain energy efficiency improvement." So we are saying when the product is sold that particular beverage container must consume less than a certain amount of energy. It is identical in purpose. The bill does not try to go out and nail the consumer. It gets to him by labeling. It says, "Here is a consumer product that uses less energy." My amendment will say, "Here is something that uses less energy." I see no difference whatsoever. Its basic purpose and fundamental purpose is the same as the bill, to conserve energy and conserve oil. How anybody can argue that this is not germane is impossible for me to see.

THE CHAIRMAN:[11] The Chair is ready to rule.

The gentleman from Indiana, the gentleman from Michigan, the gentleman from Ohio, and the gentleman from Texas have made points of order against the amendment offered by the gentleman from Vermont (Mr. Jeffords) on the ground that it is not germane to the bill.

The Chair would like to state that if the amendment had been offered to title V, the arguments of many of the gentlemen would have more significance.

The amendment offered would add a new title to the bill relating to energy conservation in the production of beverage containers.

The test of germaneness in such a situation is the relationship between the new title to be added by the amendment and the entire bill.

The Chair would state, initially, that he has reexamined the precedents contained in section 6.13 and section 6.19 of chapter 28 of Deschler's Procedure, wherein an amendment prohibiting the production of nonreturnable beverage containers was held not germane to the Energy Emergency Act, and finds that the situations are distinguishable.

11. Richard Bolling (Mo.).

As noted, the germaneness is dependent upon the relationship between the amendment in the form of a new title and the entire bill to which offered.

The 1973 bill was designed to regulate and promote the production, allocation, and conservation of energy resources and contained no reference to the production of consumer goods. In that context, the nonreturnable container amendment was not germane.

However, the bill now under consideration contains several diverse titles, all relating to use, consumption, availability, and conservation of energy.

The Chair notes specifically the provisions of title V relating to end use and energy consumption of certain consumer products.

The Chair, therefore, believes that the bill is sufficiently broad in scope to admit as germane an amendment in the form of a new title which is drafted in the form presented by incorporating by reference certain standards in the bill, and which relates to the conservation of energy by an industry engaged in the production of a consumer product, specifically, beverage containers.

The Chair, therefore, overrules the point of order.

Bill Authorizing Participation in Inter-American Development Bank and African Development Fund and Addressing Policies Thereof—Amendment To Encourage Institutions in Bill To Promote Energy Measures

§ 19.7 To a bill authorizing appropriations for, and increased United States participation in, the Inter-American Development Bank, the Asian Development Bank and the African Development Fund, which had been amended to include titles addressing export opportunity enhancement, human rights reporting and refugee assistance by such institutions, an amendment adding a new title to the bill directing the United States to encourage those institutions to promote and support energy production from renewable resources was held germane.

As noted by the Chair in his ruling of Mar. 6, 1980,[12] the Committee of the Whole, during consideration of H.R. 3829, had adopted provisions either in the form of amendments or titles of the bill as reported, which stated in part as follows:[13]

Amendment offered by Mr. Wolff: Page 4, immediately after line 21, insert the following new section:

Sec. 202. The Asian Development Bank Act, as amended by Section 201 of this Act, is further amended by adding at the end thereof the following new section:

"Sec. 25(a)(1) Upon the establishment of a special refugee fund ad-

12. 126 Cong. Rec. 4977, 96th Cong. 2d Sess.

13. *Id.* at pp. 4960, 4973.

ministered by the Asian Development Bank, the United States Governor of the Bank is authorized to contribute to that fund on behalf of the United States 25 percent of the total amount contributed by all countries to that fund, subject to the limitation contained in subsection (b) of this section. This special refugee fund shall assist regional developing member countries of the Bank impacted by service as sites for temporary asylum for refugees from South and Southeast Asia prior to their resettlement in third countries.

"(2) The special refugee fund should also be available to help any regional developing member country which may wish to formulate development plans for regions of that country which that country judges to be suitable for permanent resettlement of refugees from South and Southeast Asia. . . .

"(c)(1) The President shall encourage other countries to support the establishment of, and to contribute to, the special fund described in subsection (a) of this section.

"(2) In addition, the President shall encourage the World Bank and other appropriate multilateral development banks to establish funds similar to that described in subsection (a) of this section to aid in the permanent resettlement in third countries of refugees from South and Southeast Asia." . . .

TITLE IV—EXPORT OPPORTUNITY ENHANCEMENT

Sec. 401. The Secretary of the Treasury shall instruct the United States Executive Directors of the Inter-American Development Bank, the Asian Development Bank and the African Development Fund to take all possible steps to assure that information relative to potential procurement opportunities for United States firms is expeditiously communicated to him/her, the Secretary of State and the Secretary of Commerce. Such information shall be disseminated as broadly as possible to both large and small business. . . .

TITLE V—HUMAN RIGHTS REPORTING

Sec. 501. Section 701 of an Act approved October 3, 1977 (Public Law 95–118; 91 Stat. 1069), is amended—(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary of the Treasury shall report quarterly on all loans made by the institutions listed in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. . . ."

An amendment was offered:

Amendment offered by Mr. Long of Maryland: Page 8, after line 25, insert the following new title:

TITLE VIII—USE OF RENEWABLE RESOURCES FOR ENERGY PRODUCTION

Sec. 701. The Congress hereby finds that—

(1) without an adequate supply of energy at affordable prices the world's poor will continue to be deprived of jobs, food, water, shelter and clothing, and poor countries will continue to be economically and politically unstable;

(2) dependence on increasingly expensive fossil fuel resources consumes too much of the capital available to poor countries with the result that funds are not available to meet the basic needs of poor people;

(3) in many developing countries the cost of large central generators and long distance electrical distribution makes it unlikely that rural energy by means of a national grid will

contribute to meeting the needs of poor people . . .

(7) recent initiatives by the international financial institutions to develop and utilize decentralized solar, hydro, biomass, geothermal and wind energy should be significantly expanded to make renewable energy resources increasingly available to the world's poor on a wide scale.

Sec. 702. (a) The United States Government, in connection with its voice and vote in the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall encourage such institutions—

(1) to promote the decentralized production of renewable energy;

(2) to identify renewable resources to produce energy in rural development projects and determine the feasibility of substituting them for systems using fossil fuel;

(3) to train personnel in developing technologies for getting energy from renewable resources;

(4) to support research into the use of renewable energy resources, including hydropower, biomass, solar photovoltaic and solar thermal;

(5) to create an information network to make available to policy makers the full range of energy choices;

(6) to broaden their energy planning, analyses and assessments so as to include consideration of the supply of, demand for, and possible uses of renewable energy resources;

(7) to encourage the international financial institutions to coordinate the work of the Agency for International Development and other aid organizations in supporting effective rural energy programs. . . .

(c) The Secretary of the Treasury in consultation with the Director of the International Development Cooperation Agency shall report to the Congress not later than six months after the date of enactment of this Act and annually thereafter on the progress toward achieving the goals set forth in this title. . . .

THE CHAIRMAN:[14] Does the gentleman from Ohio (Mr. Stanton) insist on his point of order?

MR. [J. WILLIAM] STANTON [of Ohio]: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman from Ohio will state his point of order.

MR. STANTON: Mr. Chairman, the amendment offered by the gentleman from Maryland (Mr. Long) goes far beyond the scope of the bill that we have under consideration this afternoon. In reading the amendment, in paragraph (7) on the second page, and in the last paragraph of the bill, it continually refers to, No. 1, Mr. Chairman, the duty of the Secretary of the Treasury in consultation with the Director of the International Development Corporation. That is not under the scope of this legislation here today. That is point No. 1.

No. 2, Mr. Chairman, what we have, as I understand it, is an authorizing legislation in dollars and cents for the Asian Development Bank, the African Development Fund, and so forth. This puts definite restrictions on what these particular agencies specifically should do with regard to energy. I would hate to have us start telling the Director of the African Development Fund, for example, that they should do something about synfuels or some particular goal that we have over in our country.

I think we should leave the operation and the scope of these things up to them. But I would say to the gentleman that I think certainly his lan-

14. Robert Duncan (Ore.).

guage would be absolutely appropriate in his committee, were foreign aid directly given to the Agency for International Development and we pay the full cost of that, and it should go.

That is my point of order, Mr. Chairman.

THE CHAIRMAN: The Chair understands the point of order to be made on germaneness, that the amendment goes beyond the scope of the bill.

MR. STANTON: That is correct. . . .

THE CHAIRMAN: The Chair is prepared to rule on the point of order based upon the germaneness of the amendment.

The Chair notes that the germaneness of the amendment must be applied from the perspective of the bill as it has been perfected by the committee up to the point at which the point of order is made. The Chair notes that title IV of the bill as reported dealing with the export opportunity enhancement, that title V of the committee amendment dealing with human rights reporting, and that the Wolff amendment dealing with a special refugee fund have all been adopted by the committee. In view of the expansion of the scope of the bill by the adoption of those amendments and the existence of title IV in the bill as reported, the Chair is constrained to rule that the amendment is germane and, therefore, overrules the point of order.

Test of Germaneness of Amendment Adding New Section: Senate Provision Contained in Conference Report

§ 19.8 The test of the germaneness of that portion of a Senate amendment in the nature of a substitute adding a new section to a House bill is the relationship of that section to the subject of the House bill as a whole.

On Mar. 26, 1975,[15] during consideration of a conference report on H.R. 2166 (Tax Reduction Act of 1975), it was held that to a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a part of a Senate amendment in the nature of a substitute which added a new section relating to tax credits for new home purchases and amending a portion of the law amended by the House bill was germane:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having met, after full and free conference, have agreed to recommend and do rec-

15. 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess.

ommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES . . .

Sec. 208. Credit for purchase of new principal residence. . . .

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME . . .

Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders. . . .

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.

Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs. . . .

Sec. 208. Credit for Purchase of New Principal Residence

"(a) Allowance of Credit.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) General Rule.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of provision 1, clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It appears in section 208 of the conference report, on page 14, as reported by the Committee on Conference. . . .

[A] careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types of tax measures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER:[16] The Chair is ready to rule.

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16. Carl Albert (Okla).

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation . . . an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House bill, and was not an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

New Section at End of Bill; Test of Germaneness

§ 19.9 The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the Whole.

On Aug. 1, 1979,[17] during consideration of S. 1030[18] in the Committee of the Whole, Chairman Dante B. Fascell, of Florida, ruled that to a bill authorizing the imposition of rationing plans by the President to conserve energy, providing mechanisms to avoid energy marketing disruptions, and broadened by amendment to provide for monitoring of middle distillates and supplies of diesel oil, an amendment adding a new section to require a set-aside program to provide middle distillates for agricultural production was germane. The proceedings were as follows:

Amendment offered by Mr. [Thomas J.] Tauke [of Iowa]: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

After some debate, Mr. Tauke made a request, as follows, and the amendment was agreed to, as modified:[19]

MR. TAUKE: Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

17. 125 CONG. REC. 21964–68, 96th Cong. 1st Sess.

18. Emergency Energy Conservation Act of 1979.

19. 125 CONG. REC. 21966, 96th Cong. 1st Sess.

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Iowa [Mr. Tauke], as modified.

The amendment, as modified, was agreed to.

Thereafter, Mr. Tauke offered the following amendment:[20]

Amendment offered by Mr. Tauke: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has imparied or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

20. *Id*. at p. 21967.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve a point of order against the amendment. . . .

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

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

MR. DINGELL: Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the question before the Chair. The question before the Chair is Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products?

The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the chair that this amendment is not germane.

I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was. . . .

MR. TAUKE: . . . Mr. Chairman, in this particular measure that we are considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that

this amendment be considered a part of this measure. . . .

MR. [CHARLES] PASHAYAN [Jr., of California]: The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society. . . .

MR. [RICHARD L.] OTTINGER [of New York)] Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order. . . .

MR. BROWN of Ohio: . . . One other point that omitted my attention until the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

THE CHAIRMAN: The Chairman is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The text of a new section in its relationship for germaneness is to the bill as read to this point and in that case

we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

§ 19.10 To a bill containing diverse sections (1) continuing United States participation under the International Development Association Act; and (2) repealing existing law which prohibited United States citizens from holding gold, an amendment adding a new section at the end of the bill directing the United States representative to IDA to oppose loans to nations not party to a nuclear nonproliferation treaty was held in order as a germane restriction on authority contained in section 1 of the bill.

On July 2, 1974,[1] during consideration of H.R. 15465[2] in the Committee of the Whole, the Chair overruled a point of order against an amendment, as indicated below:

MR. [CLARENCE D.] LONG of Maryland: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Maryland: Page 2, immediately after line 20, insert the following:

Sec. 3. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by inserting at the end thereof the following:

"Sec. 15. The United States Governor is authorized and directed to vote against any loan or other utilization of the funds of the Association for the benefit of any country which develops any nuclear explosive device, unless the country is or becomes a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483)."

Redesignate the succeeding section accordingly.

MR. [CHARLES W.] WHALEN [Jr., of Ohio]: Mr. Chairman, I raise a point of order against the amendment. . . . [T]he Chair has ruled that the amendment previously offered by the gentleman from New York (Mr. Biaggi) was out of order because it should have been offered during the committee's consideration of section 1 which deals directly with the International Development Association.

1. 120 CONG. REC. 22029, 93d Cong. 2d Sess.
2. The International Development Association Act.

Mr. Chairman, this is a very similar amendment to the one previously ruled out of order, except it creates a new section instead of amending an existing one.

This is an effort to thwart the Chair's earlier ruling. Therefore, Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN:[3] Does the gentleman from Maryland care to be heard on the point of order?

MR. LONG of Maryland: I should respond by saying that the gentleman's objection is specious. The amendment is a genuine amendment. It fits in logically in the place that it is offered. I see no substance at all to the point of order.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Ohio.

The Chair would observe that when the gentleman from New York (Mr. Biaggi) offered his amendment it was ruled out of order because section 2 of the bill had already been read; but since the pending amendment is offered as a separate subsequent section, as a new section 3, the amendment is in order and the Chair overrules the point of order.

The gentleman from Maryland is recognized.

Parliamentarian's Note: An amendment in the form of a new section need not necessarily be germane to the preceding section of the bill, it being sufficient where the bill contains diverse subjects that the amendment relate to the portion of the bill as a whole which has been read.[4]

New Section Offered as Qualification of Prior Section

§ 19.11 To a bill establishing rules for judicial interpretation of acts of Congress, an amendment proposing a new section limiting the application of a prior section of the bill was held to be germane.

In the 86th Congress, a bill[5] was under consideration establishing rules of interpretation for federal courts involving the doctrine of federal preemption. The following exchange[6] concerned a proposed amendment, offered as a new section, having the effect of modifying a section of the bill previously read and passed:

MR. [EMANUEL] CELLER [of New York:] Mr. Chairman, I ask unanimous consent to go back to section 1. I have an amendment to section 1. . . .

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Chairman, I object.

MR. CELLER: Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Celler: On page 3, line 7, insert:

3. John Brademas (Ind.).

4. 8 Cannon's Precedents § 2935.

5. H.R. 3 (Committee on the Judiciary).

6. 105 CONG. REC. 11790, 86th Cong. 1st Sess., June 24, 1959.

"Sec. 3. Section 1 of this Act shall be applicable only to Acts of Congress hereafter enacted." . . .

MR. WILLIS: Mr. Chairman, this bill is in two sections. Section 1 provides the broad rule of preemption, and section 2 is directed to the decision of the Supreme Court in the specific Nelson case.

This bill has been read in full; both sections 1 and 2 have been read. An amendment to section 1 is obviously not in order. The addition of section 3, proposed by the amendment offered by the gentleman from New York, is a complete circumvention of the rule because as drafted what does the language of section 3 do? It does one single, solitary thing, that is, to amend section 1. I therefore make the point of order that the amendment offered by the gentleman from New York is not in order and is in violation of the rules. It comes too late at this time. . . .

MR. CELLER: The gentleman from New York simply states that there are more ways than one to offer an amendment, and there is no reason why section 3 cannot be offered to amend any part of the bill. . . .

THE CHAIRMAN:[7] . . . The new section is merely a modification of a section already in the bill. The Chair therefore thinks it is germane and overrules the point of order.

§ 19.12 To a bill providing rules for judicial interpretation of acts of Congress, an amendment qualifying a prior section of the bill by limiting the application of the rules in certain areas of federal regulation was held to be germane.

In the 86th Congress, a bill[8] was under consideration to provide rules for the judicial interpretation of acts of Congress. The following amendment, in the form of a new section, was offered as a qualification of a prior section of the bill:[9]

Amendment offered by Mr. [Harold R.] Collier [of Illinois]: On page 3, following line 6, add as section 3 the following: *Provided* however, That nothing . . . contained in this Act shall be construed as subjecting foods . . . or other articles distributed interstate in compliance with . . . requirements of Federal laws and regulations . . . to . . . additional requirements made by or under State laws or regulations.

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

MR. [GEORGE] MEADER [of Michigan]: Mr. Chairman, I make a point of order against the amendment. . . .

As I understand, the gentleman offers his amendment to page 3, line 6, which has to do with amending the title of the code.

Referring to the ruling of the Chair on a similar issue,[10] the

7. Clark W. Thompson (Tex.).

8. H.R. 3 (Committee on the Judiciary).

9. 105 CONG. REC. 11799, 86th Cong. 1st Sess., June 24, 1959.

10. See § 21.20, infra, for discussion of that issue and the ruling thereon.

proponent of the amendment stated:

> In my opinion the ruling of the Chair on the amendment offered by the gentleman from New York [Mr. Lindsay] as to its being in order and as to its propriety, would apply with equal force to this amendment which does nothing more than add as section 3 a clarification of the subject matter of section 1.

The Chairman,[11] in ruling on the point of order, stated:

> Again, the Chair has only to rule on the question of the germaneness of the amendment. The Chair believes the amendment is germane and, therefore, overrules the point of order.

Amendment Offered While Motion To Strike Pending

§ 19.13 To that title of a military procurement authorization bill permitting, in part, the Committee on Armed Services to utilize the services and information "of any government agency," an amendment directing the Comptroller General to review defense contracts was held to be germane.

In the 91st Congress, a bill[12] was under consideration comprising military procurement authorization for fiscal 1970. Subsequent to a motion offered by Mr. Samuel S. Stratton, of New York, to strike Title V of the bill,[13] the following amendment was offered to Title V:[14]

> Amendment offered by Mr. [Andrew] Jacobs [Jr., of Indiana] to title V: On page 17, immediately after line 13 insert the following:
>
> > Sec. 505. (a) The Comptroller General of the United States . . . is authorized and directed . . . to conduct a study and review on a selective basis of the profits made by contractors and subcontractors on contracts on which there is no formally advertised competitive bidding entered into by the Department of the Navy, the Department of the Air Force, the Coast Guard, and the National Aeronautics and Space Administration . . . and on contracts entered into by the Atomic Energy Commission to meet requirements of the Department of Defense. . . .

A point of order was raised against the amendment, as follows:[15]

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I submit that this amendment is not germane because the amendment before embodied is to strike the section. How can you have an amendment to a section that is to be stricken?

The Chairman,[16] in ruling on the point of order, stated:

> The Chair has gone through the precedents and has found that where

11. Clark W. Thompson (Tex.).

12. H.R. 14000 (Committee on Armed Services).

13. See 115 CONG. REC. 28454, 91st Cong. 1st Sess., Oct. 3, 1969.

14. *Id.* at pp. 28454, 28455.

15. *Id.* at p. 28455.

16. Daniel D. Rostenkowski (Ill.).

the Committee of the Whole has agreed that the further reading of a title of a bill is dispensed with and open to amendment at any point, a perfecting amendment adding a new section may be offered notwithstanding the fact that an amendment proposing to strike out the title is pending. Perfecting amendments to a title in a bill may be offered while there is pending a motion to strike out such title.

The Chairman then ruled that the amendment was germane to that part of the bill to which offered. The following exchange ensued:

MR. STRATTON: Mr. Chairman, a point of order. My recollection is that on a previous amendment, the Chair ruled it out of order because it brought in another agency.

THE CHAIRMAN: That was because the Whalen amendment was not germane to that title or section of the bill.

MR. STRATTON: Does not that same point lie against this amendment?

THE CHAIRMAN: The Chair has ruled that the Jacobs amendment is germane to title V.

Scope of Bill Previously Broadened by Amendment

§ 19.14 To a bill establishing a commission to adjust salary levels of certain classes of government employees, broadened by amendment to include legislative employees, an amendment to restrict certain political activities of employees paid from Members' clerk-hire allowances was held to be germane.

In the 91st Congress, a bill[17] was under consideration relating to salaries of government employees. The bill, as amended, included legislative employees. The following amendment was offered to the bill as a new section:[18]

Amendment offered by Mr. [William L.] Hungate [of Missouri]: . . . Any person paid from a clerk hire allowance of the House of Representatives who travels to a Congressional district in a State other than the State of the member by which he is employed for the purpose of influencing in any manner the outcome of a Congressional election, including any future Congressional election, shall be paid for only one-half the pay period during which the Clerk of the House is informed of the activities as provided in subsection (b) of this section.

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

MR. [WILLIAM L.] SCOTT [of Virginia]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill that is being considered.

The Chairman,[19] in ruling on the point of order, stated:

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17. H.R. 13000 (Committee on Post Office and Civil Service).

18. 115 CONG. REC. 29966, 91st Cong. 1st Sess., Oct. 14, 1969.

19. Charles M. Price (Ill.).

. . . The Chair would like to point out that the amendment offered by the gentleman from Arizona (Mr. Udall) that was adopted, goes to the point of clerk hire in the House and also in the Senate. The bill having been opened up on that subject by the adoption of that amendment, and since the amendment offered by the gentleman from Missouri [Mr. Hungate] also addresses itself to the matter of clerk hire in the House, the Chair holds that the amendment is germane and therefore overrules the point of order.

Bill Addressing Agencies Regulation of Energy Conservation—Amendment To Prohibit Use of Fuel for School Busing

§ 19.15 The test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title.

On Sept. 17, 1975,[20] during consideration of a title of a bill[1] designed to enable agencies of the government to formulate policies of energy conservation, an amendment thereto prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title.

MR. [JAMES M.] COLLINS of Texas: Mr. Chairman, I offer an amendment which has been printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: Page 273, insert after line 4 the following new section:

ENERGY CONSERVATION THROUGH PROHIBITION OF UNNECESSARY TRANSPORTATION

Sec. 450. (a)(1) No person may use gasoline or diesel fuel for the transportation of any public school student to a school farther than the public school which is closest to his home offering educational courses for the grade level and course of study of the student and which is within the boundaries of the school attendance district wherein the student resides.

(2) Any person who violates subsection (1) of this section shall be fined not more than $5,000 or imprisoned not more than one year, or both, for each violation of such subsection. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his is clearly beyond the scope of the matters that are dealt with in this title of the bill. It would very substantially introduce administrative duties that are not provided for in any way in the bill, and it is clearly beyond the jurisdiction of this committee. . . .

MR. COLLINS of Texas: Mr. Chairman, we have had a similar amendment in conservation bills before which have passed the House before, and in this particular bill. It comes in conjunction with sections on energy con-

20. 121 CONG. REC. 28925–27, 94th Cong. 1st Sess.

1. H.R. 7014, Energy Conservation and Oil Policy Act of 1975.

servation through van pooling arrangements, through the use of car pools. It is an identical type of conservation measure as the limitation of limousines we discussed earlier, and the conservation of gasoline.

This is very much consistent because what we are talking about here in conservation, the unnecessary and unneeded uses of transportation. Also, we have the jurisdiction over the FEA, and it seems to me that we would be concerned with this. . . .

THE CHAIRMAN:[2] The gentleman from New York makes a point of order against the amendment offered by the gentleman from Texas (Mr. Collins) on grounds that it is not germane to title IV. The gentleman from Texas, in responding to the point of order, has cited certain amendments that have been adopted to the bill during debate, and the Chair is not clear as to whether he is talking only about this bill or about earlier bills.

MR. COLLINS OF TEXAS: Mr. Chairman, I understand that specifically this bill itself, in this particular bill itself on page 270, we have a section of this bill which says, "Energy Conservation Through Van Pooling Arrangements."

On page 271, we have a section called "Use of Carpools." We just adopted the Santini amendment, which is related to it. We talked about limousines. We have been talking about transportation and vehicles. Here we are talking about conservation, and we could conserve a great deal of gasoline and diesel fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . I would point out that the bill before us relates to allocation of gasoline. It relates to the conservation of energy. But this amendment adds a criteria category and purpose to the bill which is above, apart and different from anything else found anywhere else in the bill, and that is a specific prohibition of the use of fuels for a particular purpose, which carries us beyond the purposes of the bill.

Again, Mr. Chairman, I would cite to the Chair that the nature of the amendment must be such as to notify the House that it might reasonably anticipate it and might be related for the purposes of which the bill is drawn.

Mr. Chairman, I might add further that the amendment adds criminal sections, imposing, for example, penalties on bus drivers of school buses, and goes well beyond the allocation powers or the conservation powers which are vested in the Federal Government, adding, essentially, a new criminal section of the bill which was not previously before us and which is not in the bill. . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I would like to call the attention of the Chair to title VI of the bill, particularly section 605, where we have a section that prohibits the use of natural gas as boiler fuel for the generation of electricity.

It would seem to me that here we have a similar type of fuel—gasoline—and the gentleman from Texas (Mr. Collins) by his amendment would prohibit the use of that fuel in transporting school children. . . .

MR. COLLINS of Texas: Mr. Chairman, there is one further thing I wish to say. We have talked about whether there were penalties or not provided in this bill.

2. Richard Bolling (Mo.).

In the bill itself, in previous sections, violations were set out and there were penalties of $5,000. There are several sections in the FEA sections that provide for penalties. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to state at the outset that the point of order made by the gentleman from New York (Mr. Ottinger) against the amendment offered by the gentleman from Texas (Mr. Collins) is on the ground that the amendment is not germane to title IV, and we are in effect limited in our consideration to the matters contained in title IV.

As will be clear in the statement which the Chair will make, the ruling that the present occupant of the Chair made under seemingly similar circumstances on an earlier bill is different.

The amendment would prohibit the use by any person—and that is the key to the ruling of the Chair—of gasoline or diesel fuel for certain transportation of public school students, and would establish a criminal penalty for violation of the amendment's provisions. The Chair has noted the Chair's ruling, cited in Deschler's Procedure, chapter 28, section 26.9, that an amendment restricting the regulatory authority of the President, who was authorized by the bill to establish priorities among users of petroleum products, was germane where the amendment required the product so allocated be used only for certain transportation of public school students.

It appears to the Chair that the ruling on that occasion was specifically directed to the fact that the bill conferred certain regulatory authority upon the President, and that the amendment placed a specific limitation and direction on the power so delegated. The amendment now in question does not address itself to the authority of an agency of Government, except in its last subsection relating to certain determinations by the Administrator of the Federal Energy Administration. But the direct thrust of the amendment is to prohibit certain uses of fuel by any person.

It is true that the title to which the amendment is offered deals with the subject of the conservation of energy, but the provisions of title IV address the goal of conservation through actions and encouragement by an agency of Government, not through prohibitions on the use of fuel by any person.

The Chair is unable to discover in title IV or in the basic act being amended criminal prohibitions applicable to any person using the fuel in a certain way.

The Chair, therefore, finds that the amendment is not germane to the fundamental purposes of the title to which offered and sustains the point of order.

Bill To Protect Civil Rights—New Title To Establish Commission on Equal Job Opportunity Under Government Contracts

§ 19.16 To a bill having as its fundamental purpose the protection of political rights, an amendment in the form of a new title to establish a Commission on Equal Job

Opportunity Under Government Contracts was held to be an economic proposition and was ruled out as not germane.

In the 86th Congress, a bill [3] was under consideration relating to enforcement of constitutional rights.

The following amendment was offered to the bill: [4]

Amendment offered by Mr. [Emanuel] Celler [of New York]: On page 12, after title V, insert the following new title VI and renumber the remaining titles and sections accordingly:

"TITLE VI

"COMMISSION ON EQUAL JOB OPPORTUNITY UNDER GOVERNMENT CONTRACTS

"Sec. 601. There is hereby created a Commission to be known as the 'Commission on Equal Job Opportunity Under Government Contracts,' hereinafter referred to as the Commission. . . .

"(b) To implement the policy of the United States Government to eliminate discrimination because of race, creed, color, or national origin in the employment of persons in the performance of contracts or subcontracts to provide the Government with goods or services, the Commission shall make recommendations . . . .'

A point of order was raised against the amendment, as follows: [5]

MR. [HOWARD W.] SMITH [of Virginia]: Mr. Chairman, I made the point of order that the amendment is not germane. It is not germane because it introduces to this legislation a subject entirely foreign to the bill, as reported by the committee. There is nothing in the bill relating to the subject of work discrimination. There is nothing in the bill which provides for the appointment of any other commission, and this sets up an entirely new commission and an entirely new bureau and is totally unrelated to all of the other provisions of the bill.

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

MR. CELLER: . . . Mr. Chairman, this amendment is offered to the bill as a new title. . . .

It is not always easy to determine whether or not a proposed amendment relates to a subject different from that under consideration within the meaning of this rule, and it is particularly difficult to do so when, as in the case of this bill under consideration, H.R. 8601, there are separate and distinct subjects which are touched upon in the five titles of the bill.

The subjects of the bill are, first, the obstruction of court orders; second, flight to avoid prosecution; third, preservation of Federal election records; fourth, the powers of the Civil Rights Commission; and, finally, fifth, the education of the children of members of the Armed Forces. It is logical, therefore, that the addition of a new subject as contained in this amendment is germane to the subject matter contained in the bill itself. In effect, adding one more stone to the necklace.

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3. H.R. 8601 (Committee on the Judiciary).

4. 106 CONG. REC. 5477, 86th Cong. 2d Sess., Mar. 14, 1960.

5. *Id.* at p. 5478.

. . . In determining germaneness, one must look to the fundamental underlying purpose of the bill. Here there is no question that the fundamental purpose of the legislation under consideration is to provide means for the enforcement of constitutional rights called civil rights as well as for other purposes. This is the identical same purpose of the amendment. The subject matter of the amendment is to provide a remedy to enforce the right of a person to work without discrimination, a civil right, where a Government contract is involved. This is consistent with the purpose of each of the five titles contained in the bill.

We must keep in mind that this is not a narrow, single-purpose bill; but, on the contrary, this is a broad multipurpose bill which has as its objective the enforcement of constitutionally guaranteed rights. . . .

In Cannon's Precedents, volume VIII, section 3010, we find:

> To a bill including several propositions of the same class an amendment adding another proposition of that class is germane. . . .

The Chairman,[6] in ruling on the point of order, stated:[7]

The question of germaneness depends entirely on the basic purpose of the bill under consideration. The basic purpose of this bill is to preserve certain rights. True, it is, there are sections that relate to other subjects, but the basic purpose, the fundamental purpose, that the gentleman spoke about in the precedents he recited is the matter contained in the bill before us.

The pending amendment introduces an economic question of whether or not employment should be interfered with or affected through the enactment of legislation which it seems to the Chair is foreign to the purpose of the pending bill.

For that reason, the Chair is constrained to sustain the point of order. In the opinion of the Chair, this amendment does not introduce a subject matter that is in the same class as the legislation under consideration.

An appeal was taken from the decision of the Chairman:

MR. CELLER: Mr. Chairman, I most respectfully appeal from the ruling 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 on a division (demanded by Mr. Celler) there were—ayes 157, noes 67.

So the decision of the Chair stands as the judgment of the Committee. .

—*Amendment To Enfranchise Citizens of District of Columbia .*

§ 19.17 To a bill to eliminate deprivation of the right to vote because of race or color, an amendment to enfranchise citizens of the District of Columbia was held to be not germane.

In the 86th Congress, a bill [8] was under consideration relating

6. Francis E. Walter (Pa.).

7. 106 CONG. REC. 5479, 86th Cong. 2d Sess., Mar. 14, 1960.

8. H.R. 8601 (Committee on the Judiciary).

to political rights including voting rights. The following amendment was offered to the bill:[9]

> Amendment offered by Mr. [Frank T.] Bow [of Ohio]: On page 12, after line 7, add a new title and insert:
>
> Citizens of the District of Columbia eligible to vote for delegates to national conventions to political parties shall here have the right to vote for President and Vice President of the United States in the same manner and on the same dates as elections for President and Vice President are held in the various States.

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane; that it concerns rights to be granted to citizens of the District of Columbia in connection with presidential elections, which is a subject entirely separate and distinct from the general tenor and import and specific provisions of the bill itself. In any event, it is a constitutional amendment.

The Chairman,[10] in ruling on the point of order, stated:[11]

> The Chair feels that the amendment offered by the gentleman from Ohio goes beyond the scope of the bill under consideration, the bill being confined entirely to deprivation of the right to vote because of race or color. For that reason the point of order is sustained.
>
> .

Bill Authorizing Attorney General To Bring Proceedings To Prevent Abridgment of Civil Rights—Amendment To Permit Certain Proceedings Against Attorney General by Persons Affected

§ 19.18 To a bill authorizing the Attorney General to institute proceedings against persons engaged in, or about to engage in, acts abridging an individual's civil rights, an amendment to permit an individual to institute proceedings against the Attorney General upon belief that the Attorney General was about to institute such proceedings against him, was held to be germane.

In the 84th Congress, a bill[12] was under consideration relating to the protection of civil rights of persons within the jurisdiction of the United States. The following amendment was offered to the bill:[13]

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9. 106 CONG. REC. 6388, 86th Cong. 2d Sess., Mar. 23, 1960.

10. Francis E. Walter (Pa.).

11. 106 CONG. REC. 6389, 86th Cong. 2d Sess., Mar. 23, 1960.

12. H.R. 627 (Committee on the Judiciary).

13. 102 CONG. REC. 13742, 13743, 84th Cong. 2d Sess., July 20, 1956.

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: On page 25, after line 6, insert a new section:

> Fourth—subsection (a). Whenever any private individual believes the Attorney General or any representative of the Federal Government has engaged or is about to engage in any acts or practices authorized in this act, such private individual may institute for the real party in interest a civil action or other appropriate proceeding for redress, or preventive relief, including an application for a permanent or temporary injunction. . . .

The following exchange[14] concerned a point of order raised against the amendment:

MR. [KENNETH B.] KEATING [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

MR. WHITTEN: Mr. Chairman, this amendment which has been presented, would attempt to give to the people of the country somewhat the same rights that this act would give to the Attorney General. . . . Whenever a citizen saw that the Attorney General, or any representative of the Federal Government, was about to engage in any action, which would bring people into court as parties defendant, then that individual could go into a Federal court, with the Federal Government standing the cost so that at least such private individual would be in a position of equality before the court. . . .

This bill is broad enough to make this amendment germane, and I refer to its title as follows:

> To provide means for further securing and protecting the civil rights of persons within the jurisdiction of the United States. . . .

MR. KEATING: Mr. Chairman, I insist on my point of order.

Mr. Chairman, we are here seeking to amend section 1980 of the Revised Statutes. The first three sections provide for certain remedies in cases of interference with a United States officer in the performance of his duty. . . .

What the gentleman from Mississippi is seeking to do, as I read his amendment, is to give a cause of action to an individual against the Attorney General. Perhaps we should broaden, extend, or consider the statutes relating to the liability of a public official for not doing his duty, or going beyond the scope of his duty. These are statutes on our books having to do with the violation of duty by a public official and the right of those injured thereby. But that has nothing to do with legislation we are considering here today. Therefore, the amendment offered by the gentleman is not germane to the bill. . . .

THE CHAIRMAN:[15] The Chair has examined the language of the bill and also the language of the amendment and comes to the conclusion that the language of the amendment is merely a reversal of the medal of the language as appears in the bill and for that reason concludes that the amendment is germane and, therefore, overrules the point of order.

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14. *Id.* at p. 13743.

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

Defense Authorization Bill: Amendment Adding New Section Repealing Prohibition on Funds for Legal Officers' Training

§ 19.19 To a general authorization bill for the Department of Defense, an amendment adding a new section providing for legal training of armed forces officers at civilian institutions and for the repeal of legislation prohibiting such legal training, was held to be germane to the bill as a whole.

In the 84th Congress, a bill[16] was under consideration which was intended in part to enact into permanent law certain provisions included at the time in the Department of Defense Appropriation Act and the Civil Functions Appropriation Act. The following amendment was offered to the bill:[17]

> Amendment offered by Mr. [Craig] Hosmer [of California]: Page 13, line 23, add a new section 27, as follows:
>
> Sec. 27. (a) The number of officers of the regular components of the Armed Forces detailed each year to commence training in law at civilian institutions shall not exceed the following numbers: Army, 15; Navy, 5; Air Force, 15; and Marine Corps, 10. . . .

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

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order that this amendment is not germane to the bill. The bill relates to points of order. This is not an item that would have been subject under the rules of the House to a point of order. It is a provision whereby without other action by the House it would permit the Department to go ahead and spend money. It is an elaborating proposition, and it practically constitutes an appropriation. Under the circumstances it is not only not germane but it constitutes an appropriation by a committee not authorized by law to bring in such a proposition.

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

> MR. HOSMER: Mr. Chairman, I realize that all the gentleman has said is true with regard to the former section 10, but this bill is for stated and other purposes. This subject is under the legislative cognizance of the Congress of the United States. Therefore, it is a subject that is cognizant with respect to this bill and therefore germane.

The Chairman,[18] without elaboration, ruled that the amendment was germane.

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16. H.R. 7992 (Committee on Armed Services).

17. 102 CONG. REC. 13843, 84th Cong. 2d Sess., July 21, 1956.

18. Charles B. Deane (N.C.).

Section of Bill Authorizing Military Construction—Amendment To Strike and Insert Provision Repealing Prohibition on Funds for Legal Officers' Training

§ 19.20 To that section of a bill authorizing certain minor military construction and repealing the monetary limitation on minor naval construction, a committee amendment striking that provision and inserting a provision for legal training of armed forces officers at civilian institutions and repealing legislation prohibiting use of funds for such legal training, was held to be not germane.

The following exchange[19] in the 84th Congress took place during consideration of a bill[20] which sought to enact into permanent law certain provisions included at the time in the Department of Defense Appropriation Act and the Civil Functions Appropriation Act.

> MR. [JOHN] TABER [of New York]: I make the point of order against the amendment to section 10 which reads as follows:
>
> On page 5, line 20, strike lines 20 through 25, inclusive, and on page 6, strike lines 1 through 6, inclusive, and insert the following:
>
> Sec. 10. (a) The number of officers of the Regular components of the Armed Forces detailed each year to commence training in law at civilian institutions shall not exceed the following numbers: Army, 15; Navy, 5; Air Force, 15; and Marine Corps, 10.
>
> (b) Section 623 of the Department of Defense Appropriation Act, 1956, approved July 13, 1955, is repealed—
>
> On the ground that the amendment is not germane to the matter sought to be stricken. . . .
>
> MR. [CARL] VINSON [of Georgia]: May I say to the gentleman that the Armed Services Committee has jurisdiction under the rules of the House over any legislation in this or any other form if it relates to the Department of Defense. This deals with certain specific statutes. It does not make any difference whether they originated in the Appropriations Committee or they are something new that we are writing in. We are well within our jurisdiction when we deal with this particular subject matter.

The Chairman,[1] without elaboration, sustained the point of order.

Authorities of Department of Defense—Amendment Prohibiting Use of Lands for Defense Purposes Pending Study

§ 19.21 To a bill containing diverse provisions relating to

19. 102 CONG. REC. 13841, 84th Cong. 2d Sess., July 21, 1956.
20. H.R. 7992 (Committee on Armed Services).

1. Charles B. Deane (N.C.).

authorities of the Department of Defense, an amendment adding a new title precluding that department from utilizing certain real property for deployment of a weapons system pending a study was held germane as confined solely to activities of the Defense Department and not extending to issues of the release of public lands through another department.

On May 21, 1980,[2] during consideration of H.R. 6974[3] in the Committee of the Whole, Chairman Dan Rostenkowski, of Illinois, overruled a point of order in the circumstances described above:

MR. [DAVID D.] MARRIOTT [of Utah]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Marriott:

TITLE X—RESPONSE TO MX/MPS SYSTEM IMPACT BY THE SECRETARY OF DEFENSE

Sec. 1000. The Secretary of Defense may not use any land made available for the deployment of any part of the MX/MPS system until the Secretary of Defense has provided Congress and the States affected by the system with the following—

(1) A report setting forth specific social, economic and environmental impacts of the MX/MPS system on the people, lands, and resources affected, and detailing the amount of public land to be partially or completely closed to any or all public use, and setting forth any circumstances which would require the use of area security, rather than point security, for the system;

(2) A proposal outlining the methods of addressing the social, economic, and environmental impacts of the MX/MPS system so as to minimize the negative effects of such impacts, including specific steps that can be taken to eliminate delays in delivery of necessary impact aid funds to affected states, counties, and communities;

(3) A study of the feasibility of basing parts of the MX/MPS system in more than two States, so as to minimize the social, economic, and environmental impacts on any single State. . . .

MR. [RICHARD H.] ICHORD [of Missouri]: . . . I observe that the amendment applies to the MX–MPS system which is contained in title II and was fully debated by the committee.

The gentleman sets up a new title X applying solely to MX lands.

Mr. Chairman, I would raise a point of order against the amendment on two grounds. First, the amendment is not now in order as a separate title X. It should have been offered to title II.

The gentleman would have to ask unanimous consent to open up the MX issue.

Mr. Chairman, as a second ground, fully appreciating the good and honorable intentions of the highly esteemed gentleman from Utah in offering this amendment, I make the point of order that the amendment is not germane to the legislation under consideration today since this bill in even a remote

2. 126 CONG. REC. 11972, 11973, 96th Cong. 2d Sess.

3. The Department of Defense Authorization for fiscal 1981.

respect, Mr. Chairman, does not authorize the acquisition of public lands in any fashion, nor are the agencies of Government concerned nor the public lands within the jurisdiction of this bill.

If we examine the amendment, the gentleman deals strictly with three conditions for the withdrawal of land. Therefore, such an amendment would not properly find its place in H.R. 6974. In fact, Mr. Chairman, the law is such that if we make a withdrawal of land over 5,000 acres it has to be done by other legislation. I am constrained, even though appreciating the good intentions of the gentleman from Utah, to make the point of order that the amendment offered by the gentleman from Utah (Mr. Marriott) is not germane to the bill under the provisions of House rule XVI, clause 7. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair observes that the gentleman from Utah (Mr. Marriott) has offered his amendment as a new title X, which is an amendment which must be germane to the bill as a whole and, the Chair feels that the amendment certainly relates to the bill, and that under the precedent a subject may be germane at more than one place in the bill.

The Chair also makes the observation that the amendment only addresses the authority of the Secretary of Defense to use any available lands for research on and deployment of the MX. Such an amendment is germane since it is not addressed to the question of the acquisition of public lands or the release of public lands by the Department of the Interior and since other authorities of the Defense Department are contained in the bill. Therefore, the Chair overrules the point of order raised by the gentleman from Missouri.

Bill Amending Universal Military Training and Service Act—New Section on Subject Not Covered in Bill or Act (Combat Pay)

§ 19.22 To a bill amending the Universal Military Training and Service Act, an amendment relating to additional pay for combat service for all of the armed forces was held to be not germane.

In the 82d Congress, a bill[4] was under consideration amending the Universal Military Training and Service Act. The following amendment was offered to the bill:[5]

> Amendment offered by Mr. [Olin E.] Teague [of Texas] to the amendment offered by Mr. [Graham A.] Barden [of North Carolina]: Page 20, after line 18, add a new section, as follows:
>
> > That members of the Army, Navy, Marine Corps, and Air Force entitled to receive basic pay shall in addition thereto be entitled to receive a special pay at the monthly rate of $100 per month for officers and $75 per month for enlisted persons for combat duty while actually engaged in combat. . . .

4. S. 1–1951 (Committee on Armed Services).
5. 97 CONG. REC. 3781, 82d Cong. 1st Sess., Apr. 12, 1951.

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

> MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order that the amendment is not germane, as it relates to combat pay, and there is nothing in this bill or the Original Draft Act of 1948 dealing with the question of pay or combat pay at all.

The Chairman,[6] in ruling on the point of order, stated:[7]

> The Chair invites attention to the fact that the amendment offered by the gentleman from Texas covers a subject matter which is not covered in the pending bill or in the act which is sought to be amended by the pending bill.
>
> The Chair is of the opinion therefore that the amendment is not germane to the pending bill and sustains the point of order.

Defense Production Act—New Title Amending Housing Act

§ 19.23 To the Defense Production Act of 1950, establishing a system of priorities and allocations for materials and facilities, an amendment proposing to amend the Housing and Rent Act of 1947 was held not germane.

In the 81st Congress, during consideration of the Defense Production Act of 1950,[8] the following amendment was offered:[9]

> TITLE VII—RENT CONTROL
>
> Sec. 501. Section 4(c) of the Housing and Rent Act of 1947, as amended, is amended by striking out "June 30, 1951" and inserting in lieu thereof, "June 30, 1952. . . ."
>
> Sec. 508. Section 204(i) of the Housing and Rent Act of 1947, as amended, is amended to read as follows:
>
> (3) The Housing Expediter, upon recommendation of a local advisory board, or upon his own initiative, whenever in his judgment such action is necessary or proper in order to effectuate the purposes of this title or to promote national defense, may by regulation or order establish or reestablish maximum rents for any or all housing accommodations in any defense-rental area. . . .

In response to the point of order raised by Mr. Jesse P. Wolcott, of Michigan, that the amendment was not germane to the subject matter of the bill, the proponent of the amendment[10] stated:[11]

> Mr. Chairman, this is a bill of controls. Certainly nothing could be more germane to such a bill than control over the prices that people can charge for housing. . . .

The Chairman,[12] in ruling on the point of order, stated:

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6. Jere Cooper (Tenn.).

7. 97 CONG. REC. 3783, 82d Cong. 1st Sess., Apr. 12, 1951.

8. H.R. 9176 (Committee on Banking and Currency).

9. 96 CONG. REC. 11751, 81st Cong. 2d Sess., Aug. 3, 1950.

10. Barratt O'Hara (Ill.).

11. 96 CONG. REC. 11752, 81st Cong. 2d Sess., Aug. 3, 1950.

12. Howard W. Smith (Va.).

The Chair has considered the amendment rather briefly. It seems to relate to a subject that is nowhere touched on in this present bill now before the Committee.

The Chair is constrained to rule . . . that the amendment is not germane to the pending substitute; therefore sustains the point of order.

Bill as Amended Addressing Diverse Aspects of Foreign Policy, Foreign Aid and Trade—Amendment To Remove Sanctions Against Rhodesia Under Certain Conditions

§ 19.24 The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the entire bill as perfected; thus, where a bill authorizing foreign military assistance had been broadened in its scope by amendments relating to economic assistance to other nations, trade and other aspects of relations with the Soviet Union, matters of foreign policy with respect to human rights abroad, actions to be taken by various countries respecting their internal affairs in order to qualify for assistance from the United States, and issues pertaining to Congressional travel expenses, an amendment to remove military and economic trade sanctions against Rhodesia under certain conditions was held germane to the bill as a whole in its perfected form.

During consideration of H.R. 12514 [13] in the Committee of the Whole on Aug. 2, 1978,[14] the Chair overruled a point of order against the following amendment:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 19, after line 20, insert the following new section:

Sec. 26. Section 533(d) of the Foreign Assistance Act of 1961 is amended by inserting the number "(1)" after the phrase "Section 533(d)" and by striking out the period at the end of the paragraph, inserting a semicolon, and adding the following:

"(d)(2) In furtherance of this section and the foreign policy interests of the United States, the government of the United States shall not enforce any sanctions against the government and people of Rhodesia before October 1, 1979, unless the President shall determine that (a) the transitional government of Rhodesia has not committed itself to negotiate in good faith at an all-parties conference held under international auspices on all relevant issues; and (b) the transitional government has made no definite plans for the hold-

13. The International Security Assistance Authorization, fiscal 1979.

14. 124 CONG. REC. 23936–38, 95th Cong. 2d Sess.

ing of free and fair elections including all population groups under recognized international observation. This section shall take effect upon enactment." . . .

MR. [CHARLES C.] DIGGS [Jr., of Michigan]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Maryland on the question of the germaneness, clause 7 of House rule XVI.

An amendment of this nature is subject to two tests of germaneness. First, it has to be related to the subject matter under consideration; and second, the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill. In my view, the gentleman's amendment fails both tests. With respect to the subject matter, as compared to the content of the amendment, we note that the amendment in no way really deals with grant military assistance or military training or foreign military sales or narcotics control assistance or economic assistance to Turkey or the various elements of the subject of this bill, H.R. 12514.

To the contrary, the fundamental purpose of the amendment is to lift existing economic trade sanctions against the Government of Rhodesia, an action not within the scope of the bill before us which has as its principal purpose the authorization of international security assistance programs for the fiscal year 1979.

In addition, the bill has other provisions which primarily relate to other kinds of bilateral U.S. assistance. It in no way addresses the issue of nonmilitary trade or economic trade sanctions in general, nor does it seek to apply or to lift such sanctions against any individual company, and it in no way addresses the issue of U.S. imports from any source. . . .

MR. BAUMAN: Mr. Chairman, the gentleman from Michigan (Mr. Diggs) has correctly stated the basic rule that applies to any amendment to be offered to a bill, and that is under rule XVI, clause 7, any amendment must be germane to the bill before the Committee of the Whole.

However, the relationship of the amendment to the bill to be judged is to the bill as modified by all actions of the Committee of the Whole. If one applies the fundamental purpose test to the bill now before us, it is easy, I think, for the Chair to determine that while the fundamental purpose of the legislation does deal with military assistance to foreign countries, the bill, both as reported by the committee and as modified by the Committee of the Whole, goes well beyond the scope of that single purpose, and the bill has been broadened by amendment to the point where this amendment is in order.

I refer the Chair first to the bill, as reported. On page 2, in section 3, we find an amendment to the Foreign Assistance Act of 1961 which deals with International Narcotics Control. The pertinent section under International Narcotics Control, section 481 of the 1961 act, does not deal with military assistance but with international trade in drugs which, while illicit, is certainly commercial in character. Under that section, section 481, of the 1961 act, the President is given the power to suspend "economic and military assistance furnished under this or any other act" if the countries involved in the drug trade do not in fact live up to the

standards set in the act. That is a commercial transaction over which the President has control.

I would refer the Chair further to the section of the bill dealing with assistance to Turkey, and that is on page 13 of the bill. Section 16 of the bill provides economic assistance to Turkey and not military assistance. It is conceded that this would have belonged in the previous economic aid authorization bill, but it was added to this bill, obviously broadening the scope of the bill at that point.

On the point of economic assistance to Turkey, I would refer to page 29 of the committee report, where it is stated that the specific economic aid given in the bill is under the International Development and Food Assistance Act, which, I believe, permits sales to foreign countries as well as outright grants. That is a commercial transaction and not a military assistance transaction.

I would call the attention of the Chair to an additional section of the bill, section 5, which allows assistance to police and other law enforcement agencies in foreign countries. On pages 14 and 15 of the report there are references to the section, as amended, which would affect principally commercial exports of munitions items. It requires reports of private commercial sales to be made to the State Department, and it transfers jurisdiction from the Commerce Department over this kind of commercial activity.

I refer the Chair to the Wolff amendment which was adopted today by the Committee of the Whole, a new section on page 19, line 20, in which the gentleman from New York offered an amendment that requires that the President conduct a full review of U.S. policy toward the Soviet Union, and this review will cover but is not limited to subparagraph (3) on page 1, "what linkages do exist," and so on, including, "arms control negotiations, human rights issues, and economic and cultural exchanges." And, further, in subparagraph (10), "United States economic, technological, scientific and cultural relations. . . ."

It is the contention of the gentleman from Maryland that the amendment before the House is germane since it amends the 1961 act and the amendment covers not only commercial and economic sanctions against Rhodesia, but specifically also covers military and security sanctions against Rhodesia. . . .

THE CHAIRMAN:[15] . . . The Chair might point out that the amendment comes at the end of the bill. While the bill, when it was reported from the Committee on International Relations, was primarily confined to bilateral security assistance and related policies, this bill, as perfected in the Committee of the Whole, has been significantly broadened in scope, as well as subject matter.

The bill now deals with the use of funds for travel expenses of Members and employees of Congress, as well as matters relating to security and economic assistance to other nations, furnished by this country.

The bill also now addresses the full range of our relations with the Soviet Union, including all trade and economic matters, and contains broad statements of foreign policy in relation

15. Don Fuqua (Fla.).

to human rights abroad, relationships with Turkey, Greece, Cyprus, Chile, and Korea, and the actions which other countries must take in relation to their internal affairs in order to receive military or other assistance from the United States.

It therefore appears to the Chair that the amendment offered by the gentleman from Maryland is germane as a further direction on the use of our foreign assistance and on the operations of foreign relations, and for the reasons stated, the Chair overrules the point of order.

Foreign Assistance—Commission To Administer All Foreign Aid

§ 19.25 To a bill authorizing appropriations for assistance to Greece and Turkey through the Reconstruction Finance Corporation, an amendment proposing the creation of a Foreign Funds Control Commission, which was to have control over funds proposed in the bill and over funds made available under other legislation, was held to be not germane.

In the 80th Congress, a bill[16] was under consideration relating to assistance to Greece and Turkey. The following amendment was offered to the bill:[17]

Amendment offered by Mr. [Fred L.] Crawford [of Michigan]: On page 4, line 22, after the period, add a new section:

Sec. 3a. There is hereby created the Foreign Funds Control Commission, which shall be an independent agency of Government directly responsible to the Congress. . . .

1The Commission is hereby directed to administer all funds hereafter granted by the Treasury of the United States or previous grants if directed by the Congress to foreign countries, their nationals and agencies of whatever kind or nature.

In response to the point of order made by Mr. Charles A. Eaton, of New Jersey, that the amendment was not germane to the bill, the Chairman[18] stated:

. . . The amendment offered by the gentleman from Michigan proposes to create a Foreign Funds Control Commission, to be an independent agency of the Government and to have control not merely over the funds proposed to be authorized by the pending legislation but over funds that might be made available under other legislation. Consequently the Chair sustains the point of order and rules that the amendment is not germane.

—Waiving Provisions of Other Laws

§ 19.26 To a bill amending the Foreign Assistance Act of 1961, providing new authorizations and policy declarations, an amendment to pro-

16. H.R. 2616 (Committee on Foreign Affairs).

17. 93 Cong. Rec. 4930, 80th Cong. 1st Sess., May 9, 1947.

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

hibit use of any funds available notwithstanding any other law until the question of further assistance under the act had been approved in a national referendum was held to be not germane.

During consideration of the Foreign Assistance Act of 1963,[19] the following amendment was offered:[20]

> Sec. 310. The Foreign Assistance Act of 1961, is amended by adding at the end thereof the following new section:
>
> Sec. 648. Notwithstanding any other provision of this or any other Act, none of the funds available to carry out the provisions of this Act, shall be expended until the following question be submitted to qualified electors in a National Referendum.
>
> Shall the United States continue the Foreign Assistance Act of 1961, or any amendments thereto, subsequent to June 30, 1964?

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

> MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the foreign aid bill.

The following exchange[1] concerned a point of procedure:

> MR. [ROBERT J.] DOLE [of Kansas]: Mr. Chairman, is it not true that all points of order have been waived on this bill?
>
> THE CHAIRMAN:[2] Under the rule, all points of order are waived as to the text of the bill, as reported by the committee. Points of order are not waived as to amendments that might be offered to the bill.

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

> . . . The gentleman from Pennsylvania [Mr. Morgan] makes the point of order against the amendment on the ground that it is not germane to the bill before the Committee. The Chair is of the opinion that the amendment is not germane to the bill.
>
> The point of order is sustained.

Bill Establishing Silver Content of Certain Coins—Amendment To Limit Silver Exports. .

§ 19.27 To a bill establishing the silver content of certain coins, an amendment limiting the export of silver from the United States was held to be not germane.

In the 89th Congress, a bill[3] was under consideration relating to coinage. The following amendment was offered to the bill:[4]

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19. H.R. 7885 (Committee on Foreign Affairs).

20. 109 CONG. REC. 15608, 88th Cong. 1st Sess., Aug. 22, 1963.

1. *Id.*

2. Wilbur D. Mills (Ark.).

3. H.R. 8926 (Committee on Banking and Currency).

4. 111 CONG. REC. 16839, 89th Cong. 1st Sess., July 14, 1965.

Amendment offered by Mr. (Ed) Reinecke [of California]: Page 5, immediately after line 13, insert the following new section:

"Sec. 107. During each of the first five fiscal years ending after the date of enactment of this Act, aggregate exports of silver from the United States shall be limited to an amount not exceeding the aggregate imports of silver during such year. . . . The policies set forth in section 2 of the Export Control Act of 1949 shall be deemed to include the limitation of exports of silver in accordance with this section."

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

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make a point of order against the amendment. The amendment is not germane to this bill. It attempts to amend the Export Control Act, section 2, which is enforced by the Secretary of Commerce, and not connected with the Department of the Treasury. . . .

In defense of the amendment, the proponent stated as follows:[5]

. . . Mr. Chairman, it is pretty obvious that the reason we are discussing this legislation today is the extreme shortage of silver in the U.S. Treasury and any continued abuse or misuse of that silver will have an adverse effect on our coinage situation.

The Chairman,[6] in ruling on the point of order, stated:

. . . The Chair has had an opportunity to examine the amendment and the bill. The Chair would call attention to the fact that the bill provides for the coinage of the United States and the amendment relates to exports, which is a foreign matter to the subject matter of the bill.

The Chair holds that the subject is not germane.

Bill Extending Title of Agricultural Act Authorizing Secretary of Labor To Assist in Supplying Agricultural Workers From Mexico—Amendment Requiring Secretary of Agriculture To Prescribe Safety and Health Regulations for Such Workers

§ 19.28 To a bill extending Title V of the Agricultural Act of 1949, as amended, authorizing the Secretary of Labor to assist in supplying agricultural workers from Mexico, an amendment requiring the Secretary of Agriculture, after consultation with the Interstate Commerce Commission, to prescribe employer regulations for the adequate safety, health, and welfare of workers being transported, was held to be germane.

In the 84th Congress, a bill[7] was under consideration amend-

5. *Id.*
6. Frank M. Karsten (Mo.).
7. H.R. 3822 (Committee on Agriculture).

ing title V of the Agriculture Act of 1949, as amended, by striking out the termination date. The following amendment was offered to the bill:[8]

> Sec. 4. Title V of such act, as amended, is further amended by adding at the end thereof the following new section:
>
> "Sec. 510. The Secretary of Agriculture, after consultation with the Interstate Commerce Commission, shall prescribe such regulations as may be necessary to require employers to provide adequately for the safety, health, and welfare of workers while they are being transported from reception centers to the places of their employment and returned from such places to reception centers after termination of employment. . . ."

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

> MR. [EZEKIEL C.] GATHINGS [of Arkansas]: The amendment is not germane inasmuch as it calls for consultation by the Secretary of Agriculture with the Interstate Commerce Commission, and the Interstate Commerce Commission is not in anywise affected by this legislation. Furthermore, the Secretary of Agriculture does not administer this program; the program is administered by the Secretary of Labor. . . .

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

> MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, I think it is very evident that the amendment itself only directs that the Secretary of Agriculture after consultation with the Interstate Commerce Commission shall prescribe such regulations as may be necessary. The fact is that this legislation is given to the Secretary of Agriculture for administration, and we leave it with him for that purpose with consultation merely a factor so that he may be assisted in proper regulations as far as they may be enforced by the Interstate Commerce Commission. . . .

The Chairman,[9] in ruling on the point of order, stated:

> From a reading of the amendment it is apparent that all the actions are required of the Secretary of Agriculture; no specific action is required of the Interstate Commerce Commission.
>
> The amendment attempts to change the provisions of the bill having to do with employee safety, health, and welfare; and it is quite clearly, in the opinion of the Chair, germane to the bill.

Agricultural Commodities: Support and Storage Programs—Amendment To Impose Criminal Penalties Relating to Certain Fees Paid for Storage

§ 19.29 To an omnibus agricultural bill being considered by titles and containing a title relating to various commodity conservation, support, and storage programs, including conferral of court

8. 101 CONG. REC. 10019, 84th Cong. 1st Sess., July 6, 1955.

9. Jamie L. Whitten (Miss.).

jurisdiction over discrimination cases, an amendment in the form of a new section providing a criminal penalty for payment or receipt of gratuities "as an inducement for . . . storage of any . . . commodity in any warehouse . . ." was held germane to the title to which offered.

The following exchange in the 87th Congress, which took place during consideration of the Food and Agricultural Bill of 1962,[10] concerned a point of order made by Mr. Harold D. Cooley, of North Carolina, against an amendment offered by Mr. Ross Bass, of Tennessee:[11]

> MR. COOLEY: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to the section to which it is offered. The section . . . provides no penalty for any violations of any section of the law. This amendment sets out a criminal offense . . . which is not related to . . . warehousing. . . .
>
> THE CHAIRMAN:[12] The Chair would like to remind the gentleman . . . that the amendment is not to amend the section but to add a new section to title III. . . .
>
> If the gentleman . . . will examine the feed grains program, title III in its entirety, he will find many sections in existing law and also in the title which made the amendment germane to this title.
>
> The Chair overrules the point of order.

Appropriations for Flood Damage—Amendment To Create Federal Flood Claims Commission

§ 19.30 To a joint resolution making appropriations for rehabilitation of flood-stricken areas, an amendment creating a Federal Flood Claims Commission and providing for payment of indemnities for flood damage was held to be not germane.

In the 82d Congress, a proposition was under consideration relating to aid for flood-stricken areas.[13] An amendment was offered as follows:[14]

> Amendment offered by Mr. [Errett P.] Scrivner [of Kansas]: On page 1, line 6, add a new section entitled "Federal Flood Claims Commission," and the following:
>
> There is hereby created a Federal Flood Claims Commission, hereinafter referred to as the Commission, to be composed of the Director of Defense Mobilization, the Adminis-

10. H.R. 12391 (Committee on Agriculture).

11. 108 CONG. REC. 14186, 87th Cong. 2d Sess., July 19, 1962.

12. Francis E. Walter (Pa.).

13. H.J. Res. 341 (Committee on Appropriations).

14. 97 CONG. REC. 12647, 82d Cong. 1st Sess., Oct. 4, 1951.

trator of the Reconstruction Finance Corporation, and the Administrator of the Housing and Home Finance Agency, to direct and supervise under such regulations as it may adopt, the payment of claims for losses of tangible personal property suffered by individuals whose property was damaged by the floods of July 1951 in areas designated by the President as disaster flood areas; and local Federal flood claim boards in each county . . . to receive and process such claims.

No claim shall be considered for a minimum of less than $300, and the maximum allowable to any one claimant shall be $3,000; no claim shall be entertained from individuals found to be eligible to relief under any other of the provisions of this act. . . .

Mr. William F. Norrell, of Arkansas, reserved a point of order against the amendment, and Mr. Scrivner then discussed the amendment. Subsequently,[15] Mr. Jamie L. Whitten, of Mississippi, moved to strike the last word, and the following exchange took place:

MR. NORRELL: Mr. Chairman, I am willing to further reserve my point of order if I do not waive anything by permitting the gentleman from Mississippi to discuss the amendment. . . .

THE CHAIRMAN:[16] It is not the practice of the House to reserve a point of order and then debate another amendment.

Thereafter, Mr. Norrell stated the point of order as follows:

I make the point of order, Mr. Chairman, that the amendment is not germane to the pending House joint resolution; that it sets up a Claims Commission and establishes an indemnification for flood-control damages, and the House joint resolution does not do that. It is not germane to the pending resolution; either the paragraph or the entire resolution. There is nothing in it with reference to that.

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

The amendment offered by the gentleman from Kansas would set up a new commission. The general purposes of the amendment would be to bring about the payment of indemnities, a matter beyond the scope of the pending bill. Therefore, the point of order against this amendment would have to be sustained. . . .

Bill Defining Jurisdiction of Courts and Regulating Recovery of Portal-to-Portal Pay—Amendment To Repeal Wages and Hours Provisions in Existing Law

§ 19.31 To a bill to define and limit the jurisdiction of the courts and regulate actions arising under certain laws, and particularly to regulate the recovery of portal-to-portal pay, an amendment proposing the repeal of the wages and hours provisions of the Fair Labor Standards Act of 1938 was held not germane.

15. *Id.* at p. 12648.

16. William M. Colmer (Miss.).

On Feb. 28, 1947, the following part of a bill[17] under consideration was read for amendment:[18]

> Sec. 3. No action or proceeding . . . shall be maintained to the extent that such action is based upon failure of an employer to pay an employee for activities . . . engaged in by such employee other than those activities which at the time of such failure were required to be paid for either by custom or practice of such employer at the plant or other place of employment of such employee or by express agreement at the time in effect between such employer and such employee or his collective-bargaining representative.

An amendment was offered, as follows:

> Amendment offered by Mr. [Sam] Hobbs [of Alabama]: On page 5, after section 2, insert a new section as follows:
>
> > Sec. 2½. The whole of section 6, the whole of section 7, and the whole of section 16(b), Public Law 718, of the Seventy-fifth Congress, are hereby repealed.

The following point of order was raised against the amendment:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order against the amendment. It is not germane. It deals with sections of the Fair Labor Standards Act not within the scope of this bill.

The Chairman[19] without elaboration, sustained the point of order.

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17. H.R. 2157 (Committee on the Judiciary).

18. 93 CONG. REC. 1564, 80th Cong. 1st Sess.

19. Thomas A. Jenkins (Ohio).

Bill To Amend Interstate Commerce Act Regarding Status of Certain Carriers—Amendment Addressing Rates of All Common Carriers

§ 19.32 To a bill to amend the Interstate Commerce Act to clarify the status of freight forwarders and their relationship with "motor" common carriers, an amendment concerned with rates of all common carriers was held not germane.

In the 81st Congress, during consideration of a bill[20] to amend the Interstate Commerce Act, the following amendment was offered:[1]

> Amendment offered by Mr. [John E.] Rankin [of Mississippi]: Page 5, line 9, insert a new section to read as follows:
>
> > Sec. 4. It shall be unlawful for any carrier subject to this act, to charge or receive for the transportation of property from any point of origin to any point of destination compensation which is greater or less than the compensation charged or received by such carrier for the transportation of like kind of property from such point of destination to such point of origin.

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

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20. H.R. 5967 (Committee on Interstate and Foreign Commerce).

1. 96 CONG. REC. 12011, 81st Cong. 2d Sess., Aug. 8, 1950.

MR. [ARTHUR G.] KLEIN [of New York]: Mr. Chairman, I make the point of order against the amendment that it is not germane; it deals with rates of common carriers and the bill has nothing whatever to do with rates.

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

MR. RANKIN: Mr. Chairman, what I am trying to say is that this is a transportation bill. It is a bill that affects transportation and it is brought in here by the committee that has that responsibility. . . .

The following exchange then occurred:[2]

THE CHAIRMAN:[3] Does the gentleman's amendment apply to freight forwarders or motor vehicles or what?

MR. RANKIN: Motor vehicles or railroads or any other common carriers. Anything that is affected by this bill would be included. The people would be protected under this amendment from this violent and unjust discrimination. . . .

MR. KLEIN: Mr. Chairman, may I point out to the Chairman that this bill refers to compensation of common carriers. In my opinion, the bill that is before the committee at this time simply governs payments between forwarders and motor carriers under contract and has nothing to do with compensation of any other kind of carrier. . . .

MR. [CHARLES A.] HALLECK [of Indiana]: . . . [T]he amendment, as I understand it . . . has to do with all freight rates, all transportation rates, as covered under any title of the act. The legislation that is before us is limited specifically to freight forwarders and their utilization of transportation by motor carriers. . . .

The Chairman, in ruling on the point of order, stated:[4]

. . . The gentleman from Mississippi admits that the amendment applies to all common carriers. This bill deals exclusively with motor carriers. The Chair sustains the point of order.

Bill Providing for Investigations by Civil Service Commission—Amendment Requiring Reports on Investigations Be Made Available to Congressional Committees

§ 19.33 To a bill to provide for certain investigations by the Civil Service Commission in lieu of the Federal Bureau of Investigation, an amendment providing that all findings, records, and reports on such investigations be made available to the committees of Congress upon request was held to be germane.

In the 82d Congress, a bill[5] was under consideration relating to investigations by the Civil

2. *Id.* at pp. 12011, 12012.
3. John McSweeney (Ohio).
4. 96 CONG. REC. 12012, 81st Cong. 2d Sess., Aug. 8, 1950.
5. S. 2077 (Committee on Post Office and Civil Service).

Service Commission. The following amendment was offered to the bill:[6]

> Amendment offered by Mr. [Frank T.] Bow [of Ohio]: After line 2 on page 5, add a new section to read as follows:
>
> All findings, records, and reports made or compiled by the Civil Service Commission under this act shall be made available to the committees of the Congress upon the request of such committee.

Mr. Thomas J. Murray, of Tennessee, made a point of order against the amendment on the ground that it was not germane to the bill.[7] In defending the amendment, the proponent stated:

> Mr. Chairman, I believe it is germane. In checking the bill itself, we find we are considering acts having to do with the control of atomic energy, assistance to Greece, the joint resolution providing for relief and assistance to people of countries devastated by war, and the reincorporation of the Institute of Inter-American Affairs, and many other such items. It seems to me from the bill itself in setting up this agency, Congress has a right at the same time to say that the records and findings of the committee that is being set up now should be made available to the committees of the Congress when the committee so requests.

The Chairman,[8] without elaboration, overruled the point of order.

Section of Bill Providing for Assistance to States in Collecting Cigarette Taxes—New Section To Provide for Payment of Portion to Federal Treasury

§ 19.34 To that portion of a bill proposing to assist states in collecting sales and use taxes on cigarettes, an amendment providing that any state recovering taxes by virtue of the enforcement of such provisions should pay into the Treasury of the United States 10 percent of the taxes recovered was held not germane.

In the 81st Congress, a bill[9] was under consideration which contained the following provisions:

> Sec. 2. Any person selling or disposing of cigarettes in interstate commerce whereby such cigarettes are shipped to other than a distributor licensed by or located in a State taxing the sale or use of cigarettes shall, not later than the 10th day of each month, forward to the tobacco tax administrator of the State into which such shipment is made, a memorandum or a copy of the invoice covering each and every such shipment of cigarettes. . . .

The following amendment was offered to the bill:[10]

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6. 98 CONG. REC. 2127, 82d Cong. 2d Sess., Mar. 11, 1952.

7. *Id.* at p. 2128.

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

9. H.R. 195 (Committee on Ways and Means).

10. 95 CONG. REC. 6365, 81st Cong. 1st Sess., May 17, 1949.

Amendment offered by Mr. [Earl] Chudoff [of Pennsylvania]: On page 3, at the end of the page add a new section, as follows:

Sec. 4. Any tax recovered by any State by virtue of the enforcement of this act shall pay into the Treasury of the United States a sum equal to 10 percent of all such taxes recovered.

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

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make the point of order against the amendment that it is not germane to this bill or any provision of the bill.

The Chairman,[11] in ruling on the point of order, stated:

The amendment offered by the gentleman from Pennsylvania adds a new section, section 4, which is, by its own language, legislation that is not germane to the bill in question. The point of order is sustained.

Bill Amending Small Business Act—Senate Amendment Providing for Legal Fees for Parties Prevailing Against United States

§ 19.35 To a House bill narrowly amending the Small Business Act reported from the Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in court litigation and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane (pending a motion to recede and concur in the Senate amendment with an amendment including such provisions, after the conference report on the bill had been ruled out of order).

The proceedings of Oct. 1, 1980, relating to H.R. 5612 (addressing small business assistance and reimbursement for certain fees), are discussed in § 26.26, infra.

§ 20. Amendment Striking Portion of Text of Bill or Amendment

A proposal to strike out a portion of a text may be ruled out of order as not germane to the proposition under consideration. Generally, an amendment which, by striking out a portion of the text, changes the purpose and scope of the bill is not germane.[12] Thus, if the effect of an amendment striking out language is to alter the

11. James W. Trimble (Ark.).

12. See, for example, §§ 20.3, 20.4, infra.

scope and import of the text to such extent as to present a different subject from that under consideration, the amendment is not germane.[13] Similarly, it is sometimes stated that a proposal to eliminate portions of a text, thereby extending the scope of its provisions to subjects other than those originally presented, is in violation of the rule requiring germaneness.[14]

Conversely, an amendment which by striking out a portion of the text limits, narrows or does not change the purpose and scope of the bill may be germane.[15]

Perfecting amendments to a title in a bill may be offered while there is pending a motion to strike out the title, and are required to be germane to the text to which offered, not to the motion to strike out.[16]

Amendment as Changing Scope and Meaning of Text

§ 20.1 An amendment simply striking out language already in a bill may not be ruled out as non-germane unless the effect of such amendment would change the scope and meaning of the text.

The proceedings of June 7, 1977, relating to the Federal Employees Political Activities Act of 1977,[17] wherein the Chair ruled out amendments to strike language because the effect of the amendments was to enlarge the scope of the bill, are discussed in § 20.2, infra.

Provision Excluding Uniformed Services From Coverage of Bill Affecting Federal Employees—Amendment To Strike Exclusion

§ 20.2 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), amendments proposing to strike out that exclusion from coverage, thereby broadening

13. See § 15.44, supra.

14. See §§ 9.12, supra, and 20.3, infra.

15. See § 20.6, infra.

16. See § 18.2, supra.

17. H.R. 10.

the scope of the bill to include the separate class, were held not germane.

On June 7, 1977,[18] during consideration of the Federal Employees' Political Activities Act of 1977,[19] 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. [Thomas N.] Kindness [of Ohio]: 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 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. KINDNESS: Responding [to] the point of order, Mr. Chairman, the bill,

18. 123 CONG. REC. 17713, 17714, 95th Cong. 1st Sess.

19. H.R. 10.

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:[20] 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 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 pri-

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

vate 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.

Subsequently, Mr. Kindness offered another amendment deleting the language excluding the uniformed services from coverage under the bill:

MR. KINDNESS: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kindness: Page 8, line 12, strike out "but does not include a member of the uniformed services" and insert "including any member of the uniformed services".

Page 35, line 2, strike out "or a member of a uniformed service.".

MR. CLAY: Mr. Chairman, I make a point of order that the amendment is not germane, that it goes beyond the scope of the bill, and that it amends existing law not cited in the bill. . . .

MR. KINDNESS: Mr. Chairman, I carefully listened to the ruling of the Chair on a prior amendment which dealt in greater detail with the subject of members of the uniformed services who are specifically excluded from this bill but only by the language that is included in this amendment. All this amendment does is to strike language that is in the bill. That has to be germane. It has to be a part of the bill before us, in the most germane sense, the most consistent sense.

I would urge that the point of order is not well taken on its face, because the amendment only strikes language that is in the bill.

THE CHAIRMAN: The Chair feels that it covered the point made at this time by the gentleman from Ohio (Mr. Kindness) in its first ruling, in which the Chair cited from the House Rules and Manual of the 95th Congress, paragraph 7, of rule XVI and precedents contained in Cannon's volume VIII, sections 2917–2921.

Let the Chair quote the language that the gentleman from Ohio (Mr. Kindness) would find to be most favorable. The language is as follows:

In general, an amendment simply striking out words already in a bill

may not be ruled out as not germane unless such action would change the scope and meaning of the text.

The Chair would say that the gentleman's position was stronger in the first instance wherein he did supply language, and the Chair feels in making this second ruling that the broadening aspect of the gentleman's initial language is such as to take it out of the scope of the bill. By reversing that language and striking it out and putting it in affirmative terms, as the gentleman now does, the gentleman's amendment is subject to the point of order, and the ruling is the same.

The point of order is sustained, and the amendment is not in order.

Amendment Broadening Definition of Criminal Offense

§ 20.3 To a bill making it a penal offense for three or more persons acting in concert without authority of law to kill or injure any person in the custody of a peace officer, an amendment proposing to strike out the words "in the custody of a peace officer" was held to be not germane.

In the 75th Congress, an anti-lynching bill[1] was under consideration, which stated:[2]

Be it enacted, etc., That for the purposes of this act the phrase "mob or riotous assemblage," when used in this act, shall mean an assemblage composed of three or more persons acting in concert without authority of law to kill or injure any person in the custody of any peace officer with the purpose or consequence of depriving such person of due process of law or the equal protection of the laws.

An amendment was offered, as follows:

Amendment offered by Mr. [William M.] Colmer [of Mississippi]: On page 1, strike out all of lines 3 to 9, inclusive, and insert in lieu thereof the following:

That for the purpose of this act the phrase "mob or riotous assemblage" when used in this act shall mean an assemblage composed of two or more persons acting in concert without authority of law to kill, injure, or kidnap any person with the purpose or consequence of depriving such person of due process of law and the equal protection of the law.

Mr. Joseph A. Gavagan, of New York, raised the point of order that the amendment was not germane to the bill. He stated:

. . . The gentleman's amendment refers to the crime of kidnaping, entirely different from the crime we are attempting to legislate in this bill.

The Chairman,[3] in ruling on the point of order, stated:

. . . The gentleman from Mississippi offers an amendment to the first section of the bill to include kidnaping in addition to the crime of lynching, but in addition thereto the gentleman, by

1. H.R. 1507 (Committee on Rules discharged).
2. See 81 CONG. REC. 3544, 75th Cong. 1st Sess., Apr. 15, 1937.
3. John J. O'Connor (N.Y.).

his amendment, strikes out the words in line 7 "in the custody of any peace officer." The gentleman's amendment would extend the class to which this bill applies to kidnaping. The addition of kidnaping might not be objectionable, but this bill applies to the death or injury of persons "in the custody of a peace officer", while the proposed amendment takes those words, quoted, out of the bill. The Chair does not think the amendment is germane, and sustains the point of order.

The following amendment was then offered:

Amendment by Mr. Colmer: Page 1, line 5, strike out the word "three" and insert in lieu thereof the word "two", and in line 7, strike out the words "in the custody of any peace officer."

Mr. Gavagan having again raised a point of order, the Chairman ruled as follows:

. . . The ruling of the Chair just made on the previous amendment offered by the gentleman from Mississippi will apply to this amendment, as to the second provision in the amendment striking out the language of the bill "in the custody of any peace officer." The Chair therefore sustains the point of order.

Exportation of Arms to Spain—Amendment To Strike Reference to Spain

§ 20.4 To a joint resolution prohibiting the exportation of arms and ammunition to Spain, an amendment proposing to strike out the reference to Spain was held to be not germane.

In the 75th Congress, a bill[4] was under consideration which prohibited the exportation of arms to Spain.[5] An amendment was offered[6] as described above. In response to a point of order raised by Mr. Samuel D. McReynolds, of Tennessee,[7] the Speaker[8] stated:

Now, what is the purpose and scope of the Senate resolution which is under consideration? There can be no controversy that it relates entirely to the question of the shipment of arms and ammunition to Spain—one particular country—and regulates certain phases of shipments to warring civil factions in that country; but under the suggestion made in the amendment offered by the gentleman from Texas it certainly departs entirely from the limitation with reference to the shipment of munitions to the one Government of Spain, and broadens the field so as to apply to any government.

Relying on the principle that, "an amendment which, by striking out a portion of the text, changes the purpose and scope of a bill, is not germane," the Speaker sustained the point of order.

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4. S.J. Res. 3.

5. See 81 CONG. REC. 90, 75th Cong. 1st Sess., Jan. 6, 1937.

6. *Id.* at p. 96.

7. *Id.* at p. 97.

8. William B. Bankhead (Ala.).

Prohibition on Use of Federal Payment Funds for Abortions—Motion To Strike Reference to Federal Payment Funds

§ 20.5 A motion to strike out a portion of the text of an amendment, thereby extending its scope to a more general subject, is not germane; thus, to a substitute amendment to the District of Columbia Appropriation bill prohibiting the use of annual federal payment funds therein for the performance of abortions, an amendment striking the reference to federal payment funds, thereby broadening the scope of the substitute to cover any funds contained in the bill (such as "local" District of Columbia funds), was held to be not germane.

During consideration of H.R. 4580[9] in the Committee of the Whole on July 17, 1979,[10] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

> Amendment offered by Mr. Dornan: Page 17, after line 2, add the following new section:
>
> "Sec. 221. None of the funds appropriated under this Act shall be used to pay for abortions.". . .

MR. CHARLES WILSON of Texas: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Charles Wilson of Texas as a substitute for the amendment offered by Mr. Dornan: "None of the funds in this Act provided by the Federal payment shall be used to perform abortions.". . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Bauman to the amendment offered by Mr. Charles Wilson of Texas as a substitute for the amendment offered by Mr. Dornan: delete from the amendment of the gentleman from Texas the following words: "provided by the Federal payment".

A point of order was made, as follows:

MR. CHARLES WILSON of Texas: . . . As I understand the amendment it in essence takes it back to the original Dornan amendment without providing for the substitute. . . .

MR. BAUMAN: Mr. Chairman, that is not a point of order, it simply is an accurate description of the amendment. . . .

MR. CHARLES WILSON of Texas: Mr. Chairman, I suppose the point of order is that it is a sham amendment in that it just repeats the intent of the original amendment.

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9. The District of Columbia Appropriations for fiscal 1980.

10. 125 CONG. REC. 19064, 19066, 96th Cong. 1st Sess.

THE CHAIRMAN:[11] In the opinion of the Chair, the gentleman from Texas is suggesting that the perfecting amendment broadens the scope of the substitute amendment, and for that reason is not germane. The point of order is sustained under the precedents that a motion to strike cannot broaden the scope of the pending proposition.

MR. BAUMAN: Mr. Chairman, I wonder if the Chair could cite a precedent for his ruling?

THE CHAIRMAN: Deschler's Procedure chapter 28, section 15.3.

Surplus Agricultural Commodities—Language Concerning Transportation of Commodities

§ 20.6 To that provision in a bill authorizing the President to furnish emergency assistance to friendly nations from stocks of surplus agricultural commodities to be made available "f.o.b. vessels in United States ports," an amendment striking out "f.o.b. vessels in United States ports" was held germane, taking into account other provisions in the bill already read for amendment.

In the 83d Congress, during consideration of the Agricultural Trade Development and Assistance Act of 1954,[12] an amendment was offered[13] as described above. 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 that the amendment is not germane in that it extends the scope of authority which is given the Commodity Credit Corporation under this bill. . . . If the amendment were adopted, it would mean that the obligation of the Commodity Credit Corporation would be to furnish transportation anywhere in the world we might ship these commodities. . . .

In defending the amendment, the proponent, Mr. Thor C. Tollefson, of Washington, stated:

. . . This bill provides for the disposition of agricultural surplus products to foreign nations and involves necessarily the transportation of those surplus farm products. . . . The language of the present bill gives the President authority on page 6, line 21, and I read, "and shall make funds available to finance the sale and exportation of surplus agricultural commodities."

That is contained, of course, in section 1, but it is in the bill, and it gives the President authority to finance the sale and to finance the exportation which would exclude the transshipment of products not only in the United States but on vessels to carry them abroad.

The Chairman,[14] in ruling on the point of order, stated:

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11. Albert A. Gore, Jr. (Tenn.).

12. S. 2475 (Committee on Agriculture).

13. 100 CONG. REC. 8370, 83d Cong. 2d Sess., June 16, 1954.

14. Gerald R. Ford, Jr. (Mich.).

It seems to the Chair, on the basis of section 204 of the bill, and other related portions of the bill which deal with the question of transportation of the commodities which are involved in this legislation, that the amendment offered by the gentleman from Washington [Mr. Tollefson] is germane; and the Chair so rules.

Motion To Strike Not Germane as Substitute

§ 20.7 During consideration of a bill relating to salaries of government employees, it was held that, to an amendment seeking to change specific dollar amounts, an amendment offered as a substitute proposing to strike out other portions of the bill not amended by the original amendment was not germane.

In the 77th Congress, a bill[15] was under consideration comprising an amendment to the Classification Act of 1923 to increase certain salaries. An amendment was offered[16] whose purpose was described by the proponent as follows:

MR. [ROBERT] RAMSPECK [of Georgia]: Mr. Chairman, this is the amendment which I stated during general debate I would offer for the purpose of eliminating the new salary provisions over and beyond the present range of the Classification Act.

Under the present classification law the Civil Service Commission has no authority to allocate any position at a salary greater than $9,000 a year unless it is specifically provided for by Congress. Under this bill we originally provided a new grade starting at $9,000 and going to $10,000. The purpose of this amendment is to eliminate this new grade and confine the range of the Classification Act to a top figure of $9,000.

Mr. Edward H. Rees, of Kansas, offered, as a substitute, an amendment striking out specified portions of the bill.[17] The following proceedings related to a point of order raised by Mr. Cochran:

MR. [JOHN J.] COCHRAN [of Mississippi]: An amendment is pending. The Clerk read this as an amendment and I doubt if it is germane.

THE CHAIRMAN:[18] The Chair rules that the gentleman can offer this after the Ramspeck amendment has been disposed of. . . .

. . . [T]he question is on the Ramspeck amendment. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order. . . .

The gentleman from Kansas has offered a substitute for the amendment offered by the gentleman from Georgia. The only way that can fail to receive

15. H.R. 6217 (Committee on Civil Service).

16. 88 CONG. REC. 5885, 77th Cong. 2d Sess., July 1, 1942.

17. *Id.* at p. 5887.

18. A. Willis Robertson (Va.).

consideration is by a point of order being made against it.

THE CHAIRMAN: The Chair understood that the gentleman from Missouri made the point of order that if (the Rees amendment) was a substitute it was not germane to the Ramspeck amendment and that, therefore, the Ramspeck amendment would have to be disposed of first before the gentleman from Kansas could offer his amendment.

Pro Forma Amendment

§ 20.8 A pro forma amendment to "strike out the last word" is germane.[19]

§ 21. Substitute Amendment; Amendment in Nature of Substitute; Amendment to Amendment

An amendment offered to an amendment must be germane to that amendment.[20] Accordingly, where an amendment is offered to one part of a bill, a substitute amendment which relates to a different part of the bill is not germane to the original amendment.[21]

A substitute must be germane to the amendment for which offered and must relate to the same portion of the bill being amended by the amendment.[1]

Perfecting amendments to amendments in the nature of a substitute or to substitute amendments need to be germane to the inserted language contained in said substitutes, it being irrelevant whether or not the perfecting amendment might be germane to the underlying (perhaps broader) bill which said substitute seeks to strike out and replace. The language of the underlying bill proposed to be stricken is not taken into consideration when determining the germaneness of a second degree amendment to a substitute proposing to insert other language. It is only the pending text under immediate consideration against which the germaneness of proposed amendments thereto is judged. This test of germaneness is consistent with Rule XIX governing the permissible degree of amendments in the House (see Ch. 27, Amendments, supra). At this stage the House has not finally adopted any version of a

19. See § 17.2, supra.

20. See, for example, §§ 33.5, 33.6, 36.3, infra.

21. See the ruling of Chairman George A. Dondero (Mich.) at 94 CONG. REC. 7768, 80th Cong. 2d Sess., June 10, 1948. Under consideration was H.R. 6396 (Committee on the Judiciary), relating to admission into the United States of certain displaced persons.

1. See the proceedings of Oct. 8, 1975, relating to H.J. Res. 683, a bill to implement the United States proposal for an early-warning system in the Sinai, discussed in § 3.47, supra.

House-passed bill and is free to reject the pending amendment(s) and proceed to other differently drafted amendments which may present another test of germaneness to the bill as a whole.

Of course, an amendment in the nature of a substitute is normally an amendment in the first degree for an entire bill and its germaneness is measured by its relationship to the underlying bill, whereas a substitute amendment is an alternative for a first degree amendment already pending.

Substitute Must Be Germane to Amendment for Which Offered

§ 21.1 The test of the germaneness of a substitute amendment is its relationship to the amendment for which offered and not its relationship to the pending bill; thus, for an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was ruled out as not germane.

On June 1, 1976,[2] during consideration of a bill[3] extending the Federal Energy Administration Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

> MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .
>
> MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:
> >
> > "Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,
> >
> > "'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or

2. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.
3. H.R. 12169.

offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.'". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan. . . .

THE CHAIRMAN:[4] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentle-

4. William H. Natcher (Ky.).

man's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

§ 21.2 A substitute amendment must be germane to the amendment for which offered, it not being sufficient that it relates to a different portion of the bill being amended; thus, to an amendment to add a word to a section of a bill (with the effect of prohibiting indirect as well as direct aid to certain countries), a substitute to add another word in a different portion of the section (with the effect of adding another country to which direct aid was prohibited) was held not germane.

During consideration of the foreign assistance appropriations for fiscal 1978[5] in the Committee of the Whole on June 22, 1977,[6] the Chair sustained a point of order against the following amendment:

THE CHAIRMAN:[7] The Clerk will read.

The Clerk read as follows:

Sec. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

MR. [C. W.] YOUNG of Florida: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Florida: On page 11, line 17, after the word "directly" add "or indirectly".

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte as a substitute for the amendment offered by Mr. Young of Florida: On page 11, line 18, strike out "or" and add after "Vietnam" "or Cuba". . . .

MR. YOUNG of Florida: Mr. Chairman, I make the point of order that under the rules of germaneness this amendment is out of order inasmuch as it relates to the bill but not to the amendment pending. . . .

THE CHAIRMAN: The Chair will state that this is not a proper substitute because it goes to a different subject. The point of order is, respectfully, sustained.

§ 21.3 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill; accordingly, where an amendment denied eligibility for certain higher education assistance benefits to persons refusing

5. H.R. 7797.
6. 123 CONG. REC. 20235, 20236, 95th Cong. 1st Sess.
7. Abraham Kazen, Jr. (Tex.).

to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.

On July 28, 1982,[8] during consideration of H.R. 6030 (military procurement authorization for fiscal 1983), Chairman Les AuCoin, of Oregon, held that to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others was germane:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment which is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3. . . .

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Educaton shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon as a substitute for the amendment

8. 128 CONG. REC. 18355–58, 18361, 97th Cong. 2d Sess.

offered by Mr. Solomon: At the end of the bill add the following new section:

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"(A) submit to the institution of higher education which the person intends to attend, or is attending, proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under section 3, and for collecting statements described in paragraph (1)(C) from such institutions.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning on or after July 1, 1983. . . .

MR. SOLOMON: Mr. Chairman, I raise a point of order. . . .

[T]he amendment which I offered and was printed in the Record was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. Simon) is offering, in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that. . . .

MR. SIMON: . . . Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

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

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is ger-

mane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

Substitute Changing Different or Lesser Portion of Pending Section

§ 21.4 A substitute for a pending amendment may be offered to change a different or lesser portion of the pending section if it relates to the same subject matter as the amendment; thus, for a perfecting amendment making several changes in a pending section, a substitute adding language at the end of the section rather than striking and inserting within the section was held in order since relating to the same subject as the amendment.

During consideration of the Foreign Aid Authorization for fiscal year 1979,[9] the Chair overruled a point of order against the amendment described above. The proceedings in the Committee of the Whole on Aug. 1, 1978,[10] were as follows:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski as a substitute for the amendment offered by Mr. Stratton: Page 18, immediately after line 4, insert the following new subsection:

(e) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the plan on increasing incentives for the Republic of Korea to develop an independent nuclear deterrent . . . and the possible implications of any proposed withdrawal on the Soviet-Chinese military situation.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, a point of order. . . .

Mr. Chairman, unless I am mistaken, the gentleman has not bothered to look at my amendment. My amendment makes specific changes in the text on section 19. I am not clear where the gentleman's amendment would come in section 19. He cannot substitute a straight wording, as I understand it, for something that has a series of changes in 3 pages of a particular section.

MR. DERWINSKI: Mr. Chairman, my amendment would come at the end of section 19.

THE CHAIRMAN:[11] The Chair might inform the gentleman from New York

9. H.R. 12514.

10. 124 CONG. REC. 23732, 95th Cong. 2d Sess.

11. Don Fuqua (Fla.).

that it is a proper substitute amendment. Both the proposed amendment and the substitute are perfecting amendments to the section and deal with the same subject.

Perfecting Amendment—Substitute Perfecting Lesser Portion of Same Text

§ 21.5 For an amendment perfecting a bill, an amendment germane thereto perfecting a lesser portion of the same text is in order as a substitute; thus, for an amendment dealing with the role of an agency in regulating commercial diving activities on the Outer Continental Shelf by promulgation of interim and final standards, a substitute relating only to the role of that agency in issuing interim regulations was held in order as germane.

On Feb. 1, 1978,[12] during consideration of the Outer Continental Shelf Lands Act amendments (H.R. 1614), the Chair overruled a point of order against the amendment described above. The proceedings in the Committee of the Whole were as follows:

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fish: Page 192, lines 15 and 16, strike out ", the Secretary of Labor,".

Page 193, line 10, strike out "achievable" and insert in lieu thereof "feasible".

Page 193, line 15, strike out "(1)".

Page 193, strike out lines 16 through 22, and insert in lieu thereof "of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the Outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such".

Page 194, strike out lines 3 through 10.

Page 197, line — , strike out "Secretary of Labor" and insert in lieu thereof "Secretary of the Department in which the Coast Guard is operating.". . .

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York as a substitute for the amendment offered by Mr. Fish: On page 193, strike lines 15 to 24 and on page 194 strike lines 1 to 3 and insert: "(c) Notwithstanding section 4(b)(1) of the Occupa-".

MR. FISH: Mr. Chairman, I reserve a point of order against the amendment.

I do so because I was not exactly sure which amendment the gentleman was going to offer, and I still have not got it in front of me, but if indeed his amendment strikes or is an amendment to a provision which I strike, I do not think it is in order. . . .

12. 124 CONG. REC. 1816–18, 95th Cong. 2d Sess.

THE CHAIRMAN:[13] Does the gentleman from New York (Mr. Fish) insist on his point of order?

MR. FISH: Mr. Chairman, I just want a clarification here. If I understand the gentleman here, the gentleman is striking out lines 15 through 24 on page 193 and lines 1 and 2 on page 194. . . .

Well, now, Mr. Chairman, this language in my amendment calls for some revision of that language, but does not strike out several of the lines, the lines that are the subject of the gentleman's offered substitute. I just was not aware that that would be in order in the light of the part of my amendment that deals with pages 193 and 194.

THE CHAIRMAN: Does the gentleman from New York (Mr. Fish) insist on his point of order?

MR. FISH: Yes, Mr. Chairman. . . .

MR. MURPHY of New York: . . . Mr. Chairman, I would say that the substitute strikes a portion of the language; that the amendment of the gentleman clearly strikes a much larger area and, accordingly, would be in order. . . .

MR. FISH: . . . Mr. Chairman, this has been characterized as a substitute to my amendment. I understood if that be the case, it would have to be substantially the same.

I direct the Chairman's attention to the fact that my amendment addresses itself to the lines on pages 192 and 193 in three places and pages 194 and 197; so I do not see how the gentleman from New York can be offering a substitute that is narrow in focus and dealing with only one of the several issues that is covered by my amendment.

THE CHAIRMAN: The Chair is ready to rule. In the opinion of the Chair, the substitute amendment offered by the gentleman from New York (Mr. Murphy) deals with a lesser portion of the bill that the gentleman from New York (Mr. Fish) desires to perfect, and as conceded by the gentleman from New York (Mr. Fish) in a more restricted fashion. The Murphy substitute deals only with interim regulations, while the Fish amendment deals with OSHA's role in promulgating both interim and final regulations.

Therefore, the Chair overrules the point of order and holds the substitute to be in order.

Perfecting Amendment to Section or Subsection—Motion To Strike Not Proper Substitute

§ 21.6 For a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was held more general in scope and not germane.

On Aug. 18, 1982,[14] during consideration of H.R. 5540, the Defense Industrial Base Revital-

13. William H. Natcher (Ky.).

14. 128 CONG. REC. 21967, 21968, 97th Cong. 2d Sess.

ization Act, in the Committee of the Whole, the Chair made the following statement:

THE CHAIRMAN:[15] All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.

The Clerk read as follows:

H.R. 5540

. . . Sec. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:

"Sec. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.

"(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war. . . .

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. . . .

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

When consideration of H.R. 5540 resumed on Sept. 23, 1982,[16] an amendment was offered by Mr. Bruce F. Vento, of

15. Wyche Fowler, Jr. (Ga.).

16. 128 CONG. REC. 24963, 24964, 97th Cong. 2d Sess.

Minnesota, and proceedings ensued as follows:

MR. VENTO: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Vento: Page 41, line 24, strike out ", or the installation of equipment,".
>
> Page 42, beginning on line 15, strike out ", or the installation of equipment,". . . .

MR. [JOHN N.] ERLENBORN [of Illinois: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Erlenborn as a substitute for the amendment offered by Mr. Vento: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

MR. VENTO: Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn). . . .

Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section or paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly. . . .

MR. ERLENBORN: . . . It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there

would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. Vento) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. Vento) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. Erlenborn) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

Parliamentarian's Note: As the above proceedings indicate, a motion to strike out an entire subsection of a bill is not, in any event, a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment.

§ 21.7 For an amendment inserting an additional labor standard to those contained in a section of a bill, a motion to strike out the entire section was ruled out as not a proper substitute for the perfecting amendment, and not germane in that it had the effect of enlarging the scope of the perfecting amendment.

During consideration of H.R. 14747 (amending the Sugar Act of 1948) in the Committee of the Whole on June 5, 1974,[17] it was demonstrated that a motion to strike out a section is not in order as a substitute for a perfecting amendment to that section. The proceedings were as follows:

MR. [JAMES G.] O'HARA [of Michigan): Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Hara: Page 18, after line 5, insert:

(5) That the producer who compensates workers on a piece-rate basis shall have paid, at a minimum, the established minimum hourly wage.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara).

The Clerk read as follows:

Amendment offered by Mr. Symms as a substitute for the amendment offered by Mr. O'Hara: In lieu of the

17. 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess.

amendment offered by the gentleman from Michigan insert the following: "Section 11 of the bill, page 15, strike out all of line 11 through line 6 of page 17 and renumbering the '(3)' on line 7, page 17 as '(1)', and strike out line 15 on page 17 through line 5 on page 18.". . .

MR. O'HARA: Mr. Chairman, I make a point of order against the amendment in that it is not germane to the provisions of my amendment. It deals with different parts of section 11. . . .

MR. SYMMS: . . . Mr. Chairman, this amendment is germane to the gentleman's amendment. It strikes it and all the labor provisions from the bill.

THE CHAIRMAN:[18] It is the ruling of the Chair that the amendment offered by the gentleman from Idaho (Mr.

Symms) as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara) is not a proper substitute. The substitute would strike portions of section 11 not affected by the pending amendment. And, the substitute is broader in scope than the amendment to which offered and is not germane thereto. The Chair sustains the point of order.

Amendment to House Rule To Provide for Selection of Acting Committee Chairman—Substitute Amending Different Rule

§ 21.8 To an amendment modifying a rule of the House to provide for selection of an acting committee chairman during the disability of the permanent chairman, a substitute amendment was held to be not germane which sought to amend a different rule of the House and to modify methods of selecting the committee chairmen and vice chairmen at the commencement of a Congress.

During consideration of that part of the Legislative Reorganization Act of 1970[19] which related to the calling of committee meetings, an amendment was offered as follows:

Amendment offered by Mr. [Dante B.] Fascell [of Florida]: Section 102 of title 1 is amended by adding a new subsection on page 8 after line 19:

(f) Whenever the chairman of any standing committee is unable to discharge his responsibilities, the committee by majority vote shall designate a member with full authority to act as chairman until such time as the chairman is able to resume his responsibilities.

To such amendment, an amendment was offered[20] stating in part:

Substitute amendment offered by Mr. [Bertram L.] Podell [of New York] for the amendment offered by Mr. Fascell: On page 8, after line 19, insert the following:

(c) Clause 3 of Rule X of the Rules of the House of Representatives is amended to read:

18. James A. Burke (Mass.).

19. H.R. 17654 (Committee on Rules). 116 CONG. REC. 24036, 91st Cong. 2d Sess., July 14, 1970.

20. *Id.* at p. 24037.

(3) At the commencement of each Congress, each standing committee shall elect a chairman and a vice-chairman from among its members; in the temporary absence of the chairman, the vice-chairman shall act as chairman. . . .

On page 8, delete lines 14 through 17 and insert the following:

(d) If the chairman of any standing committee is not present at any . . . meeting of the committee, the vice-chairman shall preside. . . . If neither the chairman nor the vice-chairman is present, the committee shall then designate a Member of the committee to serve as chairman temporarily. . . .

Mr. Bernice F. Sisk, of California, raised the point of order that the amendment was not germane.[1]

Mr. H. Allen Smith, of California, in support of the point of order, stated:[2]

. . . Mr. Chairman, this amendment, in my opinion, is definitely subject to a point of order under the provisions which the Chair first announced inasmuch as it applies to chairmen and the election of chairmen of committees, and we are now considering a section of the bill which has to do only with committee meetings.

The Chairman,[3] in ruling on the point of order, stated:

. . . The amendment offered by the gentleman from New York goes beyond the amendment offered by the gentleman from Florida. It is not germane to the amendment offered. But the Chair would like to inform the gentleman from New York that a portion of the amendment could be germane following section 118, as a new section.

Amendment Requiring Vessels in Bill Be Constructed From American Steel—Substitute To Require All Materials in Vessels Be American

§ 21.9 To an amendment requiring that merchant marine vessels constructed pursuant to the bill under consideration be constructed of steel produced in the United States, a substitute amending another portion of the bill to require all materials used in such construction to be produced in the United States, unless certain findings were made, was held not germane as beyond the scope of the amendment to which offered.

During consideration of the Energy Transportation Security Act of 1977[4] in the Committee of the Whole, a point of order against the amendment described above was sustained, demonstrating that the test of germaneness of a substitute for a pending amendment is the relationship between the substitute and the amend-

1. *Id.* at pp. 24037, 24038.
2. *Id.* at p. 24038.
3. William H. Natcher (Ky.).
4. H.R. 1037.

ment (and not between the substitute and the bill to which the amendment has been offered). The proceedings of Oct. 19, 1977,[5] were as follows:

MR. [JOHN E.] CUNNINGHAM [III, of Washington]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cunningham: On page 9, line 24 after the word "constructed" insert the following: "of steel produced in the United States,". . . .

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York as a substitute for the amendment offered by Mr. Cunningham:

That H.R. 1037 be amended by inserting on page 10, line 2, after the word "subsidy", the following: "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930; Provided however, That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is accompanied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary."

MR. [SAM] GIBBONS [of Florida]: Mr. Chairman, I have a point of order against the substitute amendment. . . .

Mr. Chairman, the chairman of the Committee on Merchant Marine and Fisheries is attempting to amend the Smoot-Hawley Tariff Act of 1930 by expanding the definition of the material that was included in the Smoot-Hawley Tariff Act. The Smoot-Hawley Tariff Act under the rules of the House was confined exclusively to the Committee on Ways and Means and not to the Committee on Merchant Marine and Fisheries, and I think it is not germane to this bill. It is a matter that is wholly within the jurisdiction of the Committee on Ways and Means. Mr. Chairman, we have lived long enough with the Smoot-Hawley Tariff Act without having to resurrect that buzzard. . . .

MR. MURPHY of New York: . . . The language of the substitute amendment is direct language taken from the Merchant Marine Act of 1970. It is, of course, language that came from the committee. It is language that we feel is germane to the precise bill because it goes to the construction standards of the vessels that will be constructed under the act. Therefore, I would hope that the Chair would overrule the point of order. . . .

MR. [BILL] FRENZEL [of Minnesota]: . . . It seems to me that the question here is whether the amendment offered by the gentleman from New York (Mr. Murphy) is germane to the

5. 123 CONG. REC. 34217, 34218, 95th Cong. 1st Sess.

amendment offered by the gentleman from Washington (Mr. Cunningham). Mr. Chairman, I think that it is clearly a violation of our rules of germaneness because it does go to the Smoot-Hawley Tariff Act of 1930 and far expands on the amendment which was submitted by the gentleman from Washington.

The title of the bill, which is to require that a percentage of the U.S. oil imports be carried on U.S.-flag ships, does not contain tariff references, nor does it give the sweeping power to the Secretary of Commerce that is included in the amendment offered by the gentleman from New York, nor does the amendment offered by the gentleman from New York really modify the amendment of the gentleman from Washington because it is far greater in scope and effect.

Mr. Chairman, in my judgment the amendment is clearly nongermane and the point of order should be sustained.

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

The gentleman from Washington offers an amendment on page 9, line 24, to insert the words "of steel produced in the United States" after the word "constructed". To that amendment the gentleman from New York (Mr. Murphy) offers a substitute which provides that:

> In all such construction the shipbuilder, subcontractors, material men, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States . . .

The narrow question before the Chair is whether the substitute amendment offered by the gentleman from New York (Mr. Murphy) is germane to the amendment offered by the gentleman from Washington (Mr. Cunningham). The Chair would observe certainly of the proposed substitute that it is far broader than the item of steel referred to in the base amendment and refers to "articles, materials, and supplies" and so on. Therefore the Chair would have to rule that the substitute offered by the gentleman from New York (Mr. Murphy) is not germane and the point of order by the gentleman from Florida is sustained.

Income Ceiling for Occupants of Housing Projects—Substitute Authorizing President To Set Maximum Wage Levels for Public Housing Occupants

§ 21.10 For a proposed amendment requiring that an applicant for admission to a low-rent housing project not have income exceeding $2,000 per annum, a substitute amendment authorizing instead the President to set from time to time the maximum annual wage level for occupants of public housing units was held to be germane.

In the 83d Congress, during consideration of the Housing Act of 1954,[7] the following proposal,

6. Morris K. Udall (Ariz.).

7. H.R. 7839 (Committee on Banking and Currency).

in the form of an amendment offered by Mr. O. Clark Fisher, of Texas,[8] was under consideration.

> Sec.—. Section 15(8)(a) of the United States Housing Act of 1937, as amended, is hereby amended by adding a proviso as follows: "*Provided*, That maximum income limits for admission to such low-rent housing project may not exceed $2,000 per annum, and for continued occupancy may not exceed $2,300 per annum".

To such amendment, a substitute amendment was offered:[9]

> Substitute amendment offered by Mr. Holifield for the amendment offered by Mr. Fisher: "*Provided further*, That the President shall from time to time set the annual maximum wage level for occupants of public housing units, taking into consideration the number of persons in each family, the current purchasing power of the dollar in relation to the cost of living and wage levels of each locality."

The following exchange concerned a point of order raised against the substitute amendment:

> MR. FISHER: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the amendment which the gentleman from Texas offered, and which is now pending.
>
> MR. [CHET] HOLIFIELD [of California]: Mr. Chairman, I have offered it as a substitute amendment. I do not offer this amendment as an amendment to the gentleman's amendment.
>
> MR. FISHER: It is not germane to the bill. . . .
>
> It relates to wages and has no reference to rents. It is not germane to the subject matter covered in the pending bill nor to the amendment offered by the gentleman from Texas.
>
> THE CHAIRMAN:[10] . . . Both amendments would appear to deal with the financial income of the applicants for occupancy in these facilities. One amendment fixes income limits. The other delegates authority for the income to be fixed. Both amendments seem to deal with the same subject matter. The Chair holds that the amendment is germane and overrules the point of order.

Amendment to War Powers Bill Relating to Wages and Hours—Substitute Imposing Penalties for Causing Strike

§ 21.11 Where a pending amendment to the Second War Powers Bill related to the question of hours or days of labor and compensation therefor, an amendment offered as a substitute which sought to impose penalties for causing a strike or lockout was held to be not germane to the pending amendment.

In the 77th Congress, during proceedings related to the Second

8. See 100 CONG. REC. 4479, 4480, 83d Cong. 2d Sess., Apr. 2, 1954.

9. *Id.* at p. 4480.

10. B. Carroll Reece (Tenn.).

War Powers Bill of 1952,[11] a proposition was under consideration as described above.[12] An amendment was offered, as follows:[13]

> Mr. Folger offers the following amendment as a substitute for the Smith amendment: Amend title IV of S. 2208, by adding after the period in line 11, the following:
>
> > Whoever, during the period of this war and while the United States is engaged therein shall order . . . or cause any strike, walk-out, or lock-out of workers (a strike, walk-out, or lock-out resulting) in any plant . . . or other place engaged in defense or war production work, shall be guilty of a felony. . . .

Mr. Joseph E. Casey, of Massachusetts, made the point of order that the amendment was not germane. In response, Mr. Alonzo D. Folger, of North Carolina, stated:[14]

> As the Chair observed yesterday this is an unusual bill in that it deals with many subjects, but at the same time is designed and intended to expedite and to prevent interference with war production in this country. I submit, Mr. Chairman, that this strikes at the very root of interference with and therefore tends to expedite the war production in this country. . . .

The Chairman[15] made the following observation with respect to the point at issue:

> . . . The question here presented is whether the amendment offered by the gentleman from North Carolina is germane to the pending amendment—not to the pending bill.

Subsequently, in ruling on the point of order, he stated:

> . . . Of course, the Chair does not now undertake to pass upon the question of whether the amendment offered by the gentleman from North Carolina would be in order if offered as an amendment seeking to include a new title in the pending bill.
>
> . . . The Chair invites attention to the fact that the amendment offered by the gentleman from Virginia relates only to the question of hours, days, or weeks of labor and compensation therefor . . .
>
> The amendment offered by the gentleman from North Carolina, among other things, deals with strikes, walk-outs, lock-outs, and imposes penalties. The amendment offered by the gentleman from Virginia does not go nearly that far and does not undertake to impose penalties. The Chair is therefore of the opinion that the amendment offered by the gentleman from North Carolina is much broader than the amendment offered by the gentleman from Virginia and is not therefore germane.

11. S. 2208 (Committee on the Judiciary).

12. The amendment described had been offered by Mr. Howard W. Smith (Va.).

13. 88 CONG. REC. 1736, 77th Cong. 2d Sess., Feb. 27, 1942.

14. *Id.* at p. 1737.

15. Jere Cooper (Tenn.).

Amendment Barring Induction Into Armed Services Unless Voluntary Enlistments Insufficient—Substitute To Create Joint Committee To Investigate Voluntary Enlistment Campaign

§ 21.12 For an amendment providing that no person be inducted into the armed services until the President proclaims that a sufficient number of persons cannot be attained by voluntary enlistment to meet military requirements, a substitute proposing to create a joint congressional committee to conduct an investigation of the voluntary enlistment campaign was held to be not germane.

In the 80th Congress, during proceedings relating to the Selective Services Act of 1948,[16] an amendment was under consideration as described above. The following amendment was offered:[17]

> Substitute amendment offered by Mr. [Paul W.] Shafer [of Michigan] for the committee amendment: . . .
>
> Sec. —. (a) There is hereby created a joint congressional committee to be known as the Joint Committee on Voluntary Enlistments. . . .
>
> (b) The joint committee shall conduct a thorough study and investigation of the voluntary enlistment campaign required by section 23 of this act and shall report to the Senate and the House of Representatives the results of its study and investigation. . . .

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

> MR. [W. STERLING] COLE [of New York]: Mr. Chairman, I make the point of order against the amendment offered by the gentleman from Michigan that it is not germane to the amendment for which it is offered as a substitute. It very obviously contains subject matter the provisions of which are not even contemplated by the bill, let alone the committee amendment for which it seeks to serve as a substitute.

The Chairman,[18] in sustaining the point of order, stated:[19]

> . . . The Chair invites attention to the fact that the amendment offered by the gentleman from Michigan [Mr. Shafer] is offered as a substitute for an amendment offered by the gentleman from New York [Mr. Andrews]. The amendment for which it is offered as a substitute is limited to certain things. It relates wholly to the time of induction and the determination that a sufficient number cannot in the judgment of the President be obtained by voluntary enlistment and by voluntary requests for call to active duty. The

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

17. 94 CONG. REC. 8509, 80th Cong. 2d Sess., June 16, 1948.

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

19. 94 CONG. REC. 8510, 80th Cong. 2d Sess., June 16, 1948.

amendment offered by the gentleman from Michigan [Mr. Shafer] goes far beyond the scope of the amendment offered by the gentleman from New York [Mr. Andrews] and proposes to create a joint congressional committee and deals with other matters beyond the scope of the amendment offered by the gentleman from New York.

The Chair is constrained to rule that the amendment offered by the gentleman from Michigan [Mr. Shafer] is not germane as a substitute for the amendment offered by the gentleman from New York [Mr. Andrews].

The Chair sustains the point of order.

Amendment to Substitute Not Required To Affect Same Page and Line Numbers as Substitute.

§ 21.13 An amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute. Accordingly, to a substitute to require that certain emergency energy conservation plans (entailing the use of auto stickers indicating certain days an auto would not be operated) be established (1) only after consultation with state governors, and (2) only after consideration of rural and suburban needs, an amendment striking out and inserting language elsewhere in the bill which also related to the use of auto stickers as part of the energy conservation plans, was held germane to the two diverse conditions already required by the substitute.

During consideration of S. 1030 [20] in the Committee of the Whole on Aug. 1, 1979,[1] Chairman Dante B. Fascell, of Florida, overruled a point of order against an amendment to a substitute and held that the amendment was germane to the substitute. The amendment and proceedings were as follows:

MR. [TOBY] MOFFETT [of Connecticut]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: Page 45, after line 9, insert the following new subsection:

"(d) Needs of Rural and Certain Other Areas.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in subur-

20. Emergency Energy Conservation Act of 1979.

1. 125 CONG. REC. 21939, 21944–47, 96th Cong. 1st Sess.

ban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. Maguire) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [JOHN D.] DINGELL [of Michigan]: I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. Maguire) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected. . . .

MR. MAGUIRE: Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions

on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

Substitute Amendment to Concurrent Resolution on Budget—Amendment to Substitute as Enlarging Scope.

§ 21.14 To a substitute amendment to a concurrent resolution on the budget changing one functional category only, an amendment changing not only that category but several other categories of budget authority and outlays and covering an additional fiscal year was held to be more general in scope and therefore was ruled out as not germane.

On May 2, 1979,[2] during consideration of House Concurrent Resolution 107 (first concurrent resolution on the budget, fiscal 1980), the Chair sustained a point of order against the amendment described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope. The amendment and proceedings were as follows:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by $8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by $2,705 million;

In the matter relating to the amount of the deficit decrease the amount by $2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by $2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by $3,351 million; and decrease the amount for outlays by $1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by $102 million; and decrease the amount for outlays by $34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by $75 million; and decrease the amount for outlays by $25 million. . . .

MR. CHARLES H. WILSON of California: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Charles H. Wilson of California as a

2. 125 CONG. REC. 9556, 9562–64, 96th Cong. 1st Sess.

substitute for the amendment offered by Ms. Holtzman: In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for new budget authority and insert in lieu thereof "$137,808,000,000".

In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for outlays and insert in lieu thereof "$125,070,000,000".

Increase the aggregate amounts in the first section (other than the amount of the recommended level of Federal revenues and the amount by which the aggregate level of Federal revenues should be decreased) accordingly. . . .

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

THE CHAIRMAN: The Clerk will report the amendment to the amendment offered as a substitute. . . .

MR. JOHN L. BURTON: My amendment is an amendment to the amendment offered by the gentleman from California (Mr. Charles H. Wilson) as a substitute for the amendment. . . .

Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Charles H. Wilson of California as a substitute for the amendment offered by Ms. Holtzman; Strike all after line 1 and insert:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero;

(2) the appropriate level of total new budget authority is $586,255,609,000.

(3) the appropriate level of total budget outlays is $510,567,609,000.

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is zero and . . .

Sec. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $112,974,000,000;

(B) Outlays, $101,686,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,932,000,000;

(B) Outlays, $8,223,000,000. . . .

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows:

(a)—

(1) the recommended level of Federal revenues is $458,485,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $15,000,000;

(2) the appropriate level of total new budget authority is $555,659,000,000;

(3) the appropriate level of total budget outlays is $492,820,000,000. . . .

MR. [ROBERT N.] GIAIMO [of Connecticut]: . . . I raise the point of order

against the amendment on the ground that it is not germane to the Wilson amendment, which addresses itself to one function, national defense, and this addresses itself far beyond that; and, therefore, it is not germane. . . .

MR. JOHN L. BURTON: . . . It is my understanding that the Charles H. Wilson amendment although it only addressed itself to defense, it, by the language, inferred all that was in the amendment of the gentlewoman from New York, by striking that. It struck every section of the Holtzman amendment.

If I am not germane here, certainly I am germane to the Holtzman amendment and will offer my amendment to the Holtzman amendment in the nature of an amendment to the Holtzman amendment, if that be the necessary case.

THE CHAIRMAN:[3] The Chair is ready to rule upon the point of order of the gentleman from Connecticut (Mr. Giaimo).

The substitute offered by the gentleman from California (Mr. Charles H. Wilson) deals only with the national defense functional category for fiscal 1980. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with defense but with several other functional categories and is more general in scope.

Therefore, the amendment of the gentleman from California (Mr. John L. Burton) is not germane and the point of order is sustained.

3. William H. Natcher (Ky.).

Provisions Affecting Standards for Compensation of Postal Workers at Levels Comparable to Private Sector—Amendment to Substitute

§ 21.15 To a proposition that postal employees receive compensation equal to that paid for comparable levels of work in the private sector and that such compensation be uniform in all areas of the Nation, an amendment providing for pay differentials between postal carriers or clerks and their supervisors was held to be germane.

In the 91st Congress, during consideration of the Postal Reform Act of 1970,[4] amendments affecting the following language of the bill were offered:[5]

> § 205. Policy on compensation and benefits "It shall be the policy of the Postal Service to maintain for each wage area compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy in the corresponding wage area. The Postal Service, consistent with subchapter II of this chapter and collective bargaining agreements, shall define the boundaries of each wage

4. H.R. 17070 (Committee on Post Office and Civil Service).

5. 116 CONG. REC. 20211, 20212, 91st Cong. 2d Sess., June 17, 1970.

area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees.

An amendment was offered by Mr. Graham B. Purcell, Jr., of Texas:[6]

The Clerk read as follows:

Amendment offered by Mr. Purcell: On page 177, delete lines 19 to 24, and on page 178 delete lines 1 to 3. Insert beginning on line 19, page 177, the following:

"It shall be the policy of the Postal Service to maintain compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. Such policy may be applied on an area basis, in which event the Postal Service, consistent with subchapter II of this chapter and collective bargaining agreements, shall define the boundaries of any such wage area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees."

Subsequently, an amendment was offered by Mr. Sam M. Gibbons, of Florida:[7]

The Clerk read as follows:

Amendment offered by Mr. Gibbons as a substitute for the amendment offered by Mr. Purcell: On page 177, strike out line 19 and all that follows down through the period in line 2 on page 178 and insert in lieu thereof the following:

"It shall be the policy of the Postal Service to maintain compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy; but there shall not be established, for any position or class of positions under the Postal Service situated in any specific area or location, a rate of compensation (including premium compensation) which is higher than the rate of compensation (including premium compensation) for the same position or class of positions in any other specific area or location."

On page 192, immediately after the period in line 9, insert the following: "No such agreement shall contain any provision which establishes, for any position or class of positions under the Postal Service situated in any specific area or location, a rate of compensation (including premium compensation) which is higher than the rate of compensation (including premium compensation) for the same position or class of position in any other specific area or location."

An amendment to such substitute amendment was offered by Mr. Fletcher Thompson, of Georgia:[8]

The Clerk read as follows:

Amendment offered by Mr. Thompson of Georgia to the substitute amendment offered by Mr. Gibbons: After the second paragraph insert: "It shall further be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in

6. 116 CONG. REC. 20432, 91st Cong. 2d Sess., June 18, 1970.

7. *Id.* at p. 20434.

8. *Id.* at p. 20438.

the clerk and carrier grades in the line work force and supervisory and managerial employees. The Postal Service shall, in carrying out this policy, fix salary levels for the type of first line supervisors now in PFS 7 at a level which is not less than a level approximately as much higher as their rates of pay now exceed those in present grade PFS 5. There shall be appropriate and reasonable differentials between PFS 7 and 8 and between all higher grades similar to those in effect on the day immediately before the date of enactment of this section."

The following exchange concerned a point of order raised against the amendment:

MR. GIBBONS: Mr. Chairman, a point of order. The gentleman is amending something in mine that mine does not touch at all. . . .

. . . [H]e is trying to amend my substitute with something that is not germane. . . .

MR. THOMPSON of Georgia: Mr. Chairman, the language that I inserted is the language which was in the original section which was stricken. It does not affect the area wage. It does provide that the supervisors will, in effect, be paid a greater wage than will the letter carriers or clerks because of their responsibilities.

Inasmuch as it was in the original section, it certainly should be germane to any amendment to the original section.

THE CHAIRMAN:[9] The Chair is ready to rule.

The Chair has read the language in the amendment and also in the substitute and the language deals exactly with the same section of the bill and touches on the same subjects.

Therefore, the Chair overrules the point of order.

Parliamentarian's Note: The section of the bill being amended (§ 205), and the Purcell amendment for which the Gibbons substitute was offered, both contained statements of policy similar to those contained in the Gibbons substitute as well as the additional statement of policy contained in the Thompson amendment. As explained in the introduction to this section, supra, the Chair does not normally look at language in the bill proposed to be stricken by the original amendment, but only at matter proposed to be inserted by the substitute, in measuring the germaneness of amendments to the substitute. Here, the substitute dealt with two compensation policies, and the addition of a third within the same class (compensation) was considered germane.

Amendment in Nature of Substitute Must Be Germane to Bill as Whole—Incidental Portion of Amendment as Not Determining Germaneness

§ 21.16 The germaneness of an amendment in the nature of a substitute for a bill depends on its relationship to

9. Charles M. Price (Ill.).

the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

The proceedings of Aug. 2, 1973, which related to H.R. 9130 (the trans-Alaska pipeline authorization) are discussed in § 30.36, infra.

§ 21.17 For a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on naval petroleum reserve number 4 with annual reports to Congress, an amendment in the nature of a substitute containing similar provisions and also requiring a task force study of the values and best uses for subsistence, scenic, historical, and recreational purposes, and for fish and wildlife, of the public lands in that naval petroleum reserve was held germane despite the inclusion of that incidental portion which, if considered separately, would have been tested for germaneness only in relation to the portion of the bill to which offered.

On July 8, 1975,[10] during consideration of H.R. 49 in the Committee of the Whole, Chairman Neal Smith, of Iowa, held that the test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered. The proceedings were as follows:

> MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:
> >
> > That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States (except lands in the National Park System, the Na-

10. 121 CONG. REC. 21631–34, 94th Cong. 1st Sess.

tional Wildlife Refuge System, the Wild and Scenic Rivers System, the National Wilderness Preservation System, areas now under review for inclusion in the Wilderness System in accordance with provisions of the Wilderness Act of 1964, and lands in Alaska other than those in Naval Petroleum Reserve Numbered 4). . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided,* That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve: *Provided further,* That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish & Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years, submit to Congress his recommendations for such designation of areas of those lands as may be appropriate and, *Provided further,* That oil and gas exploration within the Utukok River and Teheshepuk Lake areas and others containing significant subsistence, recreational, fish and wildlife, historical or scenic values, shall be conducted in a manner so as to preserve such surface values.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I have a point of order. . . .

The bill, H.R. 49, authorizes as follows:

> To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

Mr. Chairman, if we refer to the bill in toto, nowhere will we find in that bill language relating to subsection (f) of the amendment submitted to us. I regret that I cannot give the Chair the precise citation.

I will state that the point of order goes to the section relating to the words,

> *Provided further,* That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish and Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years submit to Congress his recommendations for such designation of areas of those lands as may be appropriated. . . .

Mr. Chairman, a fundamental rule of the House of Representatives is that the burden of establishing the germaneness of an amendment falls upon the offeror and does not fall upon the

Member challenging the germaneness. I would point out that nowhere else in the bill is there a proviso for a provision for a study involving groups, and nowhere in the title of the legislation is there anything that would justify or authorize a study of the kind that is set forth here in the amendment.

As a matter of fact, nowhere in the amendment that was reported by the Committee on Interior and Insular Affairs to the House of Representatives is there anything which would relate to a study. A study of the kind that is before us is totally different and alien.

The purpose of the legislation is to establish a program of national strategic reserves and for the development of the petroleum reserves and not for the establishment of a study. It is not for the establishment of a study relating to fish and wildlife values, historical values, and matters of that sort.

So since the burden falls upon the offeror of the amendment, the gentleman from Montana (Mr. Melcher), I would point out that he has assumed for himself a burden which is impossibly heavy, and that is to provide a study of such sweeping import relating to totally different matters than those which are contained in the bill.

For that reason, Mr. Chairman, the point of order should be sustained.

MR. MELCHER: Mr. Chairman, I rise in opposition to the point of order.

Mr. Chairman, I think the point is covered in rule XVI at section 798c where it says as follows:

> . . . the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

Mr. Chairman, I think that about settles the point.

THE CHAIRMAN: The Chair is prepared to rule.

The proviso cited by the gentleman from Michigan (Mr. Dingell) is on page 8 of the mimeographed form of the Melcher amendment.

Had this proviso been presented separately, the germaneness would have been measured against the portion of the Interior Committee amendment to which offered. However, having been presented as a part of an overall substitute, the Chair would rule that the provision objected to is merely incidental to the fundamental purpose of the amendment, and that under the precedent cited by the gentleman from Montana (Mr. Melcher), in section 798(b) of the Manual the amendment is germane to the text when viewed as a whole.

The Chair therefore overrules the point of order.

Special Rule Permitting Point of Order Based on Germaneness To Be Made Against Portion of Amendment in Nature of Substitute

§ 21.18 Under the terms of a special rule, a point of order based on the germaneness of only a portion of an amendment to the original bill was permitted to be made against a section of an amendment in

the nature of a substitute being read as original text for amendment; the section of the amendment, which sought to make permanent changes in law, was held to be not germane to a proposition authorizing appropriations for one fiscal year.

On May 24, 1978,[11] the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated: [12]

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles . . . and other weapons . . . and to prescribe the authorized personnel strength for each active duty component . . . of the Armed Forces and of civilian personnel of the Department of Defense . . . and for other purposes. After general debate . . . the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. . . .

11. 124 CONG. REC. 15293–15295, 95th Cong. 2d Sess.

12. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

The proceedings of May 24, 1978, were as follows:

THE CHAIRMAN:[13] When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. 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 Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, in accordance with the rule, House Resolution 1188, I make a point of order that section 805 of the committee amendment in the nature of a substitute, if offered as a separate amendment to H.R. 10929 as introduced, would be in violation of clause 7 of House Rule XVI regarding germaneness. This provision which deals with the withdrawal of troops from Korea, and section 805 which deals with the withdrawal of troops from Korea, is not germane to the Department of Defense authorization bill.

Mr. Chairman, a key criterion in determining germaneness is a committee's jurisdiction over a matter. The Korean troop withdrawal issue falls clearly within the jurisdiction of the Committee on International Relations. Both sections 805(a) and 805(b) fall clearly within the jurisdiction of the Committee on International Relations, pursuant to clause 1, subparagraph (k) of House Rule X.

Compelling evidence of the primary jurisdiction of the International Relations Committee over the issue of troop withdrawal from Korea is found in the fact that all legislation, the President's arms transfer request, and related reports have been referred solely to the International Relations Committee.

Thus, there can be no doubt that the issue of the Korean troop withdrawal lies within the jurisdiction of the Committee on International Relations, and accordingly section 805 is not germane to this bill.

In addition, the issue of U.S. troop withdrawal from Korea is not relevant to either the subject matter or to the purpose of H.R. 10929, as introduced. As introduced, H.R. 10929 consists entirely of provisions relating to the annual authorizations for the Department of Defense. It contains no general policy provisions for the Department of Defense. It contains no general policy provisions of any type, let alone any policy provisions relevant to the withdrawal of U.S. troops from Korea. It is well established that an amendment of a general and permanent nature is not germane to a bill containing only temporary authorizations.

Thus, by whatever test of germaneness one examines, section 805 is not germane to H.R. 10929. . . .

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to

13. Dan Rostenkowski (Ill.).

something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

I submit, Mr. Chairman, that, first of all, the question of germaneness does not depend on what committee it might be referred to sequentially. In fact, the whole idea of sequential referral is a relatively new concept. I believe, in fact, that it has only been practiced in this House during this present Congress, and perhaps a few times previously.

H.R. 10929, is the annual authorization bill for the Department of Defense. It traditionally covers a wide variety of topics relating to defense. I would point out that the title of the bill after it lists the various items that the gentleman from Wisconsin has already referred to concludes, "and for other purposes."

Traditionally, matters related to the defense of our country which the Committee on Armed Services has regarded as being of importance have been included in this annual legislation year after year. Section 805 is no different from any of the other matters we have traditionally handled under "general provisions."

It is true that the gentleman's committee has had legislation before it regarding the transfer of American equipment to Korean forces; but section 805 refers to the stationing and positioning of U.S. ground forces; "no ground combat units of the 2d Infantry Division," and so on and so forth. It makes no reference to any transfer of equipment to Korean forces. We are providing here for the stationing of troops in an area that is of great importance to our national security. If that is not something which is within the concern of the Committee on Armed Services, then I do not know what our proper area of responsibility is.

Subsection (b) of section 805 spells out the recommendations of the committee as to what the minimum ground combat strength of our Armed Forces stationed in the Republic of Korea should be based on information we gleaned in an on-the-spot visit to Korea in January; so it is clearly within the province of the Committee on Armed Services. The gentleman from Wisconsin does not dispute that. The gentleman could not dispute it; but to suggest that because if it were introduced as a bill under today's procedures it might have been referred sequentially to the gentleman's committee or to some other committee, completely misses the point. If the size and location of Armed Forces of the United States are not a responsibility of the Committee on Armed Services, and are instead the responsibility of the Committee on International Relations, then something is very drastically wrong in this House.

Further, Mr. Chairman, the authority to determine where American Forces shall be stationed is clearly within the province of the Congress. The Constitution provides that Congress shall not only "raise and support armies," but that we shall provide for the "regulation and governing of the land and naval forces," in section 8 of article I.

Congress has previously enacted the war powers bill, which limits the authority of the President as far as the stationing of troops abroad is concerned. The Constitution does not give a broad grant of power to the Commander in Chief alone in stationing troops abroad. He has no constitutional power to put troops wherever he wants to, because Congress has determined that he cannot put troops abroad under certain conditions without the expressed approval of the Congress of the United States.

Well, if we can limit the President's ability to send troops overseas, it follows that we can also limit his ability to bring those troops back home, if in the opinion of the Congress, we determine that that withdrawal action, which certainly is the case of Korea, would increase the risks of war.

So, Mr. Chairman, I urge that the point of order be overruled. Section 805 is clearly within the authority of the committee. It is clearly germane to the broad purposes of the bill and the House should have the right to vote on this important question.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Wisconsin makes a point of order against section 805 of the committee amendment in the nature of a substitute recommended by the Committee on Armed Services, on the grounds that section 805 of said amendment would not have been germane if offered to the bill H.R. 10929, as introduced.

As indicated by the gentleman from Wisconsin, the special order providing for consideration of this measure, House Resolution 1188, allows the Chair to entertain a point of order on the basis stated by the gentleman, that section 805 of the committee amendment would not have been germane as a separate amendment to H.R. 10929 in its introduced form.

The bill as introduced and referred to the Committee on Armed Services contains authorizations of appropriations and personnel strengths of the Armed Services for fiscal year 1979. It contains no permanent changes to law or statements of policy except for minor conforming changes to existing law relating to troop and personnel strengths.

Section 805 of the committee amendment in the nature of a substitute prohibits: First the withdrawal of ground combat units from the Republic of Korea until the enactment of legislation allowing the retention in Korea of the equipment of such units, and second, the reduction of combat units below a certain level in the Republic of Korea until a peace settlement is reached between said Republic and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula.

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are

issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

For the reasons stated, the Chair sustains the point of order.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Chairman, the Chair may have just stated a novel concept which has never before been heard in a ruling. That is that the sequential referral rule somehow serves as the basis for jurisdiction, and thus can support a point of order dealing with a section in a bill such as the one before us.

The parliamentary inquiry I have is this: Simply because under the new procedure adopted for the first time in this Congress the rules allow sequential referral at the discretion of the Speaker, does that mean that a committee that has primary jurisdiction, such as the Committee on Armed Services, may be challenged on the floor and have a point of order sustained removing a provision that might be partially under the jurisdiction of another committee on a sequential referral?

THE CHAIRMAN: The ruling of the Chair does not stand for that proposition.

MR. BAUMAN: Mr. Chairman, the gentleman from Maryland understood the Chair to say that the argument of the gentleman from Wisconsin was persuasive to the Chair regarding jurisdiction. If that is the case, it seems to me every committee of this House is somehow going to be challenged on the floor henceforth if its jurisdiction is shared to the slightest degree by another committee.

THE CHAIRMAN: All the Chair has stated is that section 805 is not germane to the introduced bill, and the rule provides that the point of order would lie on that ground.

MR. BAUMAN: Mr. Chairman, I have this further parliamentary inquiry:

Then the ruling of the Chair is based on germaneness of this amendment to this bill and does not go to any effect the sequential jurisdiction would have on the provision?

THE CHAIRMAN: The gentleman is correct.

The point of order having been sustained against the nongermane portion of the committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to the special rule.

Joint Resolution Authorizing Loan Agreement With Britain—Amendment in Nature of Substitute Prohibiting Loans to Foreign Governments Until Budget Balanced

§ 21.19 To a joint resolution authorizing the Secretary of

the Treasury to carry out a certain loan agreement between the United States and the United Kingdom, an amendment in the nature of a substitute for the joint resolution providing that it shall be unlawful for the government or any department thereof to lend or give money to any foreign government until the budget is balanced was held not germane.

In the 79th Congress, a bill[14] was under consideration to implement the purposes of the Bretton Woods Agreements Act by authorizing the Secretary of the Treasury to carry out an agreement with the United Kingdom. The bill stated:[15]

> *Resolved, etc.*, That the Secretary of the Treasury, in consultation with the National Advisory Council on International Monetary and Financial Problems, is hereby authorized to carry out the agreement dated December 6, 1945, between the United States and the United Kingdom which was transmitted by the President to the Congress on January 30, 1946.

An amendment was offered[16] as described above. Mr. Wright Patman, of Texas, raised the point of order that the amendment was not germane to the bill. The Chairman,[17] in ruling on the point of order, stated:

> The gentleman from Texas makes the point of order that the amendment is not germane. The section now under consideration authorizes the carrying out of the agreement dated December 6, 1945. Section 2 provides for the implementing of or the financing or the carrying out of that agreement.
>
> The pending amendment is not related to the subject matter and the Chair, therefore, sustains the point of order.

Amendment in Nature of Substitute Striking Section of Bill

§ 21.20 To a bill consisting of two sections, an amendment in the nature of a substitute striking out all after the enacting clause and inserting language of the second and final section was held to be germane.

In the 86th Congress, a bill[18] was under consideration which sought to provide rules for the judicial interpretation of acts of Congress. The following exchange[19] concerned a point of

14. S.J. Res. 138 (Committee on Banking and Currency).
15. See 92 Cong. Rec. 8915, 79th Cong. 2d Sess., July 13, 1946.
16. *Id.* at p. 8938.
17. William M. Whittington (Miss.).
18. H.R. 3 (Committee on the Judiciary).
19. 105 Cong. Rec. 11794, 11795, 86th Cong. 1st Sess., June 24, 1959.

order raised against a substitute amendment:

> MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Chairman, I make a point of order to the amendment.
>
> Mr. Chairman, I followed the reading of the amendment and it is word for word carrying section 2 of the bill after the enacting clause. It is really an amendment to strike out section 1 and all that this amendment does is simply to repeat what the Committee has just voted on. It comes too late, Mr. Chairman, because section 1 has already been read. . . .
>
> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, this is a substitute amendment which, in effect, strikes out section 1. There is no reason why a Member cannot offer a substitute amendment changing the provisions of any section, either amending the section or striking it out in toto. That is what this amendment does. It is a substitute amendment substituting a new bill as it is, with the elimination of section 1.
>
> THE CHAIRMAN:[20] . . . The only function of the Chair is to rule on the germaneness of the amendment in the nature of a substitute. The Chair believes the amendment is germane and, therefore, the point of order is overruled.

Parliamentarian's Note: This precedent demonstrates that while it may be too late to offer a perfecting (or striking) amendment to a section of the bill already passed in the reading for amendment, it may be permissible to accomplish that result by an amendment in the nature of a substitute for the entire bill offered at the end of the reading.

Amendment Rewriting Concurrent Resolution on Budget Not Germane to Perfecting Amendment Making More Limited Changes

§ 21.21 An amendment (in effect in the nature of a substitute) rewriting an entire concurrent resolution on the budget covering two fiscal years is not germane to a perfecting amendment proposing certain changes in figures for one of the years covered by the resolution.

On May 2, 1979,[1] during consideration of the first concurrent resolution on the budget, fiscal year 1980 (House Concurrent Resolution 107), the Chair sustained a point of order against an amendment, thus holding that to a perfecting amendment to a concurrent resolution on the budget changing amounts in functional categories and aggregates only for one fiscal year, an amendment which addresses the budget for another fiscal year as well and which contains other unrelated

20. Clark W. Thompson (Tex.).

1. 125 CONG. REC. 9556, 9564–66, 96th Cong. 1st Sess.

matter, as a redraft of the entire resolution, is not germane. The proceedings were as follows:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by $8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by $2,705 million;

In the matter relating to the amount of the deficit decrease the amount by $2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by $2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by $3,351 million; and decrease the amount for outlays by $1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by $102 million; and decrease the amount for outlays by $34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by $75 million; and decrease the amount for outlays by $25 million.

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton to the amendment offered by Ms. Holtzman: Strike all after line 1 and insert:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is $510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero;

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows: . . .

MR. [ROBERT N.] GIAIMO [of Connecticut]: The gentleman's amendment is a substitute for the entire resolution; the Holtzman amendment is not. It touches on matters not dealt with in the Holtzman amendment, namely, changes for fiscal year 1979. It is, therefore, not germane to the amendment of the gentlewoman from New York (Ms. Holtzman). . . .

THE CHAIRMAN:[2] The Chair is ready to rule on the point of order made by the gentleman from Connecticut (Mr. Giaimo).

The amendment offered by the gentlewoman from New York (Ms. Holtzman) deals only with fiscal year 1980 targets. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with 1980 but with fiscal 1979 revisions and contains other language. The amendment is not germane to the Holtzman amendment. The Chair so rules and sustains the point of order.

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2. William H. Natcher (Ky.).

Test of Germaneness of Amendment to Amendment in Nature of Substitute

§ 21.22 The test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill; thus, to an amendment in the nature of a substitute only extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for three years was held broader in scope and was ruled out as not germane.

On Nov. 13, 1980,[3] during consideration of the State and Local Fiscal Assistance Act Amendments of 1980[4] in the Committee of the Whole, it was demonstrated that, to a proposition to appropriate or to authorize appropriations for only one year, an amendment to extend the appropriation or authorization to another year is not germane. The proceedings were as follows:

> THE CHAIRMAN:[5] When the Committee rose on Wednesday, November 12, 1980, section 1 had been considered as having been read and opened for amendment.
>
> Are there any amendments to section 1?
>
> MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> > Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:
> >
> > SECTION 1. SHORT TITLE.
> >
> > This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".
> >
> > SEC. 2. EXTENSION OF PROGRAM.
> >
> > (a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .
>
> An amendment was offered:
>
> > Amendment offered by Mr. [John W.] Wydler [of New York] to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out

3. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

4. H.R. 7112.

5. Gerry E. Studds (Mass.).

section 2 and insert in lieu thereof the following:

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.". . .

"(d) Authorization of Appropriations for Allocations to State Governments.—

"(1) In general—In the case of each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $2,300,000,000 for each such entitlement period to make allocations to State governments. . . .

"(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time. . . .

MR. WYDLER: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is contained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

THE CHAIRMAN: The Chair is prepared to rule.

In the opinion of the Chair, the fundamental purpose of the amendment offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their funda-

mental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Parliamentarian's Note: The committee amendment in the nature of a substitute was a three-year bill, but the Horton substitute, the relevant text, was a one-year provision only. Although in the form of an amendment to the State and Local Fiscal Assistance Act, all provisions thereof applied only to the entitlement period, fiscal year 1981.

Agriculture Bill: Provision Similar to One Contained in Original Bill Offered as Amendment to Amendment in Nature of Substitute

§ 21.23 To an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture, an amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals, notwithstanding provisions of the Occupational Safety and Health Act (a matter within the jurisdiction of the Committee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered.

On July 19, 1973,[6] during consideration of a bill to amend and extend the Agriculture Act of 1970 [7] in the Committee of the Whole, it was demonstrated that the test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between an amendment and the bill for which the amendment in the nature of a substitute has been offered:

MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:

Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall pro-

6. 6 119 Cong. Rec. 24962, 24963, 93d Cong. 1st Sess.

7. . H.R. 8860.

vide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

MR. [WILLIAM A.] STEIGER OF WISCONSIN: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

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

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

Amendment as Broader Than Proposition Being Amended

§ 21.24 To an amendment proposing to add a new paragraph to a section of a bill, an amendment providing that certain procedures not be permitted "under this section" was ruled out as not germane.[9]

8. William H. Natcher (Ky.).
9. 116 Cong. Rec. 24040, 91st Cong. 2d Sess., July 14, 1970. See Sec. 18.6, supra.

§ 22. Committee Amendment

Committee amendments in a bill occupy the same status as those offered from the floor, so far as being subject to the same points of order.[10] Thus, the rule of germaneness applies to committee amendments as well as those offered by individual Members.[11] Therefore, the rule of germaneness may be summarized as follows: While the committee may report a bill embracing different subjects, it is not in order during consideration of the bill to introduce a new subject and the rule applies to amendments offered by the committee[12] and during the markups in subcommittee and in full committee, as well as to amendments offered from the floor.

A committee amendment, whether or not in the nature of a substitute, should be germane to the bill as introduced. Of course, a resolution providing for consideration of the bill with the committee amendment may waive points of order against the committee amendment.[13]

The rule requiring germaneness of amendments has been applied with respect to a committee amendment to a Consent Calendar bill.[14]

Authority of Secretary of Navy Respecting Construction for Shore Activities—Amendment To Amend Surplus Property Act

§ 22.1 To a bill giving the Secretary of the Navy certain authority with respect to the construction of public works designed to promote specified naval shore activities, a committee amendment seeking to amend the Surplus Property Act to require title to all ships, boats, barges and floating drydocks of the Navy to remain in the Navy was held not germane.

In the 79th Congress, a bill[15] was under consideration which provided in part as follows:[16]

> Be it enacted, etc., That the Secretary of the Navy is hereby authorized to establish . . . the following naval shore activities by the construction of such temporary or permanent public works as he may consider nec-

10. For illustrative precedents on this point, see, for example, §§ 22.1 and 37.12, infra.

11. See, for example, §§ 3.41 and 12.8, supra.

12. See § 4.31, supra.

13. See § 45.2, infra.

14. See § 16.1, supra.

15. H.R. 626 (Committee on Naval Affairs).

16. See 91 Cong. Rec. 305, 306, 79th Cong. 1st Sess., Jan. 17, 1945.

essary, including buildings, facilities, accessories, and services . . . with approximate costs as indicated: Ship repair and laying-up facilities, $230,222,000; fleet training facilities, amphibious and operational, $12,000,000; aviation facilities, $74,500,000; storage facilities, $19,950,000 (and the like). . . .

A committee amendment was read, stating:[17]

Add a new section as follows:

Sec. 4. Notwithstanding any provisions of the Surplus Property Act of 1944, and of the act approved March 11, 1941 (55 Stat. 31, as amended, title to all ships, boats, barges, and floating drydocks of the Navy Department shall remain in the United States; and possession thereof shall remain in the Navy Department and none of the foregoing shall be disposed of in any manner: *Provided* That lease thereof may be made in accordance with such act of March 11, 1941, as amended, for periods not beyond the termination of the present war.

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

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make a point of order against section 4 on the ground that it is not germane to the bill.

. . . May I say that the original bill is an authorization bill to establish or develop naval shore activities by the construction of such temporary or public works as may be considered necessary, and so forth.

Section 4, an amendment, has absolutely nothing to do with that. Section 4 amends the Surplus Property Act, which does not enter into the original bill at all. In adding section 4 it is sought to have the Navy retain title to every type of ship, boat, barge, or floating drydock that is now in possession of the Navy Department, and I submit that is not germane to the original bill and is, therefore, subject to a point of order.

The following exchange[18] also concerned the point of order:

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, one of the objectives of this bill is to provide facilities for inactive ships. There would be no justification to dispose of these ships, then provide facilities for inactive ships. . . .

What we are seeking to do is to utilize the facilities by not disposing of ships; otherwise it would be probably a waste of public money if we go ahead and dispose of the ships, then turn around and provide facilities for inactive ships. . . .

MR. [W. STERLING] COLE [of New York]: . . . It seems to me there is a proper relationship between the construction of a shore establishment necessary for the operation of a ship and the disposal or the conduct of the ship itself. . . .

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: . . . I remind the Chair that this is an amendment. It is a committee amendment, true, but it has no higher privilege and is entitled to no greater weight than if it were an amendment proposed on the floor by the committee or by any member of the Committee of the Whole. Inasmuch as this amendment definitely is not ger-

17. *Id.* at p. 308.

18. *Id.* at pp. 308, 309.

mane to the bill under consideration which provides for construction . . . and inasmuch as this amendment is not a limitation for the repairs and for shore facilities and for the housing authorized in this bill, but is an amendment to the general law covering all ships . . . and floating drydocks of the Navy Department, applying to property that is covered by two acts heretofore passed by the Congress . . . I submit that the amendment is not germane to the bill under consideration. . . . The bill provides for construction—the amendment prevents disposal of other types and classes of property. . . .

MR. [EARL C.] MICHENER [of Michigan]: Mr. Chairman, the question of germaneness to me is not important when a bill is drafted by the committee if the matter included in the committee draft has to do with the subject matter over which the committee has jurisdiction. . . .

My view is that when a Member introduces a bill and it goes before a committee it becomes a committee bill when the committee reports it out, and that an individual by introducing a bill and referring it to a committee cannot prevent the committee from adding to the bill anything over which the committee has jurisdiction. . . .

The Chairman,[19] in ruling on the point of order, stated:[20]

. . . The gentleman from Missouri [Mr. Cochran] makes the point of order against the committee amendment, which provides that title to all ships, boats, barges, and floating drydocks of the Navy Department shall remain in the United States, on the ground that it is not germane to the bill. This amendment, although a committee amendment, occupies the same position with respect to the rule of germaneness as an amendment offered from the floor.

The Chair has carefully read the bill. It is the opinion of the Chair that the substance of this bill relates solely to the construction of public works. It would be rather futile to argue that this amendment comes within the rule of germaneness because if the argument of those opposing the point of order were sustained any amendment proposing a change in any other activity of the Navy Department could also be considered as germane. Therefore the Chair sustains the point of order made by the gentleman from Missouri.

§ 23. Instructions in Motion To Commit or Recommit

An amendment incorporated in a motion to recommit with instructions must be germane to the bill sought to be amended.[1] Thus, it is not in order to propose, as part of a motion to recommit, any proposition which would not be germane if proposed as an amendment to the bill.[2]

On Mar. 22, 1949, when the reading of the engrossed copy of a

19. A.S. Mike Monroney (Okla.).

20. See 91 CONG. REC. 309, 310, 79th Cong. 1st Sess., Jan. 17, 1945.

1. See §§ 23.7 and 23.10, infra.

2. See § 23.3, infra.

bill was the unfinished business before the House, the Speaker[3] stated, in response to a parliamentary inquiry, that instructions accompanying a motion to recommit were required to be germane to the engrossed copy (perfected version) of the bill.[4]

A point of order against a motion to recommit with instructions has been made prior to completion of the reading of such motion where the matter contained in the instructions had been ruled out as not germane when offered as an amendment in the Committee of the Whole.[5]

While the precedents indicate that a motion to recommit a bill with instructions may not direct the committee to report back forthwith with a nongermane amendment, it may be in order to incorporate in such motion an amendment that is identical to one that had been made in order for consideration pursuant to a waiver of the germaneness rule, and then rejected in Committee of the Whole. See the proceedings of Aug. 4, 1976,[6] relating to the Nuclear Fuel Assurance Act, wherein the House adopted a motion to recommit the bill with instructions in order to restore a perfecting committee amendment which had been tentatively adopted in Committee of the Whole but then not reported to the House because of adoption in Committee of an amendment striking out the language of the committee amendment. (The House had subsequently rejected the amendment striking out such language.) House Resolution 1242 had specifically waived points of order under the germaneness rule to permit the consideration of the amendment recommended by the Joint Committee on Atomic Energy printed in the bill. The amendment was not germane because it provided for a rules change to permit privileged consideration of resolutions of disapproval, whereas the original bill provided no such mechanism. Pursuant to such waiver, the identical language was restored by incorporation in the motion to recommit.

Instructions in the motion to recommit must be germane to the subject matter of the bill even though not proposing a direct amendment thereto.[7]

While instructions must be germane to the section of the bill to

3. Sam Rayburn (Tex.).

4. See the proceedings at 95 Cong. Rec. 2936, 2937, 81st Cong. 1st Sess., Mar. 22, 1949. Under consideration was H.R. 1437 (Committee on Armed Services), the Army and Air Force Act of 1949.

5. See Sec. 23.3, infra.

6. 122 CONG. REC. 25425–27, 94th Cong. 2d Sess.

7. See § 23.9, infra.

which offered (see 8 Cannon's Precedents Sec. 2709), an amendment in the form of a new title at the end of a bill need only be germane to the bill as a whole.[8]

Amendments to a motion to recommit must be germane to the subject matter of the bill (and not necessarily to the motion to recommit to which offered).[9]

Where a motion to recommit with instructions is ruled out on a point of order because containing matter not germane to the bill, another motion to recommit may be offered.[10]

The Chair does not rule on hypothetical questions, and therefore declines to rule in advance as to the germaneness of instructions accompanying a motion to recommit.[11]

Instructions Must Be Germane to Bill

§ 23.1 Instructions included in a motion to commit or recommit the pending proposition must be germane thereto.

The principle that instructions included in a motion to commit or recommit must be germane to the bill is illustrated by the proceedings of July 12, 1978, discussed in Sec. 23.2, infra. .

Concurrent Resolution Related to Domestic Situation in Soviet Union—Instructions To Address Diplomatic Initiatives by United States

§ 23.2 To a concurrent resolution expressing the sense of Congress that trials of Soviet dissidents are matters of concern to the American people and impose obstacles to cooperation and confidence between the United States and Soviet Union, and urging the Soviet leadership to seek humanitarian resolutions to those cases and to improve the climate in relations between the two countries, amendments contained in three consecutive motions to commit with instructions, to urge the recall of United States negotiators at the Strategic Arms Limitations Talks (SALT), and/or urging that no further negotiations at such talks proceed until

8. See § 23.6, infra.
9. See 5 Hinds' Precedents § 6888; 8 Cannon's Precedents § 2711.
10. See § 23.3, infra.
11. See 109 CONG. REC. 25249, 88th Cong. 1st Sess., Dec. 19, 1963 (remarks of Speaker John W. McCormack (Mass.) in response to parliamentary inquiry by Mr. Charles A. Halleck (Ind.)).

the Soviet Union indicates the reliability of entering into a SALT agreement, were held not germane as unrelated to the subject matter of the resolution, which addressed only specific domestic actions by the Soviet Union and not general or specific diplomatic initiatives by the United States towards the Soviet Union.

On July 12, 1978,[12] during consideration of Senate Concurrent Resolution 95, it was demonstrated that instructions included in a motion to commit or recommit a proposition must be germane to that proposition. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[13] Without objection, the previous question is ordered on the Senate concurrent resolution.
>
> There was no objection.
>
> THE SPEAKER PRO TEMPORE: The question is on concurring in the Senate concurrent resolution. . . .
>
> MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker . . . I have a motion to commit under the rule. . . .
>
> THE SPEAKER PRO TEMPORE: The Clerk will report the motion to commit with instructions.
>
> The Clerk read as follows:
>
> Mr. Ashbrook moves to commit Senate Concurrent Resolution 95 to the Committee on International Relations with instructions to report the concurrent resolution back forthwith with the following amendment: Strike period after last paragraph and insert the following: "and it is further resolved that the Congress urges the President of the United States to recall our representatives at the SALT talks as further evidence of the commitment of this nation to the principles set out in this resolution, and that no further negotiations proceed until the Soviet Union by its actions more clearly indicates the reliability of entering into a SALT treaty with that nation."
>
> MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Speaker, I raise a point of order on the motion to commit with instructions. . . .
>
> Mr. Speaker, the instructions go beyond the scope of Senate Concurrent Resolution 95 now before us. The instructions would add a further resolving clause that the Congress urge the President of the United States to recall our representatives at the SALT talks.
>
> This clearly goes beyond the resolution, which is intended to express a condemnation of the Soviet Union, that is, the unhappiness of the Congress with the manner in which they are trying one Anatoly Shcharansky for treason and for what we believe is his right to express his opinion, and violations on the part of that government of the Helsinki Final Act. . . .
>
> MR. ASHBROOK: . . . Mr. Speaker, in the first place, it is not a motion to recommit. Under rule XVII it is clearly stated:
>
> It shall be in order, pending the motion for, or after the previous question shall have been ordered on

12. 124 CONG. REC. 20500–05, 95th Cong. 2d Sess.

13. Elliott Levitas (Ga.).

its passage, for the Speaker to entertain and submit a motion to commit, with or without instructions, to a standing or select committee.

I would hold and suggest that the motion is completely consistent with the language of the concurrent resolution. We are going so far in the concurrent resolution in the Congress to urge that the Supreme Soviet, not even in this country, but the Supreme Soviet and its leadership take certain actions, and certainly that the President of the United States take action. Again, we are not telling him he has to; we are merely urging him to take an action which, by the basic sense of the concurrent resolution, cannot be in itself a law. It is a resolution expressing the intentions, the desires, the wishes of Congress urging anyone, whether it be the President of the United States or the Supreme Soviet, to take action. It is consistent with that, and I would hope that the Chair would hold it in order. . . .

MR. ZABLOCKI: Mr. Speaker, if I may be heard further on the point of order I raised, the motion to commit that the gentleman from Ohio has made, with instructions, goes not only beyond the scope of the resolution before us, but the language of the instructions is not germane to the Senate resolution, Senate Concurrent Resolution 95 that is before us. Therefore, I again submit that it is out of order. . . .

THE SPEAKER PRO TEMPORE: Does the gentleman from Wisconsin desire to be heard further? If not, the Chair is prepared to rule on the point of order made by the gentleman from Wisconsin (Mr. Zablocki) against the motion to commit with instructions offered by the gentleman from Ohio (Mr. Ashbrook).

The motion to commit offered by the gentleman from Ohio provides that instructions will be given to the Committee on International Relations to report the concurrent resolution back with an amendment.

Therefore, the terms of the amendment must be taken into account in order to ascertain the germaneness of the motion to the resolution pending before the House. . . .

The resolution before the House is an expression of the sense of Congress with respect to the actions now underway in the Soviet Union. It is not a matter relating to the President of the United States, nor does it relate to all matters of negotiations between this country and the Soviet Union and to this country's conduct of those negotiations.

Furthermore, the last clause in the proposed amendment provides that:

> No further negotiations proceed until the Soviet Union by its actions more clearly indicates the reliability of entering into a SALT Treaty with that nation.

In the opinion of the Chair, that language, together with the fact that the instructions relate to matters pertaining to the President and not to an expression of the sense of Congress contained in the resolution itself, renders the proposed amendment beyond the scope of the original resolution and, therefore, it is not germane.

The point of order is sustained. . . .

THE SPEAKER PRO TEMPORE: At this point, the Chair will restate the question before the House in view of the proceedings which have intervened.

The question is on the adoption of the Senate concurrent resolution.

MR. ASHBROOK: Mr. Speaker, I offer a further motion to commit, which I think will be consistent with the objections raised by the Chair.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Ashbrook moves to commit Senate Concurrent Resolution 95 to the Committee on International Relations with instructions to report the concurrent resolution back forthwith with the following amendment: Strike period after last paragraph and insert the following:" and it is further resolved that it is the sense of Congress that the representatives of the United States at the SALT talks be withdrawn as further evidence of the commitment of this nation to the principles set out in this resolution, and that no further negotiations proceed until the Soviet Union by its actions more clearly indicates the reliability of entering into a SALT treaty with that nation.". . .

MR. ZABLOCKI: Mr. Speaker, I make a point of order against the motion.

Mr. Speaker, this relates to the negotiations of SALT, which is not in any way within the scope of Senate Concurrent Resolution 95.

The gentleman from Ohio attempts to meet the objection or ruling of what the Speaker has pointed out in the first sentence of the gentleman's motion to instruct by changing it, that it is the sense of Congress rather than that the Congress urges the President; but the amended instructions do not in any way, Mr. Speaker, meet the Speaker's concern that the last sentence that the Speaker points out in this ruling, that no further negotiations proceed until the Soviet Union . . . indicates the reliability of entering into a SALT treaty with that nation.

Mr. Speaker, I submit this is far and beyond the scope of the resolution.

MR. ASHBROOK: . . . As far as the point of order is concerned, one of the tests is whether or not it would have been germane if it had been offered in committee. I think clearly it would have been germane if it had been offered in committee, whether it had been accepted or rejected.

Again we go back to the original statement and the original reasons. They are matters of deep concern to the American people. I am referring to the deplorable actions of the Soviet Union and we are talking about building confidence in our negotiations with the Soviet Union.

I think, consistent with the ruling of the Chair on the other point of order, this amendment would be germane at this point, because it calls for the sense of Congress, and it calls for no action on the part of the President. It is consistent with the entire body of the concurrent resolution, and I would urge the Chair to uphold my right to offer this motion to commit. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule. . . .

The resolution before the House does not address the matter of the SALT treaty or the reliability of the Soviet Union with respect to the SALT treaty. And, in addition to that, the amendment to the resolution would provide that no further negotiations by the State Department proceed with respect to a specific area of foreign relations, which is not a subject matter of the concurrent resolution. . . .

Accordingly, it is the opinion of the Chair that the amendment contained in the motion to commit is broader

than the subject matter of the resolution and is, therefore, not germane to the resolution.

The point of order is therefore sustained.

MR. ASHBROOK: Mr. Speaker, I offer a further motion to commit.

THE SPEAKER: The Clerk will report the motion to commit.

The Clerk read as follows:

> Mr. Ashbrook moves to commit Senate Concurrent Resolution 95 to the Committee on International Relations with instructions to report the concurrent resolution back forthwith with the following amendment: Strike period after last paragraph and insert the following: "and it is further resolved that it is the sense of Congress that the United States recall our representatives at the SALT talks. . . .

MR. ZABLOCKI: Mr. Speaker, I make the point of order against the instructions in this motion to commit Senate Concurrent Resolution 95 for the same reasons that I pointed out and stated before. . . . We are not dealing with SALT negotiations in this resolution. . . . [T]he instructions to recall our United States representatives at the SALT talks truly have no basis. . . .

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

The Chair has examined the motion to commit offered by the gentleman from Ohio (Mr. Ashbrook), which would commit the concurrent resolution to the Committee on International Relations with instructions to report back the concurrent resolution with an amendment. The amendment that would be reported back provides as follows:

> It is further resolved that it is the sense of Congress that the United States recall our representatives at the SALT talks as further evidence of the commitment of this Nation to the principles set out in this resolution.

As stated in the last ruling by the Chair, there is nothing in the concurrent resolution before the House pertaining to the SALT talks or to this country's diplomatic initiatives toward the Soviet Union. It is for that reason that the Chair believes that any reference to a specific diplomatic relationship between the two countries, be it the SALT talks or space exploration or cooperation in the International Olympics, would not be germane to a resolution which merely expresses congressional concern over actions of Soviet leaders.

For that reason, it is the opinion of the Chair that the amendment offered by the gentleman from Ohio in his motion to commit is broader than the scope of the concurrent resolution and, therefore, is not germane.

Accordingly, the point of order is sustained.

Supplemental Military Authorizations—Instructions To Address Foreign Policy Objectives

§ 23.3 During consideration of a bill authorizing military expenditures, a motion to recommit with instructions was ruled out on a point of order because it contained provisions seeking to prescribe foreign policy objectives.

In the 90th Congress, during consideration of supplemental military authorizations for fiscal 1967,[14] the following motion was reported.[15]

> Mr. [Henry S.] Reuss [of Wisconsin] moves to recommit the bill H.R. 4515 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendment:
>
> On page 4, line 10, after "$624,500,000", insert:
>
> TITLE I—STATEMENT OF CONGRESSIONAL POLICY
>
> Sec. 401. None of the funds authorized by this Act shall be used except in accordance with the following declaration by Congress of . . .
>
> (2) its support of efforts being made by the President of the United States and other men of good will throughout the world to prevent an expansion of the war in Vietnam. . . .[16]

A point of order was made, as follows:

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Speaker, I make the point of order that the instructions contained in the motion to recommit are not germane to the bill under consideration. . . .[17]

The Speaker,[18] in ruling on the point of order, stated:[19]

> The bill presently before the House authorizes appropriations for military procurement, research, development, and military construction, both in the United States and abroad.
>
> The amendment in the motion to recommit with instructions offered by the gentleman from Wisconsin, provides for a new section to be added at the end of the bill which would contain a "Statement of congressional policy". . . .
>
> Because of the nature of this amendment, the Chair is of the opinion that it deserves the attention and consideration of a committee of this House other than armed services, which reported the bill now before the Committee. Were this amendment introduced as a bill, it would be within the jurisdiction of the Committee on Foreign Affairs.
>
> The bill before the House deals with military authorizations; the motion to recommit goes to the foreign policy of the United States. . . .
>
> The Chair sustains the point of order.

After such ruling, another motion to recommit was made and rejected. During the proceedings, the following exchange occurred:[20]

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14. H.R. 4515 (Committee on Armed Services).

15. 113 CONG. REC. 5155, 90th Cong. 1st Sess., Mar. 2, 1967.

16. Mr. Reuss had previously offered the declaration of policy stated above as an amendment during consideration of the bill; the amendment had been held to be not germane. See § 4.32, supra.

17. *Parliamentarian's Note:* In the actual proceedings, Mr. Rivers made the above point of order prior to completion of the reading of the motion.

18. John W. McCormack (Mass.).

19. 113 CONG. REC. 5155, 5156, 90th Cong. 1st Sess., Mar. 2, 1967.

20. *Id.* at p. 5156.

MR. [HAROLD R.] GROSS [of Iowa]: I respectfully ask the Speaker if the rule which made this bill in order provided for only one motion to recommit.

THE SPEAKER: The Chair will state it applies to one valid motion to recommit. The other motion was ruled out of order.

Amendment Containing Change in Permanent Law Not Germane to Joint Resolution Continuing Appropriations

§ 23.4 To a joint resolution reported from the Committee on Appropriations continuing appropriations and containing diverse legislative provisions relating to funding directions and limitations, an amendment in the form of a motion to recommit with instructions containing a permanent change in existing law (within the jurisdiction of the Committee on Post Office and Civil Service) relating to salaries and allowances of certain federal employees was conceded to be nongermane.

During consideration of House Joint Resolution 370 (continuing appropriations) in the House on Dec. 10, 1981,[1] the Speaker[2] sustained a point of order against a motion to recommit with instructions, as described above. The proceedings were as follows:

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, pursuant to the order of the House of yesterday, I call up the joint resolution (H.J. Res. 370)) making further continuing appropriations for the fiscal year 1982, and for other purposes, and ask for its immediate consideration.

The Clerk read the joint resolution, as follows:

H.J. RES. 370

Resolved . . . That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1982, and for other purposes, namely:

Sec. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available. . . .

Sec. 118. Notwithstanding any other provision of the joint resolution, the funds made available by this joint resolution which would be available under H.R. 4560, the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982, as reported to the Senate on November 9, 1981, for Student Financial Assistance shall be subject to the following additional conditions:

(1) The maximum Pell Grant a student may receive in 1982–1983 academic year is $1,800, notwith-

1. 127 CONG. REC. 30497, 30500–02, 30530, 30536–38, 97th Cong. 1st Sess.
2. Thomas P. O'Neill (Mass.).

standing section 411(a)(2)(A)(i)(II) of the Higher Education Act of 1965. . . .

Sec. 132. Notwithstanding any other provision of title 23, United States Code, or of this joint resolution, the Secretary of Transportation shall approve, upon the request of the State of Indiana, the construction of an interchange to appropriate standards at I–94. . . .

Sec. 135. (a) Notwithstanding the provisions of section 305 of H.R. 4120 made applicable by section 101(h) of this joint resolution, but subject to subsection (b) of this section, nothing in section 101(h) shall (or shall be construed to) require that the rate of salary or basic pay, payable to any individual for or on account of services performed after December 31, 1981, be limited to or reduced to an amount which is less than—

(1) $59,500, if such individual has an office or position the salary or pay for which corresponds to the rate of basic pay for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(2) $58,500, if such individual has an office or position the salary or pay for which corresponds to the rate of basic pay for level IV. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conte moves to recommit House Joint Resolution 370 to the Committee on Appropriations, with instructions to that Committee to report the joint resolution back to the House forthwith, with the following amendment:

Strike out all after the resolving clause, and insert in lieu thereof: . . .

Sec. 141. Notwithstanding any other provision of law or of this joint resolution:

(a) Section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of 40 hours in an administrative workweek.".

(b) Section 5532 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train others to perform such duties.

"(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers performing duties under the administrative authority of such Administration.". . . .

(g) Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b),

(c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train other individuals to perform such duties. . . .

(4) Notwithstanding any other provision of this section, or any other provision of law, payments under this section shall be made only from appropriations provided in appropriation Acts. . . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Speaker, I raise the point of order against the motion to recommit on the basis that the instructions contain matter which is not germane to the joint resolution.

The general rule, as stated in section 18.1 of chapter 28 of Deschler's Procedure, is as follows:

> It is not in order to propose, as part of a motion to recommit, any proposition which would not be germane if proposed as an amendment to the bill.

Mr. Speaker, section 141 of the amendment in the motion to recommit with instructions contains matter which clearly is not germane to the joint resolution.

Specifically, section 141 authorizes additional pay for air traffic controllers and certain other employees of the Federal Aviation Administration, exempts such employees from the limitation on premium pay, and exempts military and civil service retirees who are reemployed by FAA from those provisions of existing law which prohibit the simultaneous receipt of civil service pay and retirement pension.

The provisions of section 141 are nongermane for several reasons.

First, section 141 permanently authorizes payment of additional compensation whereas the provisions of the continuing resolution are limited to fiscal year 1982.

Second, the subject matter of all of the provisions of section 141 of the amendment are within the jurisdiction of the Committee on Post Office and Civil Service—not the Committee on Appropriations.

Finally, Mr. Speaker, the provisions of section 141 of the amendment are not germane to the fundamental purpose of the continuing resolution.

The fundamental purpose of House Joint Resolution 370 is to appropriate funds for certain programs and activities in fiscal year 1982 or to limit the use of funds for certain programs and activities. Section 141 which authorizes additional pay for certain employees of the FAA clearly is not germane to that purpose of the resolution. . . .

MR. CONTE: Mr. Speaker, if the gentleman from Michigan, my good friend, insists on his point of order and wants to deny the air traffic controllers this pay raise before Christmas, I must concede the point of order.

THE SPEAKER: The Chair sustains the point of order.

Amendment Providing for Transfer of Unexpended Balances of Funds Previously Appropriated, in Lieu of Appropriation of New Budget Authority

§ 23.5 It is not germane to change a direct appropria-

tion of new budget authority from the general fund of the Treasury into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account; thus, to a bill providing new budget authority for emergency agricultural credit, an amendment contained in a motion to recommit with instructions to provide, in lieu of that new budget authority, for a transfer of unexpended balances of funds previously appropriated for a totally unrelated purpose was held to be not germane.

The proceedings of Feb. 28, 1985, relating to H.R. 1189, the Emergency Farm Credit Appropriation for fiscal 1986, are discussed in § 15.39, supra.

Amendment in Motion To Recommit as Waiving Laws Within Other Committees' Jurisdiction

§ 23.6 While ordinarily an amendment waiving provisions of law within another committee's jurisdiction is not germane to a bill reported by a different committee, where the bill as amended already contains diverse provisions relating to the subject of the amendment, a waiver of other provisions of law on that subject may be germane; thus, to a bill reported from the Committee on Agriculture relating to registration of pesticides but also including provisions on liability under other federal law and on judicial review of regulations and pesticide use, an amendment in the form of a new title included in a motion to recommit waiving any other law otherwise requiring payment of attorneys' fees for civil actions brought under the law being amended was held germane to the bill as a whole, committee jurisdiction no longer being the exclusive test of germaneness since the bill as a whole and as amended contained matters within another committee's jurisdiction.

On Sept. 19, 1986,[3] during consideration of H.R. 2482[4] in the House, Speaker Pro Tempore Steny A. Hoyer, of Maryland, overruled a point of order against

3. 132 CONG. REC. 24741, 24742, 24746, 24747, 24769, 99th Cong. 2d Sess.

4. The Federal Insecticide, Fungicide and Rodenticide Act.

the amendment described above. The proceedings were as follows:

SEC. 811. REVIEW OF REGULATIONS.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

"(e) Review of Regulations.—

"(1)(A) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 shall be reviewable only as provided by this subsection. Any person may obtain judicial review of the regulation by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Any petition under this paragraph for review of a regulation shall be filed within 120 days after the date of promulgation of the regulation as designated by the Administrator in the Federal Register.". . .

SEC. 821. LIABILITY.

(a) Pesticide Use.—An agricultural producer shall not be liable in any action brought after the effective date of this Act under any Federal statute for damages caused by pesticide use unless the producer has acted negligently, recklessly, or intentionally. Proof that the agricultural producer used the pesticide in a manner consistent with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently. . . .

Amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts: Section 821(a) of the text of H.R. 5440 (the Amendment in the nature of a Substitute to H.R. 2482), is amended (page 138, lines 2 through 10) to read as follows:

SEC. 821. LIABILITY FOR LAWFUL APPLICATION.

(a) Pesticide Use and No Private Right of Action.—(1) Liability under Federal environmental statutes for the costs of response or damage incurred with respect to a release or threatened release into the environment of a pesticide shall, in any case where the application was in compliance with label instructions and other applicable law, be imposed on the registrant or other responsible parties, not the agricultural producer, unless the producer has acted negligently, recklessly, or with the intent to misuse such pesticide. There shall be a rebuttable presumption that the application was in compliance with label instructions and otherwise lawful. . . .

THE CHAIRMAN: The question is on the amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts.

The amendment offered as a substitute for the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Kansas [Mr. Roberts], as amended.

The amendment, as amended, was agreed to. . . .

MR. [RON] MARLENEE [of Montana]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Marlenee moves to recommit the bill, H.R. 2482 (as amended by H.R. 5440) to the Committee on Agriculture with the instructions that it adopt the following amendment and forthwith report it back to the House:

Amendment to the text of H.R. 5440 (the amendment in the nature of a substitute to H.R. 2482), after page 163, line 21, insert the following new title:

TITLE XII—LIMITATION ON USE OF FUNDS

FEES AND EXPENSES IN CIVIL ACTIONS

Sec. 1201. The Act is amended by inserting the following new section after section 31:

"Sec. 32. Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under section 3(a) of this Act for failure to meet deadlines.". . . .

MR. [DAN] GLICKMAN [of Kansas]: Mr. Speaker, I make a point of order on the motion to recommit that the motion is not germane under clause 7 of rule XVI of the rules of the House. . . .

MR. MARLENEE: . . . Mr. Speaker, my amendment, I submit, is germane for the following reasons:

The title of the bill is for "other purposes" than amending FIFRA.

Other examples of enactments amended by this bill or by the underlying FIFRA Act are the Federal Food, Drug and Cosmetics Act.

The bill authorizes a program and funding for the pesticide program. It also adds a new program, reregistration, new section 3(a) of FIFRA. Both this section and the bill relate to fees and funding for the Reregistration Program. Some of that funding for the Reregistration Program will come from fees assessed against registrants (see page 42 of H.R. 5440) and some will come from appropriated funds.

My amendment would state how some of those funds could not be utilized, and I submit does not violate the rules of the House on that germaneness.

The bill (title VIII) is rife with references to courts and court review. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Kansas [Mr. Glickman] makes a point of order that the amendment proposed by the instructions in the motion to recommit offered by the gentleman from Montana [Mr. Marlenee] is not germane. Volume III, section 2709 of Cannon's Precedents indicates that it is not in order to include in a motion to recommit instructions to insert an amendment not germane to the section of the bill to which offered. While an earlier version of this amendment was held not germane when offered as an amendment to title I of the bill being read title by title, this amendment proposes to add a new title at the end of the bill limiting the award of attorneys' fees in certain civil actions brought under section 16 of the FIFRA law. The test of germaneness is now properly measured against the bill taken as a whole. The Chair notes that section 202 of the bill deals with civil actions against the United States for just compensation, and that the bill extensively amends other sections of the FIFRA law in titles VIII and IX. In the opinion of the Chair, since the bill already deals with issues relating to adminis-

trative procedure and judicial review of actions taken under this act, the amendment is germane to the bill as a whole, and the point of order is overruled.

Injunctions Against Deprivation of Voting Rights—Amendment Providing for Jury Trials in Resulting Contempt Cases

§ 23.7 To a bill giving federal courts authority to entertain civil actions for injunctive relief in cases of deprivation of voting rights, a motion to recommit with instructions to report back with an amendment providing for jury trials in contempt cases arising from actions instituted under the act was held to be germane.

In the 85th Congress, during consideration of a bill[5] to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States, a motion to recommit was offered[6] as described above. A point of order was raised against the motion, as follows:

> MR. [KENNETH B.] KEATING [of New York]: Mr. Speaker, I make the point of order that the wording of the motion to recommit is not germane to the bill. We have already debated the germaneness of the wording of this motion in Committee of the Whole. But, I have this additional observation to make . . . that this proposed amendment is to the act, whereas it is inserted as an amendment to a section of the act. . . .
>
> I urge that if the amendment were to the act, as it purports to be, it would have to be at some other point in the bill and could not be an amendment to the act in the middle of one of the sections of the act.

The Speaker[7] overruled the point of order.

Bill Prohibiting Poll Tax—Instructions To Change Form to Joint Resolution To Amend Constitution

§ 23.8 During consideration of a bill, reported by the Committee on House Administration, prohibiting poll taxes, a motion to recommit the bill with instructions to report it back in the form of a joint resolution amending the Constitution to accomplish the purpose of the bill, was held to be not germane.

In the 81st Congress, during consideration of a bill[8] prohib-

5. H.R. 6127 (Committee on the Judiciary).
6. 103 CONG. REC. 9517, 85th Cong. 1st Sess., June 18, 1957.
7. Sam Rayburn (Tex.).
8. H.R. 3199 (Committee on House Administration).

iting poll taxes, a motion to recommit with instructions was reported[9] as described above. The Speaker,[10] stating that, "a constitutional amendment involving this question would lie within the jurisdiction of the Committee on the Judiciary and not within the Committee on House Administration," sustained a point of order raised by Mr. Vito Marcantonio, of New York.

Instructions Not Proposing Direct Amendment to Bill

§ 23.9 Instructions contained in a motion to recommit must be germane to the subject matter of the bill whether or not the instructions propose a direct amendment thereto; thus, a motion to recommit a joint resolution, proposing a constitutional amendment for representation of the District of Columbia in Congress, with instructions that the Committee on the Judiciary consider a resolution retroceding populated portions of the District to Maryland, was held not germane to the joint resolution.

On Mar. 2, 1978,[11] the Speaker[12] sustained a point of order against the following motion to recommit House Joint Resolution 554 (a Constitutional amendment for District of Columbia representation in Congress):

MR. [CHARLES E.] WIGGINS [of California]: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER: Is the gentleman opposed to the joint resolution?

MR. WIGGINS: I am, Mr. Speaker.

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Wiggins of California moves to recommit the joint resolution (H.J. Res. 554) to the Committee on the Judiciary with instructions that it consider a resolution to retrocede the populated portions of the District of Columbia to the State of Maryland.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Speaker, do not motions to recommit have to be germane to the legislation before us?

THE SPEAKER: The Chair will advise the gentleman that he is correct.

MR. BAUMAN: Mr. Speaker, I make a point of order against the motion to recommit.

THE SPEAKER: The gentleman will state his point of order.

MR. BAUMAN: Mr. Speaker, I make a point of order against the motion to re-

9. 95 CONG. REC. 10247, 81st Cong. 1st Sess., July 26, 1949.

10. Sam Rayburn (Tex.).

11. 124 CONG. REC. 5272, 95th Cong. 2d Sess.

12. Thomas P. O'Neill (Mass.).

commit on the ground that it is not germane to the legislation before us because it suggests retrocession of the territory of the District of Columbia to the State of Maryland, which is not at any point encompassed in this legislation. The bill deals only with the creation of the offices of two Senators and of Members of Congress for the District of Columbia. Since this proposition would not have been germane to the bill as an amendment, it is not now germane.

THE SPEAKER: Does the gentleman from California (Mr. Wiggins) desire to be heard on the point of order?

MR. WIGGINS: I do, Mr. Speaker.

Mr. Speaker, I am trodding on what is virgin ground for me. I am not sure what the rules of germaneness are with respect to a motion to recommit with instructions, the focus of which is to instruct the Committee on the Judiciary, from whence the joint resolution came, to reconsider an alternative means of achieving the objective of the legislation.

It would strike me, as a matter of first blush, that an alternative means of achieving a common result is, of course, quite germane; but I have no doubt that the precedents of the House have previously considered this measure, and I will yield to those precedents.

THE SPEAKER: Does the gentleman from Maryland (Mr. Bauman) desire to be heard further?

MR. BAUMAN: I do, Mr. Speaker.

Upon that subject, Mr. Speaker, I question the appropriateness of the instructions in view of the fact that the retrocession, as I understand it, would not require a constitutional amendment, but, in fact, a simple statutory act by the Congress.

MR. WIGGINS: Mr. Speaker, if I may be heard just a few moments longer to clarify the situation, I am advised by my parliamentary experts on either side that the rules of the House require that amendments be germane. This motion to recommit is, of course, not an amendment.

Secondly, it is my view, contrary to the position taken by the gentleman from Maryland (Mr. Bauman), that a retrocession procedure, which I personally favor, would require a constitutional amendment and may not be achieved solely by reason of legislation.

THE SPEAKER: The Chair is ready to rule.

With regard to germaneness, an amendment of a similar type would not have been germane to the joint resolution.

Furthermore, the principle of germaneness is applicable to the extent that the House cannot direct a committee to consider another unrelated subject under the guise of a motion to recommit whether or not the motion is in the form of a direct amendment to the bill (Cannon's VIII, 2704).

Therefore, the gentleman's point of order is sustained.

Parliamentarian's Note: Instructions in this form, since not proposing an amendment, do not technically fall within Rule XVI, clause 7, prohibiting nongermane amendments. But the rule has been applied to prohibit instructions directing a committee to study or consider a nongermane

approach (see § 796, House Rules and Manual, 101st Cong.), and to prohibit instructions directing the committee not to report back to the House until an unrelated contingency occurs (see 8 Cannon's Precedents § 2704).

Repeal of Oleomargarine Tax—Amendment To Repeal Other Revenue Laws

§ 23.10 To a bill seeking the repeal of the tax on oleomargarine, an amendment which was contained in a motion to recommit with instructions and which sought the repeal of certain provisions of the general revenue laws affecting substances other than oleomargarine was held not germane.

In the 80th Congress, a bill[13] was under consideration to repeal the tax on oleomargarine. A motion was made[14] as described above. A point of order was raised against the motion, as follows:

> MR. [L. MENDEL] RIVERS [of South Carolina]: The proposed motion is not germane to the bill. It seeks to amend a provision of law with which this bill does not deal.

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

> . . . The Chair would hold that the bill under consideration is one which deals solely with oleomargarine. The instructions contained in the motion to recommit deal with a part of the general revenue laws and other substances which do not include oleomargarine. Therefore, the Chair sustains the point of order.

Bill Prescribing Amounts of Coverage Under Federal Deposit Insurance Act—Amendment To Limit Coverage Except Where Collateral Pledged

§ 23.11 To a bill prescribing the amount and extent of deposit insurance coverage for various savings institutions, an amendment to a motion to recommit limiting the insurance coverage under the bill as to time deposits, and permitting coverage in excess of that limitation upon the pledging of sufficient collateral, was held germane.

On Feb. 5, 1974,[16] during consideration of H.R. 11221, amending the Federal Deposit Insurance Act, the House defeated an amendment reported from Committee of the Whole striking out a section, rejected the previous question on a straight motion to

13. H.R. 2245 (discharged from the Committee on Agriculture).
14. 94 CONG. REC. 5007, 80th Cong. 2d Sess., Apr. 28, 1948.
15. Joseph W. Martin, Jr. (Mass.).
16. 120 CONG. REC. 2079-81, 93d Cong. 2d Sess.

recommit, and then amended the motion to include instructions to reinsert in the bill amendments which had tentatively been adopted in Committee of the Whole but then deleted by the amendment striking out that section as so amended. The proceedings were as follows:

MR. [BEN B.] BLACKBURN [of Georgia]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:[17] The gentleman will state his parliamentary inquiry.

MR. BLACKBURN: Mr. Speaker, as I understand the procedure, with the defeat of the Wylie amendment in the Whole House, we have now before us the original bill, and the original bill did not contain the provision which would have permitted credit unions to share in such deposits.

Now, Mr. Speaker, am I correct in that? If the credit union provision was added by the committee, are we not now back to the original bill?

THE SPEAKER: The Chair will state that the committee amendment on page 7 is no longer in the bill, as it was not reported from Committee of the Whole.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

MR. BLACKBURN: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER: The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Blackburn moves to recommit the bill H.R. 11221 to the Committee on Banking and Currency.

[The previous question was voted down.]

MR. [THOMAS L.] ASHLEY [OF OHIO]: Mr. Speaker, I offer an amendment to the motion to recommit. . . .

THE SPEAKER: . . . The Clerk will report the amendment to the motion to recommit.

The Clerk read as follows:

Amendment offered by Mr. Ashley to the motion to recommit offered by Mr. Blackburn: At the end of the motion, add the following instructions: With instructions to report back forthwith with the following amendment: On page 7, immediately after line 2, insert the following new subsection:

(d) Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "; and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act (12 U.S.C. 1787) and in the manner so prescribed payments on shares, share certificates, and share deposits".

And on page 2, section (2) lines 16 through 25 be eliminated and on page 3, lines 1 through 10 be eliminated and that the following language be inserted in lieu thereof:

"(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time deposits in an insured bank. . . .

And that on page 3, section (B), lines 13 through 17 be eliminated and the following language be inserted:

17. Carl Albert (Okla.).

"(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets. *Provided*, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.". . .

MR. [GARRY] BROWN OF Michigan: Mr. Speaker, I make [a] point of order on the amendment to the motion to recommit . . . . The last part of the amendment to which I refer is entitled "B", beginning with, "The corporation may limit" and so forth. I say that the final language is not germane to the bill.

That language is as follows:

Provided, *however*, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

Mr. Speaker, since the bill deals basically with insuring of accounts and has nothing to do with pledging of collateral, it, therefore, is not germane to the bill. . . .

MR. [ROBERT G.] STEPHENS [Jr., of Georgia]: Mr. Speaker, I wish to state that the gentleman had not made a point of order on this matter in the committee when this first came up, and it is not timely now. . . .

MR. BROWN of Michigan: Mr. Speaker, in response to the gentleman from Georgia (Mr. Stephens) I will only say that the fact that the point of order was not raised against the amendment in the Committee of the Whole does not preclude me from offering one in connection with the motion to recommit.

THE SPEAKER: The Chair will state that the point of order is timely and it appears clear to the Chair that the question of limitation of funds is in the first section of the bill; and the Chair, therefore, overrules the point of order.

§ 24. Amendment Proposing Permanent Legislation Offered to Temporary Legislation

This section [18] discusses precedents which support the principle that an amendment proposing a permanent change in law [19] or in procedures under House rules, [20] is, in general, [1] not germane if of-

18. See also, for example, § 39, infra, discussing amendments to bills that extend existing law. And see § 15, supra, discussing amendments to appropriation bills, especially §§ 15.23–15.25 (amendments providing permanent legislation offered to provisions affecting funds appropriated for one year); and § 23.4 (instructions, affecting permanent law, contained in a motion to recommit a joint resolution continuing appropriations).

19. See, for example, §§ 24.4 and 24.5, infra.

20. See § 24.3, infra.

1. For an instance, on the other hand, in which the Chair took the view that an amendment apparently permanent in form could in fact be construed to amount to a temporary measure, see § 24.7, infra. See also Sec. 24.8, infra.

fered to legislation of a temporary character or to provisions affecting funds authorized for a limited time period.

Bill Authorizing Appropriations for Armed Forces for One Year—Amendment Imposing Permanent Restrictions on Troop Withdrawals From Korea

§ 24.1 To a proposition authorizing appropriations for one fiscal year, an amendment making permanent changes in law is not germane; thus, where a bill reported from the Committee on Armed Services authorized appropriations and personnel strengths for the armed forces for one fiscal year and contained minor conforming changes to existing law, a section of an amendment in the nature of a substitute imposing permanent restrictions on troop withdrawals from the Republic of Korea, in part making reduction of troop strength contingent upon the conclusion of a peace agreement on the Korean peninsula, was held to be not germane (pursuant to a special order allowing such a point of order) since proposing permanent law to a one-year authorization, and containing statements of policy contingent on the administration and enactment of laws within the jurisdiction of the Committee on International Relations.

On May 24, 1978,[2] the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated:[3]

2. 124 CONG. REC. 15293–95, 95th Cong. 2d Sess.

3. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929)) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles . . . and other weapons . . . and to prescribe the authorized personnel strength to each active duty component . . . of the Armed Forces and of civilian personnel of the Department of Defense . . . and for other purposes. After general debate . . . the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. . . .

The proceedings of May 24, 1978, were as follows:

THE CHAIRMAN:[4] When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. 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 Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin] Mr. Chairman, in accordance with the rule, House Resolution 1188, I make a point of order that section 805 of the committee amendment in the nature of a substitute, if offered as a separate amendment to H.R. 10929 as introduced, would be in violation of clause 7 of House Rule XVI regarding germaneness. This provision which deals with the withdrawal of troops from Korea, and section 805 which deals with the withdrawal of troops from Korea, is not germane to the Department of Defense authorization bill.

Mr. Chairman, a key criterion in determining germaneness is a committee's jurisdiction over a matter. The Korean troop withdrawal issue falls clearly within the jurisdiction of the Committee on International Relations. Both sections 805(a) and 805(b) fall

4. Dan Rostenkowski (Ill.).

clearly within the jurisdiction of the Committee on International Relations, pursuant to clause 1, subparagraph (k) of House Rule X.

Compelling evidence of the primary jurisdiction of the International Relations Committee over the issue of troop withdrawal from Korea is found in the fact that all legislation, the President's arms transfer request, and related reports have been referred solely to the International Relations Committee.

Thus, there can be no doubt that the issue of the Korean troop withdrawal lies within the jurisdiction of the Committee on International Relations, and accordingly section 805 is not germane to this bill.

In addition, the issue of U.S. troop withdrawal from Korea is not relevant to either the subject matter or to the purpose of H.R. 10929, as introduced. As introduced, H.R. 10929 consists entirely of provisions relating to the annual authorizations for the Department of Defense. It contains no general policy provisions for the Department of Defense. It contains no general policy provisions of any type, let alone any policy provisions relevant to the withdrawal of U.S. troops from Korea. It is well established that an amendment of a general and permanent nature is not germane to a bill containing only temporary authorizations.

Thus, by whatever test of germaneness one examines, section 805 is not germane to H.R. 10929. . . .

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

I submit, Mr. Chairman, that, first of all, the question of germaneness does not depend on what committee it might be referred to sequentially. In fact, the whole idea of sequential referral is a relatively new concept. I believe, in fact, that it has only been practiced in this House during this present Congress, and perhaps a few times previously.

H.R. 10929, is the annual authorization bill for the Department of Defense. It traditionally covers a wide variety of topics relating to defense. I would point out that the title of the bill after it lists the various items that the gentleman from Wisconsin has already referred to concludes, "and for other purposes."

Traditionally, matters related to the defense of our country which the Committee on Armed Services has regarded as being of importance have been included in this annual legislation year after year. Section 805 is no different from any of the other matters we have traditionally handled under "general provisions."

It is true that the gentleman's committee has had legislation before it regarding the transfer of American equipment to Korean forces; but section 805 refers to the stationing and positioning of U.S. ground forces; "no ground combat units of the 2d Infantry Division," and so on and so forth. It

makes no reference to any transfer of equipment to Korean forces. We are providing here for the stationing of troops in an area that is of great importance to our national security. If that is not something which is within the concern of the Committee on Armed Services, then I do not know what our proper area of responsibility is.

Subsection (b) of section 805 spells out the recommendations of the committee as to what the minimum ground combat strength of our Armed Forces stationed in the Republic of Korea should be based on information we gleaned in an on-the-spot visit to Korea in January; so it is clearly within the province of the Committee on Armed Services. The gentleman from Wisconsin does not dispute that. The gentleman could not dispute it; but to suggest that because if it were introduced as a bill under today's procedures it might have been referred sequentially to the gentleman's committee or to some other committee, completely misses the point. If the size and location of Armed Forces of the United States are not a responsibility of the Committee on Armed Services, and are instead the responsibility of the Committee on International Relations, then something is very drastically wrong in this House.

Further, Mr. Chairman, the authority to determine where American Forces shall be stationed is clearly within the province of the Congress. The Constitution provides that Congress shall not only "raise and support armies," but that we shall provide for the 'regulation and governing of the land and naval forces," in section 8 of article I.

Congress has previously enacted the war powers bill, which limits the authority of the President as far as the stationing of troops abroad is concerned. The Constitution does not give a broad grant of power to the Commander in Chief alone in stationing troops abroad. He has no constitutional power to put troops wherever he wants to, because Congress has determined that he cannot put troops abroad under certain conditions without the expressed approval of the Congress of the United States.

Well, if we can limit the President's ability to send troops overseas, it follows that we can also limit his ability to bring those troops back home, if in the opinion of the Congress, we determine that that withdrawal action, which certainly is the case of Korea, would increase the risks of war.

So, Mr. Chairman, I urge that the point of order be overruled. Section 805 is clearly within the authority of the committee. It is clearly germane to the broad purposes of the bill and the House should have the right to vote on this important question.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Wisconsin makes a point of order against section 805 of the committee amendment in the nature of a substitute recommended by the Committee on Armed Services, on the grounds that section 805 of said amendment would not have been germane if offered to the bill H.R. 10929, as introduced.

As indicated by the gentleman from Wisconsin, the special order providing for consideration of this measure, House Resolution 1188, allows the Chair to entertain a point of order on

the basis stated by the gentleman, that section 805 of the committee amendment would not have been germane as a separate amendment to H.R. 10929 in its introduced form.

The bill as introduced and referred to the Committee on Armed Services contains authorizations of appropriations and personnel strengths of the Armed Services for fiscal year 1979. It contains no permanent changes in law or statements of policy except for minor conforming changes to existing law relating to troop and personnel strengths.

Section 805 of the committee amendment in the nature of a substitute prohibits: First the withdrawal of ground combat units from the Republic of Korea until the enactment of legislation allowing the retention in Korea of the equipment of such units, and second, the reduction of combat units below a certain level in the Republic of Korea until a peace settlement is reached between said Republic and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula.

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

For the reasons stated, the Chair sustains the point of order.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Chairman, the Chair may have just stated a novel concept which has never before been heard in a ruling. That is that the sequential referral rule somehow serves as the basis for jurisdiction, and thus can support a point of order dealing with a section in a bill such as the one before us.

The parliamentary inquiry I have is this: Simply because under the new procedure adopted for the first time in this Congress the rules allow sequential referral at the discretion of the Speaker, does that mean that a committee that has primary jurisdiction, such as the Committee on Armed Services, may be challenged on the floor and have a point of order sustained removing a provision that might be partially under the jurisdiction of another committee on a sequential referral?

THE CHAIRMAN: The ruling of the Chair does not stand for that proposition.

MR. BAUMAN: Mr. Chairman, the gentleman from Maryland understood the Chair to say that the argument of the gentleman from Wisconsin was persuasive to the Chair regarding jurisdiction. If that is the case, it seems to me every committee of this House is somehow going to be challenged on the floor henceforth if its jurisdiction is shared to the slightest degree by another committee.

THE CHAIRMAN: All the Chair has stated is that section 805 is not germane to the introduced bill, and the rule provides that the point of order would lie on that ground.

MR. BAUMAN: Mr. Chairman, I have this further parliamentary inquiry:

Then the ruling of the Chair is based on germaneness of this amendment to this bill and does not go to any effect the sequential jurisdiction would have on the provision?

THE CHAIRMAN: The gentleman is correct.

The point of order having been sustained against the nongermane portion of the committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to the special rule.

Bill Authorizing Annual Appropriation for Agency—Amendment Permanently Affecting Organization of Agency

§ 24.2 An amendment making permanent changes in the law relating to the organization of an agency is not germane to a title of a bill which only authorizes annual appropriations for such agency for one fiscal year.

On Nov. 29, 1979,[5] during consideration of the Nuclear Regulatory Commission Authorization Act[6] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017)), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated: . . .

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

5. 125 CONG. REC. 34083, 34089, 34090, 96th Cong. 1st Sess.

6. H.R. 2608.

Amendment offered by Mr. Lujan: On page 8, after line 11, insert the following:

Sec. 107. Section 201(a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after paragraph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate. . . .

THE CHAIRMAN:[7] Does the gentleman from Arizona (Mr. Udall) insist upon his point of order against the amendment?

MR. [MORRIS K.] UDALL [of Arizona]: I do, Mr. Chairman.

THE CHAIRMAN: Does the gentleman from Arizona desire to be heard on his point of order?

MR. UDALL: Very briefly, the amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained. . . .

MR. LUJAN: Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

THE CHAIRMAN: Does anyone else desire to be heard on the point of order? If not, the Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

Department of Energy Annual Authorization Bill—Amendment Requiring Secretary To Issue Regulations and Permanently Affecting Law and House Rules

§ 24.3 To that title of an annual Department of Energy authorization bill authorizing funds for the Economic Regulatory Administration within the Department, an amendment requiring the Secretary of the Department to issue regulations, pursuant to authority delegated to him by the President under permanent law, to control the price and allocation of oil, and making such regulations subject to congressional review under procedures changing the Rules of the House, was held to be not

7. Leon E. Panetta (Calif.).

germane, being a permanent change in law and in the Rules of the House.

On Oct. 12, 1979,[8] during consideration of H.R. 3000 in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vento: Add the following new section 202:

"Sec. 202(a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for a study by the Department of Energy to consider exercising the authority granted to the President, and by delegation from him, to the Department of Energy, under section 12(g) of the Emergency Petroleum Allocation Act of 1973, as amended, pursuant to which the Energy Department may reimpose price and allocation controls.

(b) Not later than fifteen days from the date of the enactment of this Act the Secretary of Energy shall file a report to both Houses of Congress in which the Secretary shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1)) of the Emergency Petroleum Allocation Act of 1973. In making the report, the Secretary shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product. . . .

(c)(1) If the Secretary finds in accordance with section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 that a decontrol decision is not warranted he shall, without regard to any administrative procedural requirements which ordinarily apply to such action, immediately exercise the authority delegated to him under section 12(f) of the Emergency Petroleum Allocation Act of 1973 and order reimposition of price and allocation controls.

(2)(A) The controls the Secretary shall order reimposed pursuant to subsection (c)(1) of this section shall be those which existed at the time middle distillate controls were effectively removed from the Emergency Petroleum Allocation Act of 1973 requirements in 1976, unless the Secretary shall find that any part of such requirements is inequitable or inappropriate, in which case the Secretary shall modify such part as he deems necessary and appropriate; provided however, that the Secretary shall submit a detailed explanation of each such modification to both Houses of Congress pursuant to the Procedures of section 551 of the Energy Policy and Conservation Act, and that such modification shall not take effect if either House of Congress disapproves such modification within twenty-one days under the Procedures of section 551 of the Energy Policy and Conservation Act. . . .

THE CHAIRMAN PRO TEMPORE:[9] The gentleman from Michigan (Mr. Dingell) is recognized on his point of order.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, first of all, the amendment is a very complex amendment, as the Chair is well aware.

Amongst the problems, from the standpoint of germaneness, which exist

8. 125 CONG. REC. 28097–99, 96th Cong. 1st Sess.

9. Gerry E. Studds (Mass.).

with regard to the amendment, subsection (c)(2))(A) of the amendment states that the Secretary shall do certain things if the Secretary makes certain findings. So the first problem we have is that the Secretary is required to make findings—and this is not germane to the bill—and that he must then reimpose controls on middle distillates under regulations in effect in 1976. This, then, requires that the regulations relate back to a time earlier than the effective date of the legislation.

It also requires, I believe, that the price controls carry forward after the effective date for the expiration of the 1-year authorization which is before the House. The Secretary then could only modify these regulations if neither House vetoes the regulations.

Again, Mr. Chairman, the Chair will observe that there is no provision for one-House vetoes or for this kind of action in the bill.

To repeat, the amendment is not germane to the bill, which only authorizes funds for fiscal year 1980.

There are further reasons. First, it modifies prior pricing laws by subjecting certain regulations to a one-House veto. These regulations are not otherwise subject to a one-House veto on the basis of the statute, and the Chair will find there is no reference to one-House vetoes anywhere in the bill.

The proposal further is nongermane by waiving procedural requirements of law, and, further, it is not germane by requiring reimposition of controls based on a finding different from that which is required by the Emergency Petroleum Allocation Act.

The amendment is further nongermane because it is a limitation on all regulations which modify the reimposed regulations. Thus once the President reimposes controls, which under the amendment must be reimposed as they appeared in the Code of Federal Regulations in 1976, he may only modify the regulations by subjecting them to a one-House veto. This limitation would apply to all future regulations, including regulations prescribed after fiscal year 1980.

So the amendment goes beyond the term of the bill before us. Thus the requirements in the regulations extend beyond the fiscal year 1980, and again this renders the proposal nongermane.

It provides new regulatory powers, not contained in existing law, in a bill which is simply a 1-year extension of financial authorizations to the Department of Energy, since it requires regulation of middle distillates without making the findings required under the Emergency Petroleum Allocation Act.

Next, it permits additional regulatory actions without being subject to statutory procedures, a good number of which, I believe, would clearly be in contravention of existing law, again being nongermane by reason of imposing new statutory powers on a Secretary and new statutory duties on a Secretary in a proposal which is simply a 1-year authorization for the funding of the Department of Energy. . . .

MR. VENTO: Mr. Chairman, in the opening of the amendment it deals with the appropriation of such funds in this act. They are authorized to be appropriated and to be expended for the purpose of this study.

Mr. Chairman, indeed the amendment is complex, but the study that is

anticipated here tracks Public Law 94-163, which indeed is covered and affected by this 1-year authorization that we have before us.

The fact of the matter is that the opposition of the gentleman from Michigan (Mr. Dingell) raises substantive points which are not, in my judgment, points of order, but insofar as he has, the law does provide for a congressional review and indeed a veto of the actions by the Secretary. The powers assumed in this are powers that the Secretary now possesses.

This simply talks in terms of using those powers for purposes designed in this particular measure.

So, Mr. Chairman, I think that the amendment clearly is in order. The entire title and the legislation itself deal with the Emergency Petroleum Allocation Act. This deals with the Emergency Petroleum Allocation Act, just as does the entire title of the bill.

So clearly I think, since we have considered such regulation, decontrol, and reimposition of controls, this amendment is certainly in the tenor and the nature of the legislation and the amendments we have considered today. . . .

MR. [TOM] LOEFFLER [of Texas)] . . . Mr. Chairman, I make the point of order that the amendment is not germane. Although the amendment is cast in the form of a study, it requires the reimposition of price controls if the Secretary of the Department of Energy makes certain findings, and it requires that "the Secretary shall modify" such findings of the Emergency Petroleum Allocation Act "as he deems necessary and appropriate." This is the language in the gentleman's amendment.

This language in the amendment has the effect of changing existing law. There is a mechanism already under existing law, the Emergency Petroleum Allocation Act, which allows the President to make this determination.

Finally, the provisions dealing with the reimposition of price controls under EPAA, while being vested with the President, are in existing law.

In addition, the application of this amendment would extend beyond the fiscal year 1980, which is the period of time that the authorization bill addresses. . . .

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

The Chair concurs with the gentleman from Minnesota (Mr. Vento) that the first part of the amendment authorizing a study during fiscal year 1980 is indeed in order.

The Chair rules, however, based on two other observations. Subsection (c) of the amendment would require the Secretary under certain circumstances to reimpose price allocation controls. This is a requirement that constitutes a permanent change in law and is not in order in a bill which is essentially a 1-year reauthorization of the Economic Regulatory Administration.

Moreover, the Chair would observe that on the second page of the amendment, in the first paragraph, the procedural changes constitute a change in the rules of the House by changing the time for Congressional review as specified in the Energy Policy and Conservation Act, and would not be germane in title II, and the Chair, therefore, sustains the point of order.

Bill Extending Time Limit for Negotiation of Disputes Under Railway Labor Act—Amendment Providing Permanent Procedures for Settlement of Disputes

§ 24.4 To a bill extending the time limit for negotiation of labor disputes under the Railway Labor Act for purposes of permitting additional time for negotiation of a particular labor dispute, an amendment providing permanent procedures for the settlement of all emergency labor disputes by amendment of the Railway Labor Act was held to be not germane.

In the 90th Congress, a bill[10] was under consideration which related to settlement of a labor dispute between certain railroad companies and their union employees. An amendment was offered[11] whose purpose was explained by the proponent, Mr. William E. Brock 3d, of Tennessee, as follows:[12]

> . . . I propose to do two things: first, to put off the strike for 90 days as is proposed in the bill, and second, during this period, to take an entirely different approach, based upon the problem, not the symptom that we are treating with compulsory arbitration. I would prohibit industrywide bargaining and require as an alternative carrier-by-carrier negotiations.

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

> MR. [JOHN D.] DINGELL [of Michigan]: . . . First, the amendment goes beyond the fundamental purpose of the legislation before the committee today. As such it is not germane to the fundamental purposes of the measure.
>
> I would cite that the amendment deals with sections of the Railway Labor Act other than those presently before us. . . .
>
> . . . [T]he pending measure is limited to a specific labor dispute, whereas the amendment . . . deals with all labor disputes.
>
> The legislation pending before the committee today deals with railroads in one specific instance . . . whereas the amendment . . . deals with every industry covered by the Railway Labor Act, which would also include the airlines. . . .
>
> Mr. Chairman, in addition to this I would point out that legislation dealing with a specific subject or a specific set of circumstances under the rules may not be amended by a provision which is general in nature even when of the class or the specific subject involved.

The Chairman,[13] in ruling on the point of order, stated:

10. H.J. Res. 559 (Committee on Interstate and Foreign Commerce).

11. See 113 CONG. REC. 15912, 90th Cong. 1st Sess., June 15, 1967.

12. *Id.* at p. 15914.

13. Wilbur D. Mills (Ark.).

. . . The Chair will call attention to "Cannon's Precedents," volume 8, page 479, section 2912, which reads as follows:

> To a bill proposing measures to meet a declared emergency and limited in operation to a period of five years an amendment proposing permanent legislation of the same character was held not to be germane.

Because the amendment offered by the gentleman from Tennessee is permanent legislation and the resolution before the committee is limited to an existing situation and is not permanent in nature, the Chair holds that the amendment is not germane.

Ceiling on District of Columbia Employees for One Year—Amendment Proposing Hiring Preference System as Permanent Law

§ 24.5 To a proposition establishing a ceiling on the number of employees in the District of Columbia government for one year, an amendment proposing a hiring preference system as permanent law is not germane, as going beyond the year and the issue of the number of employees covered by the measure to which offered.

During consideration of the District of Columbia Appropriations for fiscal 1990[14] in the House on Oct. 11, 1989,[15] it was held that to a Senate amendment raising a ceiling on the number of employees of the District of Columbia government during the fiscal year funded by the bill, a House amendment proposing also to address in permanent law a hiring preference system for such employees was not germane. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[6] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 15: Page 21, line 24, strike out "38,475" and insert "39,569".

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the number stricken and inserted by said amendment, insert the following "39,262."
>
> Sec. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:
>
> (1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or
>
> (2) The position is to be filled as follows:

14. H.R. 3026.

15. 135 CONG. REC. p. —, 101st Cong. 1st Sess.

16. Doug Barnard, Jr. (Ga.).

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position. . . .

Sec. 110B. (a) Application for Employment, Promotions, and Reductions in Force.

(1) In general.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203) shall include the provisions described in paragraph (2).

(2) Description of policies.—

(A) Policy regarding application for employment.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) Policy regarding promotions and reductions in force for career service employees.—In calculating years of service for the purpose of implementing a reduction in force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit . . . .

(C) Individuals subject to provisions.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) Scope of 5-Year District Residency Requirement for Employees Claiming Preference.—

(1) Career service employees.—Section 801(e)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1–608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service. . . ."

(2) Educational service employees.—Section 801A(d) of such Act (section 1–609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203), is amended by adding at the end the following new paragraph: "(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services. . . .

Mr. [WALTER E.] FAUNTROY [Delegate from the District of Columbia]: Mr. Speaker, I make a point of order that the amendment contained in the motion is not germane to Senate amendment 15 and therefore violates clause 7 of House rule XVI, for the reason that Senate amendment 15 merely relates to the employment ceiling for the District of Columbia government, while this amendment inserts language in section 110B under section 132 of the District's budget.

That language relates to a hiring preference system for career and educational employees of the District government and among other things, makes the new D.C. preference system effective as of March 16, 1989, provides for a maximum five-point hiring preference for new employees, provides that residency will be a tie-breaker rather than a point advantage to a resident who claims preference on promotions, provides that the 5-year residency requirement will apply only to applicants who claim preference and are appointed on or after March 16, 1989, and for educational service, provides that residency will be required of only those employees who receive a preference on or after March 16, 1989.

In short, Mr. Speaker, the amendment introduces an entirely new subject and is therefore not germane. . . .

MR. [STENY H.] HOYER [of Maryland]: Mr. Speaker, on the point of order of the gentleman from the District of Columbia (Mr. Fauntroy), the amendment in question, amendment No. 15, is added to section 110 of the bill, line 6, which deals with personnel levels. The amendment itself deals with the preference system that has been discussed by the District of Columbia.

Mr. Speaker, in last year's District of Columbia bill there was a requirement that the District of Columbia promulgate a preference system. In point of fact, on March 16, 1989, they issued a preference system. That preference system, however, was to be modified subsequent to the adoption of the bill on the House floor, but then went to the Senate. The Senate dealt with personnel levels. It did not deal, however, with the preference system.

In point of fact, Mr. Speaker, the preference system was drawn, in this Member's opinion, to an extent that in fact the residency requirement is still in effect because of the substantial discrepancies between the preference between the District of Columbia residents and nonresidents, effectively making nonresidents second-class employees, which of course obviates the substitute of the residency requirement by preference system.

I, therefore, submit to the Chair that the amendment at this point in the bill is relevant to the personnel system and the personnel levels and who are eligible for those personnel positions in the District of Columbia, and I would, therefore, submit to the Chair that it is not nongermane and was, in fact, germane to the subject matter before the conference. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

In the opinion of the Chair, the arguments of the gentleman from the District of Columbia (Mr. Fauntroy) are accurate pertaining to the point of order, and so his point of order is sustained.

Bill Relating to Deployment of Missile Systems—Amendment Permanently Making Expenditures Contingent on Certifications by Secretary of Defense

§ 24.6 To a title of a bill authorizing the procurement, research and development of certain military missile systems for one fiscal year,

broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests and reports to Congress, an amendment permanently making expenditure of any funds for that missile system contingent upon certification made by the Secretary of Defense with respect to the impact of United States grain sales on Soviet military preparedness was held to be not germane being an unrelated contingency involving agricultural exports.

During consideration of the Department of Defense Authorization for fiscal 1984[17] in the Committee of the Whole on July 21, 1983,[18] the Chair, in sustaining a point of order against the amendment described above, reiterated the principle that it is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. The proceedings were as follows:

> Sec. 301. In addition to the amount authorized to be appropriated in section 103 for procurement of missiles for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for procurement of missiles the sum of $2,557,800,000 to be available only for the MX missile program.
>
> RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR MX MISSILE AND SMALL MOBILE MISSILE SYSTEMS
>
> Sec. 302. (a) In addition to the amount authorized to be appropriated in section 201 for research, development, test, and evaluation for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for research, development, test, and evaluation for the land-based strategic ballistic missile modernization program—
>
> (1) $1,980,389,000 to be available only for research, development, test, and evaluation for the MX missile program. . .

THE CHAIRMAN PRO TEMPORE:[19] Are there amendments to title III?

> Amendment offered by Mr. Price: Page 16, after line 18, insert the following new section:
>
> LIMITATION ON EXPENDITURE OF FUNDS
>
> Sec. 303. (a) None of the funds authorized by clause (2) of section 302(a) may be obligated or expended for research, development, test, or evaluation for an intercontinental-range mobile ballistic missile that would weigh more than 33,000 pounds or that would carry more than a single warhead.
>
> (b) The Secretary of Defense may not deploy more than 10 MX missiles until—
>
> (1) demonstration of subsystems and testing of components of the small mobile intercontinental ballistic missile system (including missile guidance and propulsion subsystems) have occurred . . .

17. H.R. 2969.

18. 129 CONG. REC. 20050, 20184, 20189, 20190, 98th Cong. 1st Sess.

19. Marty Russo (Ill.).

(c) The Secretary of Defense may not deploy more than 40 MX missiles until—

(1) the major elements (including the guidance and control subsystems) of a mobile missile weighing less than 33,000 pounds as a part of an intercontinental ballistic missile system have been flight tested . . .

(d)(1) Not later than January 15 of each year from 1984 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) on the progress being made with respect to the development and deployment of the MX missile system.

The amendment offered by Mr. Price was agreed to.[20]

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weaver: At the end of title III, add the following new section:

LIMITATION ON MX PROGRAM

Sec 303. No funds may be expended for the MX missile program during any fiscal year during which United States grain suppliers make sales of grain to the Soviet Union, except that the preceding limitation shall not apply during any fiscal year if the Secretary of Defense certifies to Congress that the sale of grain to the Soviet Union by United States grain suppliers during that year will not assist the Soviet Union in preparing, maintaining, or providing for its armed forces. . . .

MR. [MELVIN] PRICE [of Illinois]: . . . I make a point of order that the amendment is not germane to title III. . . .

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

The Chair rules that the amendment is not germane to title III. Although title III was originally a 1-year authorization, it has been amended by the Price amendment to go beyond fiscal year 1984.

The amendment of the gentleman from Oregon (Mr. Weaver) would be a permanent change in the law making the MX program conditional upon an unrelated contingency involving agricultural exports. Under the precedents the amendment is not germane and the Chair sustains the point of order of the gentleman from Illinois (Mr. Price).

Temporary Increase in Debt Ceiling—Amendment Construed as Having Temporary Effect Despite Form

§ 24.7 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effects of its provisions, or amendments thereto, in determining issues of germaneness, the Chair has ruled that an amendment the fundamental purpose of which amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of prior legislative treatment of the subject in question (the

20. 129 CONG. REC. 20187, 98th Cong. 1st Sess.

statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.[1]

Amendment Making Expiration Date in Bill Inapplicable to Certain Provisions

§ 24.8 On one occasion, it was held that, to that section of a bill providing that the provisions of the bill shall remain in force only until a certain date, an amendment making such expiration date inapplicable to particular provisions of the bill was held germane.

In the 78th Congress, a bill[2] was under consideration to expedite the payment for land acquired during the war period. An amendment was offered[3] whose purpose was described by the proponent, Mr. Jamie L. Whitten, of Mississippi, in these terms:

> . . . [The] amendment merely provides in the event it becomes a law it shall be permanent insofar as creating a right of trial by jury for those persons whose property is taken for flood control and river and harbor improvements.

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

> MR. [CLARENCE E.] HANCOCK [of New York]: Mr. Chairman, I make the point of order against the amendment. This bill by its terms is temporary. The amendment of the gentleman from Mississippi [Mr. Whitten] would affect one small section of the bill and make it permanent, without consideration by the committee having jurisdiction thereof.

The Chairman,[4] in ruling on the point of order, stated:

> The Chair feels that the amendment offered by the gentleman from Mississippi is germane. It properly refers to the section of the bill referred to in the amendment. The Chair overrules the point of order.[5]

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1. The proceedings of May 13, 1987, relating to H.R. 2360, extension of the public debt limit, are discussed in § 46.7, infra.
2. S. 919 (Committee on the Judiciary).
3. 90 CONG. REC. 9363, 78th Cong. 2d Sess., Dec. 13, 1944.
4. John M. Coffee (Wash.).
5. See also Sec. 40.1, infra, for discussion of amendments continuing temporary law offered to bills amending such law.

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CHAPTER 28

Amendments and the Germaneness Rule

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Commentary and editing by Evan Hoorneman, J.D. Manuscript editing by Joan Deschler Bamel.

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C. HOUSE-SENATE RELATIONS

§ 25. Rule of Germaneness in the Senate

No comprehensive analysis is intended here of the Senate's requirements of germaneness of amendments.[1] There is no general Senate rule prohibiting nongermane amendments, except after cloture has been invoked on a measure under Senate Rule XXII. Under unanimous-consent agreements, the Senate sometimes prohibits any nongermane amendments to particular bills,[2] or may prohibit a certain class of nongermane amendments to a bill.[3]

Under Senate procedures, no point of order based on a question of germaneness in the above circumstances can be raised until after conclusion of debate on the amendment in question, unless time is yielded for such a point of order.[4]

A Senate rule[5] also prohibits nongermane amendments on general appropriation bills; under the rule, questions of germaneness are submitted to the whole Senate for disposition without debate, the Chair not ruling on the ques-

1. See, generally, *Senate Procedure,* Riddick, S. Doc. 97–1 (1981). A new Senate Procedure manual is being prepared as these volumes are being published.
2. See, for example, the parliamentary inquiry and point of order by Senator Forrest C. Donnell (Mo.) at 96 CONG. REC. 4774, 81st Cong. 2d Sess., Apr. 5, 1950.
3. See, for example, 96 CONG. REC. 16461, 81st Cong. 2d Sess., Dec. 12, 1950.

   The fact that an amendment has been considered by the Senate does not necessarily, of course, make an amendment of a similar nature germane when offered in the House. See Sec. 13.11, supra.
4. See the proceedings at 98 CONG. REC. 6910, 82d Cong. 2d Sess., June 10, 1952. See also 98 CONG. REC. 6918.
5. Senate Rule XVI clause 4.

tion;[6] but such procedure has not uniformly been followed.[7]

On Dec. 14, 1970, points of order were pending against an amendment to a general appropriation bill,[8] on grounds both that the amendment constituted legislation, and that it was not germane.[9] The presiding officer[10] summarized the procedures to be followed in such a case, as follows:[11]

> The hour of 2:23 p.m. having arrived, the question is on the issue of germaneness. A point of order was raised by the Senator from Delaware (Mr. Williams) against the language on page 20, line 12, beginning with the word "provided" down through line 22, as being legislation on an appropriation bill.
>
> The manager of the bill, the Senator from West Virginia [Mr. Byrd] has raised the question of germaneness of this language to the House-passed language. Under rule XVI, paragraph 4, and the precedents and practices of the Senate, if a point of order is made against a pending amendment to a general appropriation bill on the ground that it is legislation, and the question of germaneness to the House provisions of the bill is raised, the question of germaneness is submitted to the Senate for decision and takes precedence over the point of order which is not ruled on, and the point of order falls or the question is settled if the Senate decides that the amendment is germane to the provisions of the bill to which it is offered.

In addition to the above, another rule[12] prohibits nongermane amendments to bills after cloture has been invoked.

The Senate on occasion has considered adopting a rule as to germaneness similar to that of the House. For example, in 1965[13] and in 1967[14] unsuccessful attempts were made to require germaneness of amendments gen-

6. See 128 CONG. REC. 6166, 6167, 6169, 97th Cong. 2d Sess., Mar. 31, 1982, wherein, during consideration of H.J. Res. 409, continuing appropriations for 1982, an amendment to a general appropriation bill repealing a provision in the Internal Revenue Code that provided a tax deduction to Members of Congress was considered by the Senate to be germane, but was ruled out as legislation in violation of Senate Rule XVI, clause 4, the ruling of the Presiding Officer being sustained on appeal.

7. See, for example, 51 CONG. REC. 10712, 10717, 63d Cong. 2d Sess., June 19, 1914.

8. H.R. 19928 (Committee on Appropriations), supplemental appropriations for fiscal 1971.

9. See the proceedings at 116 CONG. REC. 41339, 41340, 91st Cong. 2d Sess., Dec. 14, 1970.

10. Senator J. Caleb Boggs (Del.).

11. 116 CONG. REC. 41340, 91st Cong. 2d Sess., Dec. 14, 1970.

12. Senate Rule XXII clause 2.

13. See 111 CONG. REC. 19051, 19052, 89th Cong. 1st Sess., Aug. 2, 1965.

14. See 113 CONG. REC. 5271, 5272, 90th Cong. 1st Sess., Mar. 2, 1967.

erally, as in the House. The following remarks were made by Senator Joseph S. Clark, of Pennsylvania, on Aug. 2, 1965:[15]

> . . . I believe that we should exercise the kind of judgment which has motivated other legislative bodies, both here and abroad, and impose on ourselves a measure of self-discipline by adopting a rule to require germaneness of amendments, realizing full well that there may occasionally be an abuse of such a rule.
>
> However, I challenge the Senator from Louisiana to name one abuse under the rule which I propose which would be half as bad as the practice of permitting a nongermane amendment, or a constitutional amendment, to be added to a foreign aid authorization bill or to a simple joint resolution dealing with the question of American Legion baseball. . . .

Senator Clark further made the point, which he stated again on Mar. 2, 1967,[16] that desirable bills are sometimes impeded in their passage when amended by controversial nongermane proposals.

Some useful guidelines for the application of the rule of germaneness in the Senate were provided by the Presiding Officer in the Senate on April 22, 1982,[17] during consideration of S. 1630, the Criminal Code Reform Act. The Presiding Officer stated the following general principles: (1) an amendment adding new language is germane if restricting but not broadening the effect of the section to which offered; (2) an amendment adding a new section is germane if restricting authorities otherwise available; (3) an amendment adding to a list of exemptions from authorities is a restriction and therefore germane, while an amendment adding to a list of penalties is broadening and nongermane; (4) an amendment merely striking out language is germane regardless of effect on the scope of the bill; (5) an amendment striking out a figure and inserting another figure is germane; (6) the general test of germaneness is not a subject matter test but a technical test as indicated in 1 through 5 above, and broadening amendments, though related to the subject matter, are nongermane; but where an ambiguity exists in the effect of the amendment as broadening or restrictive, the Chair does not interpret law and submits the question to the Senate.

15. 111 CONG. REC. 19052, 89th Cong. 1st Sess.

16. 113 CONG. REC. 5271, 90th Cong. 1st Sess.

17. 128 CONG. REC. 7449–53, 97th Cong. 2d Sess.

§ 26. Senate Amendments to House Bills and Amendments; Conference Agreements

Rules in effect in the 93d Congress permitted any Member to demand a separate vote in the House on any motion, order, or rule to dispose of any Senate amendment which would be subject to a point of order under the germaneness rule and permitted a separate vote in the House on any nongermane Senate amendment or portion thereof included in a conference agreement.[18] If as a result of such a vote, any such Senate amendment was rejected, the conference agreement as a whole was considered rejected.

By changes adopted in the second session of the 93d Congress,[19] the procedure permitting separate debate and votes on nongermane Senate amendments was extended to nongermane matter that (1) originally appeared in a Senate bill, (2) was not included in the House-passed version of that bill, and (3) appeared again in the conference report. The test for identifying such matter is whether it would have been ruled nongermane if offered in the House as an amendment to the House-passed version.

Each such matter contained in a conference report is subject to a point of order that it is not germane to the House-passed version. If the Speaker sustains the point of order, Members are permitted to offer a privileged motion to reject the nongermane matter specified in the point of order. The motion is decided by majority vote after 40 minutes of debate, equally divided between those in favor and those opposed to the motion.

Furthermore, the procedure for dealing with nongermane Senate amendments was extended to permit separate debate and votes on nongermane matter in Senate amendments reported in disagreement by a conference committee or pending before the House, the stage of disagreement having been reached. The provision relates to motions to recede and concur in a Senate amendment, with or without an amendment.

18. See former Rule XX clause 1, *House Rules and Manual* Sec. 827 (1973); Rule XXVIII clause 4, *House Rules and Manual* Sec. 913b (1973). From 1971 until 1973, clause 3 of Rule XX, which had been enacted as part of the Legislative Reorganization Act of 1970, provided that House conferees could not agree, without prior permission of the House, to Senate amendments that would violate clause 7 of Rule XVI if offered in the House.

19. H. Res. 998, 93d Cong. 2d Sess.

On a motion to recede and concur, the rule permits points of order against nongermane matter in the Senate amendment, provided such points are raised immediately after the motion is offered and before debate begins. Each sustained point of order may be followed by a privileged motion to reject, 40 minutes of debate, and a vote.

In the case of a motion to recede and concur in the Senate amendment with an amendment, it is in order, immediately after the motion is offered and before debate begins, to raise the same kind of points of order. However, these apply to the version of the amendment as it would appear if the motion were adopted. That is, the entity against which points of order can be raised is the proposed amended version of the Senate amendment. Copies of this version must be available on the floor when the motion to recede and concur with an amendment is offered.

As a result of another change in the rules, all procedures relating to nongermane Senate amendments are now consolidated in a single rule.[20]

20. Rule XXVIII clause 5, including matter transferred from Rule XX clause 1 relating to the procedure concerning disposition of Senate nongermane amendments.

Prior to adoption of the rules described above, it was held that a Senate amendment to a House bill is not subject, in the House, to the point of order that it is not germane to the House bill.[1]

It has also been held, and is still true, that, when a Senate amendment reported in disagreement by conferees or otherwise before the House is under consideration, a proposal to amend must be germane to the Senate amendment.[2]

Amendments to Senate amendments reported from conference in

1. See 113 CONG. REC. 34032, 34033, 90th Cong. 1st Sess., Nov. 28, 1967, especially remarks of Mr. Jones and Mr. Colmer, for discussion of efforts to modify this principle. For a discussion in the House concerning the Senate practice of adding nongermane amendments to House bills, including specific instances thereof prior to 1970, see 115 CONG. REC. 34305–309, 91st Cong. 1st Sess., Nov. 17, 1969. For an instance in which the House, by unanimous consent, concurred in a nongermane Senate amendment to House amendments to a Senate bill, see 116 CONG. REC. 12874, 91st Cong. 2d Sess., Apr. 23, 1970. Under consideration was S. 3253 (Committee on Public Works), to name certain buildings in Chicago after Everett McKinley Dirksen, with a Senate amendment authorizing emergency payments to "impacted area" educational agencies.

2. See § 27.35, infra.

disagreement are subject to the same test of germaneness under clause 7 of Rule XVI applicable to any other amendment in the House, and conferees' motions are given no wider latitude regarding germaneness.[3]

Pursuant to clause 4 of Rule XXVIII, a point of order against a nongermane Senate provision included in a conference report may be made before debate begins on the report, and if the Chair sustains the point of order, a motion to reject that portion of the conference report, debatable for 40 minutes equally divided and controlled, is in order; it is then in order, following the disposition of that motion, to make further points of order and motions to reject. If any such motion is adopted, the conference report is considered as rejected and the pending motion (which is offered by the manager of the conference report) is, in the case of a House bill with a Senate amendment, to recede from disagreement to the Senate amendment and concur therein with an amendment consisting of the portion of the conference report not rejected. Such a motion is debatable for one hour, equally divided and controlled by the majority and minority (pursuant to clause 2(a) of Rule XXVIII).

If the conference report is on a Senate bill with a House amendment and a motion to reject a nongermane Senate portion of the conference report is agreed to, the pending question under clause 4 of Rule XXVIII is on House insistence upon its original amendment, the House being unable at that stage to amend its own amendment to the Senate bill.

By unanimous consent, the proceedings by which the House had agreed to a motion to reject a nongermane Senate provision included in a conference report, pursuant to clause 4 of Rule XXVIII, by a voice vote, were vacated in order to allow full debate and a recorded vote on the motion to reject.[4]

If the motion to reject a nongermane portion of the conference report is not agreed to, debate commences on the conference report itself.

Separate Vote on Nongermane Senate Provisions Agreed to in Conference, Where Senate Bill is Amended by Inserting House Bill in Lieu Thereof

§ 26.1 In response to a parliamentary inquiry, the

3. See § 27.30, infra.

4. See the proceedings of Oct. 15, 1986, discussed in § 26.31, infra.

Speaker indicated that under clause 4(a)(2), Rule XXVIII, a point of order could be made against a portion of a conference report on a Senate bill containing Senate matter not germane to the House-passed version, which point of order if sustained would permit a separate vote on the nongermane portion of the conference report, in the absence of a special rule waiving that point of order.

On Aug. 22, 1980,[5] the House had under consideration S. 2719[6] when a parliamentary inquiry was addressed to the Chair as described above. The inquiry and the Speaker's response were as follows:

MR. [THOMAS L.] ASHLEY [of Ohio]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2719) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

THE SPEAKER PRO TEMPORE:[7] Is there objection to the request of the gentleman from Ohio?

MR. [CHALMERS P.] WYLIE [of Ohio]: Mr. Speaker, reserving the right to object, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. WYLIE: If we take up the Senate bill and amend it by striking all after the enacting clause and inserting in lieu thereof the House bill, do we limit the ability of any Member of this House to require a separate vote on any possible Senate provision agreed to in conference which would have been ruled nongermane if offered as an amendment to the House bill on the House floor?

THE SPEAKER PRO TEMPORE: The Chair would respond that a Member's right would not be limited by those circumstances. Under rule XXVIII, clause 4, a point of order may be made against a provision in a conference substitute which would not have been germane to the House-passed bill. If the Chair holds that the Senate amendment or provision would not have been germane, then a motion to reject that provision may be made. Therefore, the gentleman's rights are protected by the rule.

MR. WYLIE: Further reserving the right to object, Mr. Speaker, then any nongermane Senate provision brought back from conference may be subjected to a separate vote?

THE SPEAKER PRO TEMPORE: The answer is that it may be subjected to a separate vote under the rules of the House. The only way in which it would not be subject to a separate vote would be if the conference committee were to come under a rule adopted by the House which would waive points of order.

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5. 126 CONG. REC. 22660, 22661, 96th Cong. 2d Sess.

6. The Housing and Community Development Act of 1980.

7. James C. Wright, Jr. (Tex.).

Point of Order Against Provision as Constituting Appropriation on Legislative Bill To Be Disposed of Before Germaneness Point of Order Under Rule XXVIII

§ 26.2 A point of order under clause 2 of Rule XX or under clause 5 of Rule XXI which, if sustained, would vitiate an entire conference report or motion to dispose of a Senate amendment as constituting an appropriation on a legislative bill, must be disposed of prior to points of order against a portion of a motion under clause 4 or 5 of Rule XXVIII alleged to contain a nongermane Senate provision to a House measure and which, if sustained, would merely permit a separate vote on rejection of that portion of the conference report or motion.

The proceedings of Oct. 1, 1980, during consideration of H.R. 5612 (relating to assistance for small business), are discussed in § 26.26, infra.

Germaneness of Senate Amendment Modified by House Amendment Prior to Conference Not Determined by Relationship to Original House-passed Bill

§ 26.3 The test of germaneness under Rule XXVIII, clause 4, of a portion of a conference report originally contained in a Senate amendment is its relationship to the final House version of the bill committed to conference, and not to the original House-passed bill which may have been superseded by a House amendment to the Senate amendment prior to conference; thus, where the House (by unanimous consent) amended a Senate amendment to include matter germane to the Senate amendment although not germane to the original House-passed bill, the Chair stated that a germaneness point of order would not lie against the Senate amendment as so modified in a conference report.

On July 28, 1983,[8] during consideration in the House of the conference report on H.R. 2973 (inter-

8. 129 CONG. REC. 21401, 98th Cong. 1st Sess.

est and dividend tax withholding repeal], the principle described above was demonstrated:

MR. [TOM] HARKIN [OF IOWA]: . . . I have a parliamentary inquiry, Mr. Speaker.

THE SPEAKER PRO TEMPORE:[9] The gentleman will state it.

MR. HARKIN: Mr. Speaker, under rule 28, it seems to me that after the reading of any conference report a point of order lies if, in fact, there is a provision in the conference report that is not germane to the bill that was passed by the House, and I do not think CBI is germane to the repeal of withholding.

THE SPEAKER PRO TEMPORE: In answer to the gentleman, by unanimous consent the House, prior to sending the bill to conference, joined both issues as a House amendment to the Senate amendment, so there is no germaneness question. . . .

MR. HARKIN: Mr. Speaker, a further parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state it.

MR. HARKIN: Mr. Speaker, in other words, a unanimous-consent request was offered on the floor of the House during a House session to join both these issues and no one objected to that unanimous-consent request?

THE SPEAKER PRO TEMPORE: The gentleman is correct.

9. John J. Moakley (Mass.).

Motion To Reject Nongermane Portion of Conference Report To Be Disposed of Before Other Points of Order Allowed

§ 26.4 Pursuant to clause 4(b) of Rule XXVIII, where a point of order against a portion of a conference report has been sustained on the ground that it was not germane to the House-passed version, the Speaker will not entertain another point of order against the conference report or against another portion thereof until a motion to reject the portion held nongermane, if made, has been disposed of.

The proceedings of Dec. 15, 1975, relating to the conference report on S. 622, the Energy Policy and Conservation Act, are discussed in Sec. 26.15, infra.

Point of Order That Conferees Exceeded Scope of Matters Committed to Them—Timeliness After Adoption of Motion To Reject and Recognition for Motion To Recede and Concur With Amendment

§ 26.5 Once a motion to reject a nongermane portion of a conference report has been adopted by the House pursu-

ant to clause 4 of Rule XXVIII, a point of order against the entire conference report under clause 3 of that rule comes too late if the Speaker has recognized a Member to offer a motion to recede and concur in the pending Senate amendment with an amendment consisting of that portion of the conference report not rejected.

Proceedings relating to consideration of the conference report on S. 622, the Energy Policy and Conservation Act, are discussed in detail in § 26.15, infra. After the motion discussed therein, to reject a nongermane portion of the conference report pursuant to Rule XXVIII, clause 4, had been adopted, the following motion was made:[10]

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Staggers moves that the House recede from its disagreement to the Senate amendments to the House amendment and concur with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That this Act may be cited as the "Energy Policy and Conservation Act"

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MR. STAGGERS [during the reading]:[11] Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

THE SPEAKER:[12] Is there objection to the request of the gentleman from West Virginia?. . . .

Reserving the right to object, several Members engaged in colloquy with the Speaker as to the parliamentary status of the motion, the effect of the prior rejection of the conference report, and the rules governing debate on the motion. John B. Anderson, of Illinois, indicated during the exchange[13] that he was prepared to make a point of order against a section of the bill on the ground that it was in violation of clause 3 of Rule XXVIII, in that it contained a proposition beyond the scope of the matters committed to the conference committee. Subsequently, the following inquiry raised the issue of the timeliness of such a point of order when the conference report had been rejected pursuant to clause 4 of Rule XXVIII and the Staggers motion to recede and concur with an amendment was pending:

MR. [CLARENCE J.] BROWN [Jr., of Ohio]: Mr. Speaker I have asked the

10. 121 CONG. REC. 40681, 94th Cong. 1st Sess., Dec. 15, 1975.

11. *Id.* at p. 40710.

12. Carl Albert (Okla.)

13. See 121 CONG. REC. 40711, 94th Cong. 1st Sess.

gentleman [Mr. John H. Rousselot, of California] to yield so that I may make this parliamentary inquiry.

Should the gentleman from California (Mr. Rousselot), who is now maintaining a reservation of objection, formally object, would it then be in order for the gentleman from Illinois (Mr. Anderson) to make a point of order against the language presently in the conference report which is under consideration on the motion offered by the gentleman from West Virginia (Mr. Staggers) on the basis of scope?

THE SPEAKER: It would not be in order.

MR. BROWN of Ohio: Mr. Speaker, is that not in order under any circumstances?

THE SPEAKER: Not at this point, the report has been rejected.

Parliamentarian's Note: A possible issue arising under Rule XXVIII, clause 4, is whether the point of order based on clause 3, that the conferees have exceeded the scope of the matters committed to them, may be made following the adoption, pursuant to clause 4, of the first motion to reject nongermane matter. Rule XXVIII, clause 4(d) states that "if any such motion to reject has been adopted, after final disposition of all points of order and motions to reject under the preceding provisions of this clause, the conference report shall be considered as rejected and the question then pending before the House shall be whether to recede and concur in the Senate amendment with an amendment which shall consist of that portion of the conference report not rejected." Thus, under the rule, there is a hiatus between the adoption of the first motion to reject and the final disposition of all other such motions, during which time one might consider the report as still technically before the House, and thus a point of order under clause 3 would be in order during that time. But while the report is not technically rejected until after the final disposition of further points of order, the rule states that the points of order in order at that time (after the adoption of the first motion to reject) are those made in order under the preceding provisions of the clause, those based on germaneness. Such an interpretation would preclude the point of order under clause 3 after adoption of the first motion to reject.

Debate on Motion To Reject Nongermane Portion of Conference Report

§ 26.6 Pursuant to Rule XXVIII clause 4, 40 minutes for debate on a motion to reject a nongermane portion of a conference report is equally divided between the proponent and an opponent of the motion to reject, and rec-

ognition is not based upon party affiliation; and the House conferee who has been recognized for 20 minutes in opposition to a motion to reject a nongermane portion of a conference report is entitled to close debate on the motion to reject.

H.R. 5247, a bill reported from the Committee on Public Works and Transportation, consisted of one title relating to grants to state and local governments for local public works construction projects. A new title added by the Senate and contained in a conference report provided grants to state and local governments to assist them in providing public services. On Jan. 29, 1976,[14] a point of order was made in the House, pursuant to Rule XXVIII clause 4, against the title added by the Senate. The title was held to be not germane, because it proposed a revenue-sharing program within the jurisdiction of the Committee on Government Operations, and because the approach taken in the Senate version was not closely related to the methods used to combat unemployment as delineated in the House bill.[15] After the Speaker had ruled on the point of order, a motion was made:

MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Brooks moves that the House reject title II of H.R. 5247, as reported by the committee of conference.

THE SPEAKER:[16] The gentleman from Alabama (Mr. Jones) will be recognized for 20 minutes, and the gentleman from Texas (Mr. Brooks) will be recognized for 20 minutes.

MR. BROOKS: Mr. Speaker, I yield myself such time as I may consume.

MR. [FRANK] HORTON [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state his parliamentary inquiry.

MR. HORTON: Mr. Speaker, my parliamentary inquiry is this: Do we have 20 minutes on the minority side?

THE SPEAKER: The Chair will state that the division of time is between those in favor and those opposed to the motion to reject title II. The gentleman from Alabama [Mr. Jones] has 20 minutes and the gentleman from Texas [Mr. Brooks] has 20 minutes.

MR. [JAMES C.] WRIGHT [Jr., of Texas, on behalf of Mr. Jones:] Mr. Speaker, I have one other speaker, the majority leader. I do not know what the courtesy is, or the appropriate protocol, in a matter of this kind.

THE SPEAKER PRO TEMPORE: The Chair will rule that the gentleman from Texas [Mr. Wright] may close debate.

§ 26.7 The House conferee who has been recognized for 20

14. 122 CONG. REC. 1582, 94th Cong. 2d Sess.

15. For further discussion of the ruling on the issue of germaneness, see § 4.99, supra.

16. Carl Albert (Okla.).

minutes in opposition to a motion to reject a nongermane portion of a conference report is entitled to close debate on the motion to reject.

The proceedings of June 23, 1976, relating to the conference report on S. 3201, to amend the Public Works and Economic Development Act, are discussed in § 26.23, infra.

After Rejection of Nongermane Portion of Conference Report—Motion To Recede and Concur in Senate Amendment With Amendment Consisting of Remainder of Conference Report

§ 26.8 Where the House agrees to a motion to reject a nongermane portion of a conference report pursuant to Rule XXVIII clause 4, the pending question, in the form of a motion offered by the manager of the conference report, is to recede from disagreement to the Senate amendment and concur with an amendment consisting of the remaining portions of the conference report not rejected on the separate vote, and one hour of debate, equally divided between the majority and minority parties, is permitted on that pending question.

The proceedings of Dec. 12, 1979,[17] during consideration of H.R. 595[18] in the House, were as follows:

> MR. [ROBERT H.] MOLLOHAN [of West Virginia]: Mr. Speaker, I call up the conference report on the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes.
>
> The Clerk read the title of the bill.
>
> MR. [LARRY] MCDONALD [of Georgia]: Mr. Speaker, I have a point of order.
>
> THE SPEAKER:[19] The gentleman will state it.
>
> MR. MCDONALD: Mr. Speaker, I make the point of order that the matter contained in clause 3 of section 3 of the substitute for the text of the bill recommended in the conference report would not be germane to H.R. 595 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4(a) of rule XXVIII. . . .
>
> MR. MOLLOHAN: . . . I concede the point of order.
>
> THE SPEAKER: The point of order is sustained.

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17. 125 CONG. REC. 35522, 35527, 35528, 96th Cong. 1st Sess.

18. A bill authorizing the General Services Administration to dispose of tin from the national stockpile.

19. Al Swift (Wash.).

MR. MCDONALD: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. McDonald moves, pursuant to the provisions of clause 4(b) of rule XXVIII, that the House reject clause 3 of section 3 of the substitute for the text of the bill recommended in the conference report.

THE SPEAKER: The gentleman from Georgia (Mr. McDonald) will be recognized for 20 minutes, and the gentleman from West Virginia (Mr. Mollohan) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. McDonald). . . .

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Georgia [Mr. McDonald].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 122, not voting 39, as follows: . . .

So the motion was agreed to. . . .

MR. MOLLOHAN: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Mollohan moves pursuant to clause 4 of Rule XXVIII and the actions of the House, that the House recede from its disagreement to the amendment of the Senate to the text of the bill and concur therein with an amendment as follows:
>
> In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill insert the following:
>
> That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".
>
> Sec. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical material under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e). Before any acquisition using funds appropriated under the authorization of this section may be carried out, a list of the materials to be acquired shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, and such acquisition may not then be carried out until the end of the 60-day period beginning on the date such list is received by such committees.
>
> Sec. 3. The President is hereby authorized to dispose of materials determined to be excess to the current requirements of the National Defense Stockpile in the following quantities:
>
> (1) 35,000 long tons of tin. . . .

THE SPEAKER PRO TEMPORE: The gentleman from West Virginia (Mr. Mollohan) will be recognized for 30 minutes, and the gentleman from Maine (Mr. Emery) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. Mollohan).

§ 26.9 Pursuant to Rule XXVIII clause 4, where the House adopts a motion to reject a

portion of a conference report containing a modification of a nongermane Senate amendment, the conference report is considered as rejected and the manager is recognized to offer a motion (considered to be the pending question) to recede and concur in the Senate amendment with an amendment consisting of the remainder of the conference report.

The proceedings of Dec. 2, 1982, relating to rejection of matter found to be nongermane in the conference report on H.R. 2330 (the Nuclear Regulatory Commission authorization), are discussed in more detail in §§ 26.34 and 26.35, infra. The following exchange[20] occurred after adoption of the motion to reject a portion of the conference report:

> THE SPEAKER PRO TEMPORE [William H. Natcher, of Kentucky]: Pursuant to clause 4, rule XXVIII, a motion to reject section 23 of the conference report having been adopted, the conference report is considered as rejected and the gentleman from Arizona [Mr. Udall] is recognized to offer an amendment consisting of the remainder of the conference report.
>
> MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, pursuant to clause 4, rule XXVIII, and the action of the House, I move that the House recede from its disagreement and concur in the Senate amendment with an amendment which I send to the desk.
>
> THE SPEAKER PRO TEMPORE: The Clerk will report the motion.
>
> The Clerk read as follows:
>
> > Mr. Udall moves that the House recede and concur in the Senate amendment with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate, insert the following.

After Rejection of Nongermane Portion of Conference Report Originally Contained in Senate Bill—Pending Motion To Insist Upon House Amendment to Senate Bill

§ 26.10 In response to a parliamentary inquiry, the Chair indicated that under Rule XXVIII clause 4, the adoption by the House of a motion to reject a nongermane portion of a conference report originally contained in a Senate bill would require the House to vote on a pending motion to insist upon the House amendment to the Senate bill. [Note: Under that rule, the House cannot amend its own amendment to a Senate bill.)

The proceedings of June 23, 1976, relating to the conference report on S. 3201, to amend the Public Works and Economic De-

20. 128 CONG. REC. 28552, 97th Cong. 2d Sess.

velopment Act, are discussed in Sec. 26.23, infra.

Motion To Recede and Concur With Amendment—Point of Order Permitted Under Rule XXVIII Against Portion of Motion Containing Senate Amendment

§ 26.11 Pursuant to clause 5(b) of Rule XXVIII, a Member may make a point of order against a portion of a motion to recede and concur in a Senate amendment reported from conference in disagreement, with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure; and a motion rejecting that portion of the motion to recede and concur with an amendment is in order if the point of order is sustained.

The proceedings of July 31, 1974, relating to the conference report on H.R. 8217, to provide exemptions from tariff duty of certain equipment on United States vessels, are discussed in section 26.30, infra.

Point of Order Based on Nongermaneness of House Amendment to Senate Amendment Should Be Under Rule XVI, Clause 7, Not Rule XXVIII

§ 26.12 Where a motion is made to concur in a Senate amendment with an amendment, and such proposed House amendment contains new matter and is not germane to the Senate amendment, any point of order against the House amendment should be based on Rule XVI, clause 7, rather than on Rule XXVIII, clauses 5(a) and 5(b), which permits points of order against Senate matter (including Senate amendments proposed to be amended by a motion to concur with an amendment); thus, where a point of order is based on the contention that a House amendment would not be germane to the Senate amendment, under Rule XXVIII, the Chair may treat the point of order as having been raised under Rule XVI, clause 7.

On June 30, 1987,[21] during consideration of H.R. 1827 (sup-

21. 133 Cong. Rec. 18294, 18295, 100th Cong. 1st Sess.

plemental appropriations for fiscal year 1987), the motion described above was offered to the following amendment in disagreement:

THE SPEAKER PRO TEMPORE:[1] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, after line 7, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, none of the funds appropriated for fiscal year 1987 shall be used for the purpose of granting any patent for vertebrate or invertebrate animals, modified, altered, or in any way changed through engineering technology, including genetic engineering.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99–190, as amended, shall remain available for obligation through September 30, 1988: *Provided*, That the Economic Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

PATENT AND TRADEMARK OFFICE

SALARLES AND EXPENSES

None of the funds appropriated by this or any prior Act to the Patent and Trademark Office shall be used to purchase the mass storage requirement (PTO–10) portion of the U.S. Patent and Trademark Office Automation Project. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order against amendment No. 5 reported in disagreement of the supplemental appropriation conference report on page 13 of the report, and on page 3 lines 19 through 23 of the printed bill now before us which relates to procurement by the U.S. Patent and Trade Market Office automation project pursuant to rule XXVIII, clause 5(a)(1). This rule relates to nongermane matter in amendments in disagreement.

As I interpret it, the rule states that any matter introduced as a new issue in a conference committee which would have been otherwise ruled out of order if it came before the House, would likewise be made eligible for a point of order as reported in amendments in disagreement from the conference committee should there be a motion from the House to recede from its disagreement with the Senate.

Mr. Speaker, the Senate amendment introduced as new material in the con-

1. Dan Glickman (Kan.).

ference committee would delay procurement funds for the Patent Office for the purchase of mass storage requirement equipment. The purchase is part of the overall automation of the U.S. Patent Office and I urge my point of order be sustained.

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota [Mr. Frenzel] is raising a point of order against the motion, is that correct, as being not germane to the Senate amendment under rule XVI, clause 7?

MR. FRENZEL: Yes, Mr. Speaker. . . .

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Smith] concedes the point of order and the point of order is sustained against the motion.

Rejection of Previous Question on Special Rule Waiving Points of Order Against Conference Report—Amendment Permitting Motion To Reject Nongermane Portion and Allowing an Amendment Adding Language of Original Nongermane Senate Amendment

§ 26.13 The House rejected the previous question on a special rule which waived all points of order against a conference report, thus permitting an amendment allowing a point of order against, and motion to reject, a nongermane portion therein, and, upon adoption of the motion to reject, a motion to amend that portion of the conference report not rejected by adding the language of the original nongermane Senate amendment.

During consideration of H.R. 5[(2)] in the House on Apr. 19, 1988,[(3)] the following proceedings occurred:

MR. [MARTIN] FROST [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 427

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration. A motion to recommit the conference report may not contain instructions.

Sec. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole

2. Elementary and Secondary Education Act—Communications Act amendments.

3. 134 CONG. REC. 7345, 7346, 7354, 7355, 7484, 100th Cong. 2d Sess.

House on the State of the Union for the consideration of a bill containing the text printed in section three of this resolution, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed thirty minutes, equally divided and controlled by a proponent and an opponent, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit, which may not contain instructions.

Subsequently, the previous question was moved, but upon a vote the motion was rejected.

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Lott: Strike all after the resolving clause and insert in lieu thereof the following: "That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration, except as provided by section 2 of this resolution are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

"Sec. 2. It shall be in order pursuant to clause 4 of rule XXVIII of the Rules of the House to raise a point of order against sec. 6101 of the conference report. If, pursuant to such clause, the point of order is sustained and the section is then rejected by a vote of the House, it shall immediately be in order, without intervening motion, for any Member to offer a preferential motion to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and to recede and concur in the Senate amendment with an amendment which shall consist of the text of that portion of the conference report not rejected together with the text of sec. 7003 of said Senate amendment as a substitute for sec. 6101 of the conference report as rejected by the House, said motion shall be considered as having been read, and all points of order against said motion are hereby waived.". . . .

MR. LOTT: . . . I would like to urge the adoption of this substitute rule which would provide for the consideration of the ban on dial-a-porn language in the conference report and also, of course, the conference report on H.R. 5, the education bill. . . . Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and the resolution.

THE SPEAKER:[4] The question is on ordering the previous question.

The previous question was ordered.

THE SPEAKER: The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. Lott).

The amendment in the nature of a substitute was agreed to.

THE SPEAKER: The queston is on the resolution, as amended.

The resolution, as amended, was agreed to. . . .

4. James C. Wright, Jr. (Tex.).

MR. [THOMAS J.] BLILEY [Jr., of Virginia]: Mr. Speaker, pursuant to the rule just adopted and clause 4 of rule XXVIII, I make a point of order against section 6101 of the conference report, and ask to be heard on my point of order.

[There was no argument on the point of order, as the Speaker ruled immediately as follows:)

THE SPEAKER: The gentleman's point of order is well-taken, the modification of the Senate provision in question is not germane to the bill as passed by the House. The point of order is sustained.

MR. BLILEY: Mr. Speaker, I offer a privileged motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Bliley moves pursuant to clause 4 of rule XXVIII and House Resolution 427 as adopted by the House that the House do now reject section 6101 of the conference report on the bill H.R. 5. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from Virginia (Mr. Bliley).

The motion was agreed to.

MR. BLILEY: Mr. Speaker, I offer a privileged motion.

THE SPEAKER: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Bliley moves to take from the Speaker's table the bill H.R. 5 together with the Senate amendment thereto, and recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:
>
> *Section 1. Short Title; Table of Contents.*
>
> *(a) Short Title.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".*
>
> *(b) Table of Contents.—. . .*
>
> *PART B—PROHIBITION OF DIAL-A-PORN*
>
> *Sec. 6101. Amendment to the Communications Act of 1934.*
>
> *Section 223(b) of the Communications Act of 1934 is amended*
>
> *(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent"; . . .*

MR. BLILEY: Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

THE SPEAKER PRO TEMPORE:[5] The question is on the motion offered by the gentleman from Virginia (Mr. Bliley) that the House recede and concur in the Senate amendment with an amendment consisting of the text of that portion of the conference report on the bill H.R. 5 not rejected by the House together with the text of section 7003 of the Senate amendment in place of section 6101 as rejected by the House.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

MR. BLILEY: Mr. Speaker, on that I demand the yeas and nays.

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5. Richard J. Durbin (Ill.).

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 397, nays 1, not voting 34.

Parliamentarian's Note: Mr. Lott's amendment to the special rule was necessary if the measures affecting education and communications issues respectively were to be combined in one measure for consideration. Otherwise, upon rejection of the nongermane portions on a separate vote under Rule XXVIII, clause 4, the pending question would have been whether to concur with an amendment not including the nongermane communications portion.

Amendment Regulating Telephone Communications Not Germane to Education Bill

§ 26.14 To a bill relating to education, an amendment regulating telephone communications within the jurisdiction of another committee is not germane.

The proceedings of Apr. 19, 1988, relating to H.R. 5 (the Elementary and Secondary Education Act), are discussed in Sec. 26.13, supra.

Bill Imposing Fuel Economy Standards on Manufacturers—Amendment To Provide Loan Guarantees for Automotive Research and Development

§ 26.15 To a title of a House-passed bill reported from the Committee on Interstate and Foreign Commerce containing a program to improve automotive fuel efficiency by imposing fuel economy standards upon manufacturers, a modified portion of a Senate amendment in the nature of a substitute contained in a conference report providing loan guarantees for automotive research and development (a matter within the jurisdiction of the Committee on Science and Technology) was conceded to be nongermane, and a motion was agreed to pursuant to Rule XXVIII clause 4 rejecting that portion of the conference report.

On Dec. 15, 1975,[6] during consideration of the conference report on S. 622 (the Energy Policy and Conservation Act) in the House,

6. 121 CONG. REC. 40671, 40676, 40677, 40680, 94th Cong. 1st Sess.

the proceedings described above occurred as follows:

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Speaker, I call up the conference report on the Senate bill (S. 622) to increase domestic energy supplies and availability; to restrain energy demand; to prepare for energy emergencies; and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report. . . .

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Speaker, I make a point of order to that part of section 301 which adds to the new motor vehicle improvements and cost saving account a new title V, part B, entitled "Application Advanced Automotive Technology."

My point of order is that it is nongermane, pursuant to clause 4, rule XXVIII.

Part B of title V was not in the House bill, as passed in H.R. 7014, but it was in the Senate version and it is in the conference report.

If the section had been offered as an amendment on the House floor, it would have been subject to a point of order as nongermane. Hence, it is subject to a nongermaneness point of order now under rule XXVIII, clause 4.

May I point out to the Speaker that the automotive R & D part of title V is wholly unrelated to the oil pricing and conservation thrust of the bill. Besides, the Science and Technology Committee has jurisdiction of all nonnuclear energy R. & D. matters, and this is an R. & D. incentive program which clearly falls in that jurisdiction.

The original Senate version of section 546 was contained in title II of the Senate bill (S. 1883). H.R. 9174 was introduced on July 31, 1975, by the gentleman from Washington (Mr. McCormack) and was referred to the Committee on Science and Technology. H.R. 9174 basically included all of title II of the Senate bill (S. 1883), specifically the loan guarantee provision. The committee jurisdiction was positively established by that referral.

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

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I think that this is not a good point of order, but out of grace and in order to give the House a chance to vote on this as an orderly procedure—I protested the disorderly procedure with the ERDA bill which was before us—but in order to have orderly procedure I will not contest the point of order, and I do not think my good friend from West Virginia, the chairman of the committee (Mr. Staggers) will contest it. Under those circumstances, I think it is appropriate for the Chair to rule on the point of order with regard to germaneness in order that we may proceed. . . .

THE SPEAKER: The point of order is conceded and sustained.

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Speaker, may I reserve the right to make a point of order? I am going to make a point of order against the whole conference report.

THE SPEAKER:[7] That would come later.

MR. TEAGUE: But the Speaker will reserve my right?

THE SPEAKER: Could the Chair make himself clear to the gentleman? That

7. Carl Albert (Okla.).

might depend upon the outcome of the motion the gentleman from California will make.

MR. DINGELL: I think the gentleman wants to be heard; he desires to be heard.

I ask unanimous consent that he be heard at this time on the point of order. . . .

THE SPEAKER: The Chair has no authority to hear arguments on matters not related to the point of order made by the gentleman. If the gentleman from California makes a motion, the business which transpires after the motion made by the gentleman will determine whether certain other points of order will be in order. . . .

MR. GOLDWATER: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Goldwater moves that part B, title V in section 301 of S. 622 be rejected.

THE SPEAKER: The gentleman from California (Mr. Goldwater) is recognized for 20 minutes and the gentleman from West Virginia (Mr. Staggers) is recognized for 20 minutes.

The motion was agreed to.[8]

House Bill Providing for Disposal of Tin From National Stockpile—Amendment Providing for Disposal of Silver

§ 26.16 To a House bill providing for the disposal of tin from the national stockpile, a Senate amendment included in the conference report providing for the disposal of silver from the stockpile was conceded to be nongermane and held to be subject to a motion to reject under Rule XXVIII clause 4.

The proceedings of Dec. 12, 1979, relating to H.R. 595, authorizing the Administrator of General Services to dispose of tin from the national stockpile, are discussed in § 26.8, supra.

Bill Amending Internal Revenue Code To Provide Tax Credits—Amendment Regarding Tax Credits for Home Purchases

§ 26.17 To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute which added a new section relating to tax credits for new home purchases and amended a portion of the law amended by the House bill was held to be germane.

On Mar. 26, 1975,[9] it was demonstrated that the test of the ger-

8. 121 CONG. REC. 40681, 94th Cong. 1st Sess.

9. 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess.

maneness of a portion of a Senate amendment in the nature of a substitute adding a new section to a House bill is the relationship of that section to the subject of the House bill as a whole. The proceedings during consideration of the conference report on H.R. 2166, the Tax Reduction Act of 1975, were as follows:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes, to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES . . .

Sec. 208. Credit for purchase of new principal residence. . . .

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME . . .

Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders. . . .

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.

Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs. . . .

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE

(a) Allowance of Credit.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) General Rule.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of . . . clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It ap-

pears in section 208 of the conference report, on page 14, as reported by the Committee on Conference. . . .

[A] careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types of tax measures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER:[10] The Chair is ready to rule.

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation . . . an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held ger-

10. Carl Albert (Okla.).

mane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House bill, and was not an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

Amendment Authorizing Payments to Social Security Recipients

§ 26.18 To a House bill containing several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was deemed not to be related to tax benefit provisions in the Internal Revenue Code and was held to be not germane.

On Mar. 26, 1975,[11] during consideration of the conference report on H.R. 2166,[12] it was held that to a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was not germane. The proceedings were as follows:

SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) Payment.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled . . . to—

(1) a monthly insurance benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension payment under the Railroad Retirement Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .

(c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made

11. 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess.

12. The Tax Reduction Act of 1975.

by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. . . .

MR. [BARBER B.] CONABLE JR., [of New York]: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report on page 55. . . .

There is clearly nothing in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this . . . is clearly outside the scope of the House bill. . . .

MR. [AL] ULLMAN [of Oregon]: . . . In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill. . . .

THE SPEAKER:[13] The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

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13. Carl Albert (Okla.).

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

—*Amendment To Provide Unemployment Benefits*

§ 26.19 To a House bill amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute contained in a conference report providing certain unemployment compensation benefits—a matter not within the class of tax benefits contained in the House bill—was conceded to be not germane.

On Mar. 26, 1975,[14] during consideration of the conference report on H.R. 2166,[15] a point of order against a Senate matter in the report was conceded and held to be not germane. The proceedings were as indicated below:

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. CERTAIN UNEMPLOYMENT COMPENSATION.

(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and

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

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including the dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(i)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."

(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order

14. 121 CONG. REC. 8911, 8933, 94th Cong. 1st Sess.

15. The Tax Reduction Act of 1975.

against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with section 701, providing certain unemployment compensation benefits. . . .

I have looked over the House bill, and I can find no reference therein to unemployment compensation benefits. As nearly as I can figure it, this particular section came from a Senate nongermane amendment and has no relation whatsoever to anything that was contained in the House bill.

I, therefore, say the point of order should be sustained.

THE SPEAKER:[16] Does the gentleman from Oregon desire to be heard upon the point of order?

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I concede the point of order.

THE SPEAKER: The gentleman from Oregon concedes the point of order, and the point of order is sustained.

Parliamentarian's Note: In this instance, although a point of order against the nongermane Senate matter contained in the conference report was sustained, no motion was made under Rule XXVIII clause 4 to reject that matter.

—Amendment Affecting Certain Foreign Tax Credits

§ 26.20 To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a Senate amendment in the nature of a substitute contained in a conference report, which added a new section to the House bill and which dealt with earnings and profits of controlled foreign corporations and included limitations on the use of foreign tax credits from foreign oil-related income, was held germane.

On Mar. 26, 1975,[17] the House had under consideration the conference report on H.R. 2166, the Tax Reduction Act of 1975. A point of order, raised against language in the report on grounds of nongermaneness, was overruled as indicated below:

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISION.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

16. Carl Albert (Okla.).

17. 121 CONG. REC. 8909, 8915, 8933, 8934, 94th Cong. 1st Sess.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included.". . .

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

Conference substitute.—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with taxation of earnings and profits of controlled foreign corporations and their shareholders in section 602 as reported by the committee of conference. . . .

As the Speaker well knows, I am sure, from listening carefully to the explanations regarding previous points of order, at no point during the consideration of the House-passed bill is there any mention of foreign taxation and the dealings of foreign taxes insofar as American corporations and their subsidiaries are concerned.

Title I of the 1975 tax bill dealt with the refund for 1974 taxes. Title II dealt with reductions in individual income taxes. Title III dealt with certain changes in business taxes, the title which dealt with the investment tax credit or income tax total, particularly as related to small businesses.

This particular provision, Mr. Speaker, in no way deals with a matter that was covered, mentioned, or dealt with by the bill that is presented to the House, or voted upon by the House. . . .

MR. [AL] ULLMAN [of Oregon]: . . . Mr. Speaker, the bill that the House passed had a great many diverse sections in it; it had credits. The matter that has been raised is an amendment to the Internal Revenue Code very clearly, and much of it is in the way of a credit. We have dealt with credits here both for individuals and for corporations in the bill that the House passed.

It seems to me that in a bill of this scope and in a bill that deals as broadly with tax credits and matters such as this that does involve an amendment to the Internal Revenue Code, it is

very clearly within the province of the bill, and should be ruled germane.

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

For the reasons stated in the opinion of the Chair on a similar point of order made by the gentleman from New York (Mr. Conable) and for the reasons stated by the gentleman from Oregon, the Chair overrules the point of order.

Bill Relating to Boating Safety—Amendment to Internal Revenue Code To Promote Reforestation

§ 26.21 A point of order pursuant to Rule XXVIII clause 4, that a conference report on a House bill relating to boating safety, reported by the Committee on Merchant Marine and Fisheries, contained a nongermane Senate amendment amending the Internal Revenue Code to promote reforestation, was conceded and sustained.

On Sept. 25, 1980,[19] the Committee of the Whole had under consideration the conference report on H.R. 4310, the Recreational Boating Safety and Facilities Improvement Act of 1980. The conference report stated in part:[20]

CONFERENCE REPORT (H. REPORT NO. 96–132)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4310) to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT

Sec. 101. This title may be cited as the "Recreational Boating Safety and Facilities Improvement Act of 1980."

Sec. 102. The Federal Boat Safety Act of 1971 (Public Law 92–75, 85 Stat. 213), as amended, is amended as follows:

(1) In section 2 by striking the first sentence and inserting in lieu thereof the following: "It is declared to be the policy of Congress and the purpose of this Act to improve recreational boating safety and facilities and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public in the development, administration, and financing of a national recreational boating safety and facilities improvement program; by authorizing the establishment of national construction

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18. Carl Albert (Okla.).

19. 126 CONG. REC. 27410, 96th Cong. 2d Sess.

20. 126 CONG. REC. 25572, 25574, 96th Cong. 2d Sess., Sept. 16, 1980.

and performance standards for boats and associated equipment; and by creating more flexible authority governing the use of boats and equipment." . . .

TITLE III—REFORESTATION

SEC. 301. AMORTIZATION OF REFORESTATION EXPENDITURES.

(a) In General.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. AMORTIZATION OF REFORESTATION EXPENDITURES.

"(a) Allowance of Deduction.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall be entitled to a deduction with respect to the amortization of the amortizable basis of qualified timber property based on a period of 84 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The 84-month period shall begin on the first day of the first month of the second half of the taxable year in which the amortizable basis is acquired. . . .

"(c) Definitions and Special Rule.—For purposes of this section—

"(1) Qualified timber property.—The term 'qualified timber property' means a woodlot or other site located in the United States which will contain trees in significant commercial quantities and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products.

The proceedings on Sept. 25, 1980, were as follows:

MR. [MARIO] BIAGGI [of New York]: Mr. Speaker, I call up the conference report on the bill (H.R. 4310) to amend the Federal Boat Safety Act of 1971 to improve recreational boating safety and facilities through the development, administration, and financing of a national recreational boating safety and facilities improvement program, and for other purposes.

The Clerk read the title of the bill.

THE SPEAKER PRO TEMPORE:[1] Under the rule, the conference report is considered as read. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order under clause 4 of rule XXVIII that title III of the conference report accompanying H.R. 4310 is a nongermane amendment.

Mr. Speaker, H.R. 4310, as it passed the House, related to boating safety. It did not amend the Internal Revenue Code. Title III now in the conference report relates to a trust fund for reforestation and contains a significant amendment to the Internal Revenue Code. It would have been nongermane to H.R. 4310 when that bill was originally considered by the House.

The purpose of the bill before us is to amend the Federal Boat Safety Act to improve recreational boating safety

1. Thomas S. Foley (Wash.).

and facilities through the development and financing of a national improvement program. Title III provides several Federal initiatives to promote reforestation on both private and public timberlands by providing an amortization schedule and investment credit for a limited amount of qualifying reforestation expenditures each year, as well as the establishment of a trust fund to finance the reforestation activities.

There should be no question that title III is nongermane to the purposes of the bill. It has been a long established principle of germaneness that—

> An amendment changing existing law in order to achieve one individual purpose is not germane to a proposition which does not amend that law and which seeks to accomplish another individual purpose. (Deschler's Procedure, chapter 28)

This is exactly the case before us today. In general the bill would amend the Federal Boat Safety Act of 1971 whereas title III would amend the Internal Revenue Code of 1954, as amended. There is no relationship or similarity of purpose between boat safety and reforestation, except that some boats are made of wood. I contend, Mr. Speaker, that title III should be ruled nongermane and considered in violation of clause 7 of rule XVI. . . .

MR. BIAGGI: Mr. Speaker, we concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

MR. FRENZEL: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Frenzel moves that the House reject title III of the conference report accompanying H.R. 4310.

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota (Mr. Frenzel) will be recognized for 20 minutes, and the gentleman from New York (Mr. Biaggi) will be recognized for 20 minutes.

Grants to States for Local Public Works Construction Projects—Grants To Assist States in Providing Public Services

§ 26.22 Where a House bill reported from the Committee on Public Works and Transportation consisted of one title relating to grants to state and local governments for local public works construction projects, a new title added by the Senate and contained in a conference report providing grants to state and local governments to assist them in providing public services was held not germane to the House bill as proposing a revenue sharing program within the jurisdiction of the Committee on Government Operations and as using an approach not closely related to that (public works construction) contained in the House version.

On Jan. 29, 1976,[2] during consideration of the conference report

2. 122 CONG. REC. 1582, 94th Cong. 2d Sess.

on H.R. 5247,[3] Speaker Carl Albert, of Oklahoma, held that a title added by the Senate in the conference report was not germane to the House bill. The proceedings were as follows:

MR. [ROBERT E.] JONES, Jr. of Alabama: Mr. Speaker, I call up the conference report on the bill (H.R. 5247) to authorize a local public works capital development and investment program, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I make a point of order that title II of the conference report to H.R. 5247 constitutes a nongermane Senate amendment to the House-passed bill and is in violation of clause 4 of rule XXVIII of the House rules. . . .

Mr. Speaker, when H.R. 5247 was before the House in May, it was for the sole purpose of authorizing appropriations for the construction of public works projects to help alleviate unemployment. Along with 312 other Members of the House, I supported that legislation.

However, when the bill was before the Senate, title II, an entirely different and unrelated matter, was added. Title II is not a public works provision. Title II simply authorizes appropriations for the basic day-to-day support of the budgets of State and local governments. It is, in short, a revenue sharing provision.

Mr. Speaker, you, yourself, must have recognized this as revenue sharing legislation when you referred identical legislation introduced in the House exclusively to the Government Operations Committee. Title II clearly falls within the jurisdiction of the Government Operations Committee, not the Public Works Committee.

Even in the Senate, this provision came out of the Government Operations Committee, not the Public Works Committee. Perhaps if the Senate had a rule on germaneness as we do, we would not be facing this problem right now.

Had title II been offered in the House when this bill was before us on the floor, it would clearly have been subject to a point of order as nongermane under clause 7 of rule XVI. It, therefore, continues to be nongermane under clause 4 of House rule XXVIII dealing with conference reports.

Mr. Speaker, I recognize that committee jurisdiction is not the exclusive test of germaneness. I do not base my point of order on this issue alone. This provision simply has nothing to do with public works, the only matter which was before the House in H.R. 5247. To the contrary, the use of title II funds for construction purposes is specifically prohibited. Furthermore, there is not one word in title II to guarantee that the funds will be used to stimulate employment, the primary purpose of H.R. 5247.

Mr. Speaker, title II does not come within the jurisdiction of the Public Works Committee. It does not constitute public works or emergency employment legislation, and it could not have been incorporated into the bill

3. Local Public Works Capital Development and Investment Act of 1975.

when it was previously before the House. For these reasons, I respectfully request that my point of order be sustained. . . .

MS. [BELLA S.] ABZUG [of New York]: . . . There has been a certain confusion presented here, and that is in the meaning of the rule which this House passed and which my esteemed chairman, the gentleman from Texas (Mr. Brooks) referred to. Clause 4, rule XXVIII, was passed by this House in 1970 and 1972. This procedure which the House adopted in 1972 was intended to do away with the situation wherein the Senate . . . attached to a House-passed bill matter that was wholly unrelated to the subject on which the House had acted. . . .

The bill as reported from the conference does not contain provisions whose subject and substance is different. Title I of the conference report version is almost identical with the House-passed bill. Title II, upon which there is now brought a question of a separate vote, is the conference version and is also directed, as is title I, to the question of assistance in unemployment, and is so aimed at correcting it at the local level. . . . The allocation of funds is dependent on the extent to which unemployment in any area exceeds the national average, so that both the public works, title I, and title II, countercyclical assistance, have the same, identical goal. That is, to ease the current recession. . . .

MR. [JAMES C.] CLEVELAND [of New Hampshire]: . . . The fundamental method used in the original bill to stimulate the economy is to provide for the construction of public works projects. The methods used in the amendment provide for the stabilization of budgets of general purpose governments, the maintenance of basic services ordinarily provided by the State and local governments, emergency support grants to State and local governments to coordinate budget-related actions with the Federal Government. Clearly, the methods provided for in the Senate amendment are on their face so different from those in the House bill as to preclude their being considered as the same or closely allied. For this reason, then, the amendment is in violation of clause 4, rule XVI.

THE SPEAKER: The Chair is ready to rule.

The gentleman from Texas (Mr. Brooks) makes the point of order that title II of the conference report, which was contained in the Senate amendment to H.R. 5247, would not have been germane if offered as an amendment in the House and is thus subject to a point of order under rule XXVIII, clause 4.

The test of germaneness in this case is the relationship between title II of the conference report and the provisions of H.R. 5247 as it passed the House. The Chair believes that had title II been offered as an amendment in the House it would have been subject to a point of order on two grounds.

First, one of the requirements of germaneness is that an amendment must relate to the fundamental purpose of the matter under consideration and must seek to accomplish the result of the proposed legislation by a closely related means—Deschler's Procedure, chapter 28, sections 5 and 6. The fundamental purpose of the bill when considered by the House was to combat

unemployment by stimulating activity in the construction industry through grants to States and local governments to be used for the construction of local public works projects.

While the fundamental purpose of title II of the conference report is related to the economic problems caused by the recession, specifically unemployment, the means proposed to alleviate that problem are not confined to public works construction. Title II authorizes grants to States and local governments to pay for governmental services such as police and fire protection, trash collection and public education. The managers, in their joint statement, specifically state that the grants under title II are for the "maintenance of basic services ordinarily provided by the State and local governments and that State and local governments shall not use funds received under the act for the acquisition of supplies or for construction unless essential to maintain basic services." An additional purpose of this title is to reduce the necessity of increases in State and local government taxes which would have a negative effect on the national economy and offset reductions in Federal taxes designed to stimulate the economy. The Chair therefore finds that the program proposed by title II of the report is not closely related to the method suggested in the House version of the bill.

Second, title II of the report proposes a revenue sharing approach to the problems faced by State and local governments during the present recession. General revenue sharing is a matter within the jurisdiction of the Committee on Government Operations under rule X, clause 1(h)(4), and a bill, H.R. 6416, in many respects identical to title II of the report, was introduced in the House on April 28, 1975, and referred to that committee. While committee jurisdiction is not the exclusive test of germaneness—Deschler's Procedure, chapter 28, section 4.16—it is a relevant test where, as here, the scope of the House bill is within one committee's jurisdiction. The precedents indicate that as a bill becomes more comprehensive in scope the relevance of the test is correspondingly reduced. The bill, as it passed the House, was not a comprehensive antirecession measure overlapping other committees' jurisdictions, but proposed a specific remedy, local public works construction assistance, to a complex problem. Given the limited scope of the bill as it passed the House, the Chair finds the jurisdiction test quite persuasive in this instance.

For the reasons just stated, the Chair sustains the point of order.

§ 26.23 Where a House amendment reported from the Committee on Public Works and Transportation consisted of one title relating to grants to state and local governments for local public works construction projects, a new title contained in the Senate bill and in the conference report providing grants to state and local governments to assist them in providing public services was held not germane to the House amendment, as proposing a revenue-sharing program within

the jurisdiction of the Committee on Government Operations, and not closely related to the public works construction provisions contained in the House version.

During consideration of the conference report on S. 3201[4] in the Committee of the Whole, it was demonstrated that to be germane, an amendment must not only seek to accomplish the same result as the matter proposed to be amended but must contemplate a method of achieving that end which is closely related to the method contained in the proposition to which offered. The proceedings of June 23, 1976,[5] were as follows:

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Speaker, I call up the conference report on the Senate bill (S. 3201) to amend the Public Works and Economic Development Act of 1965, to increase the antirecessionary effectiveness of the program, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Speaker, I make the point of order that title II of the conference report constitutes a nongermane Senate provision to the House-passed version of the bill, in violation of rule XXVIII, clause 4. . . .

Mr. Speaker, we are in the identical position we were in last January when a House-passed bill authorizing grants for public works construction projects was brought back to the House containing a Senate amendment that established an entirely new program of Federal assistance to State and local governments.

The Chair will recall that at that time I raised the same point of order and the Chair sustained it on two grounds: First, that the program proposed in title II did not relate sufficiently to the fundamental purpose of the House-passed bill; and second, that title II proposes a revenue-sharing program which is within the jurisdiction of the Government Operations Committee.

Mr. Speaker, we have precisely the same situation here. The House has passed H.R. 12972, providing solely for the construction of public works projects to help cut unemployment. The Senate added a provision for grants to State and local governments to pay for basic governmental services, and that provision has been brought back again as title II of the conference report.

Title II is still a form of revenue sharing and clearly not germane to the subject matter of H.R. 12972. Also, it is not within the jurisdiction of the Public Works and Transportation Committee. . . .

MR. JONES of Alabama: . . . Mr. Speaker, this proposition has been resolved before. We concede the point of order.

THE SPEAKER:[6] The gentleman from Alabama (Mr. Jones) concedes the

4. A bill to amend the Public Works and Economic Development Act.

5. 122 CONG. REC. 20020–29, 94th Cong. 2d Sess.

6. Carl Albert (Okla.).

point of order. The point of order is sustained. . . .

MR. BROOKS: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Brooks moves the House reject title II of S. 3201 as reported by the Committee of Conference.

THE SPEAKER: The gentleman from Texas (Mr. Brooks) is recognized for 20 minutes. . . .

THE SPEAKER PRO TEMPORE:[7] The gentleman from Texas (Mr. Brooks) has 2 minutes remaining, and the gentleman from Texas (Mr. Wright) has 2 minutes remaining. The gentleman from Texas (Mr. Wright) has the right to close debate.

MR. BROOKS: Mr. Speaker, I have a parliamentary inquiry.

THE SPEAKER PRO TEMPORE: The gentleman will state his parliamentary inquiry.

MR. BROOKS: Mr. Speaker, is it not true that in the event that title II would be voted down, the recourse for the House would be to send this bill, as amended, back to the Senate, and they could then appoint another conference committee and we could proceed with the bill and pass the bill without even having to get it vetoed?

THE SPEAKER PRO TEMPORE: The Chair will state that the House could insist upon its amendment and return the bill to the Senate.

7. Sam Gibbons (Fla.).

House Bill Authorizing Funds for States To Create Public Works Jobs—Amendment Mandating Expenditure of Previously Appropriated Funds Deferred Under Impoundment Control Act

§ 26.24 In a conference report on a House bill (originally reported from the Committee on Public Works and Transportation) authorizing funds for state and local governments to create new public works jobs, a Senate amendment adding a new title to mandate the expenditure of previously appropriated funds for public works and reclamation (as a purported disapproval of the deferral of such funds under the Impoundment Control Act) and to set a discount rate for reclamation and public works projects—matters within the respective jurisdictions of the Committees on Appropriations and Interior and Insular Affairs—was conceded to be nongermane and subject to a point of order under clause 4 of Rule XXVIII and to a motion to reject that portion.

On May 3, 1977,[8] the House had under consideration the conference report on H.R. 11 when the situation described above occurred; the proceedings were as follows:

MR. [ROBERT A.] ROE [of New Jersey]: Mr. Speaker, I call up the conference report on the bill (H.R. 11) to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

MR. [ROBERT A.] YOUNG of Missouri: Mr. Speaker, I make a point of order against the conference report.

THE SPEAKER PRO TEMPORE:[9] The gentleman will state his point of order.

MR. YOUNG of Missouri: Mr. Speaker, the inclusion of title II of the conference report on H.R. 11 is in violation of clause 4 of rule XXVIII of the Rules of the House of Representatives.

Mr. Speaker, it should be obvious to my colleagues that this bill—H.R. 11—has come back from conference with an unrelated, nongermane amendment.

Title 1 of this bill authorizes $4 billion to be channeled to State and local governments throughout the country to create new public works jobs. The goal is to reduce the Nation's high unemployment rate.

In contrast, title 2 concerns previously approved water projects, with a principal goal of providing new flood control, water management and recreational benefits.

The jurisdiction over title 2 currently rests with the Appropriations Committee, and no longer involves the Public Works Committee. Therefore, title 2 should be excluded from consideration now and allowed to be handled by the appropriate committee.

My argument of nongermaneness is based on several precedents cited in Deschler's Procedure. May I call your attention to 4.25 of Deschler's chapter 28 which reads:

> To a bill reported by the Committee on Public Works authorizing funds for highway construction and for mass transportation systems which use motor vehicles on highways, an amendment relating to urban mass transit (a subject within the jurisdiction of the Committee on Banking and Currency) and to rapid rail transportation and assistance to the railroad industry (within the jurisdiction of the Committee on Interstate and Foreign Commerce) was ruled out as not germane. 118 Congressional Record 34111, 34115, 92d Congress, 2nd Session, Oct. 5, 1972.

I would also like to cite [4.9] reading:

> An amendment relating to railroads generally, which was offered to a bill pertaining solely to urban transportation, was ruled out as not germane. 116 Congressional Record 34191, 91st Congress, 1st Session, Sept. 29, 1970.

Finally I ask you to refer to 4.12 which reads:

> To a bill establishing penalties for desecration of the American flag, an amendment establishing certain restrictions upon exporting the flag was ruled out as not germane. 113 Congressional Record 16495, 90th Congress, 1st Session, June 20, 1967.

8. 123 CONG. REC. 13242, 13243, 95th Cong. 1st Sess.

9. Abraham Kazen, Jr. (Tex.).

These precedents form the basis of my point of order—that title 2 is simply not germane to the local public works bill.

THE SPEAKER PRO TEMPORE: Does the gentleman from New Jersey (Mr. Roe) wish to be heard in debate on the point of order?

MR. ROE: No, Mr. Speaker. We concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from New Jersey (Mr. Roe) concedes the point of order. The Chair sustains the point of order.

MR. YOUNG of Missouri: Mr. Speaker, I move, in conformity with the matter involved in the point of order, that the House reject title II of the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from Missouri (Mr. Young) is recognized for 20 minutes on his motion.

Bill Restricting Antitrust Remedies Against Local Governments—Amendment To Repeal Limitation on Agency's Use of Funds To Conduct Antitrust Actions Against Local Governments

§ 26.25 To a House bill restricting remedies under existing antitrust law against local governments, but not addressing authority of a federal agency to prosecute antitrust actions or the availability of appropriated funds to that agency for that purpose, a Senate amendment included in a conference report repealing a limitation in an appropriation law for that year on the use of funds by that agency to conduct antitrust actions against local governments was held not germane, since the amendment related to agency activities and funds not addressed in the House bill.

During consideration of H.R. 6027 (10) in the House on Oct. 11, 1984,(11) the Speaker Pro Tempore sustained a point of order in the circumstances described above. The conference report, submitted on Oct. 10,(12) and the proceedings of Oct. 11, were as indicated below:

Mr. [PETER W.] RODINO [Jr., of New Jersey] submitted the following conference report and statement on the bill (H.R. 6027) to clarify the application of the Federal antitrust laws to the official conduct of local governments:

CONFERENCE REPORT (H. REPT. NO. 98–1158)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6027) to clarify the application of the Federal

10. The Local Government Antitrust Act of 1984.

11. 130 CONG. REC. 32219, 32220, 32223, 32224, 98th Cong. 2d Sess.

12. *Id.* at p. 31441.

antitrust laws to the official conduct of local governments, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following. . . .

Sec. 5. Section 510 of the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1985 (Public Law 98–411), is repealed. . . .

MR. RODINO: Mr. Speaker, pursuant to House Resolution 616, I call up the conference report on the bill (H.R. 6027) to clarify the application of the Clayton Act to the official conduct of local governments, and for other purposes.

The Clerk read the title of the bill. . . .

MR. RODINO (during the reading): Mr. Speaker, I ask unanimous consent that the conference report be considered as read.

THE SPEAKER PRO TEMPORE:[13] Is there objection to the request of the gentleman from New Jersey?

There was no objection.

MR. [CHARLES] WILSON [of Texas]: Mr. Speaker, I have a point of order.

I make the point of order that the last section of the conference report contains nongermane matters within the definition of clause 4 of rule XXVIII. . . .

Mr. Speaker, if the objectionable section had been offered to the House bill, it would have been in violation of the provisions of clause 7 of rule XVI of the House rules. The provision is a repeal of appropriations law.

That provision deals with spending levels for the Federal Trade Commission for this fiscal year. The legislation is a permanent piece of legislation that amends our antitrust laws. These amendments reduce monetary damages that local governments may be liable for in antitrust suits.

That has nothing to do with the provision of the last section of this conference report to which my point of order is directed.

MR. RODINO: Mr. Speaker, I rise in opposition to the point of order against section 5 of the conference report. The fundamental purpose of this conference report is to provide for continued enforcement of the antitrust laws without severely damaging local governments. This legislation before us continues to ensure that antitrust violations will be prosecuted; but limits the amount of damages which can be assessed in such a case against a local governmental unit. It allows the aggrieved party to ensure that injunctive relief will be available to terminate anticompetitive activity of a local government.

The fundamental purpose of the section against which the gentleman raises a point of order is to permit the Federal Trade Commission to continue to bring antitrust suits against municipalities. The Federal Trade Commission is limited in the remedies that it may pursue: The FTC cannot seek damages, only injunctive relief. That is what this bill is all about, preventing damage suits while leaving injunctive remedies in place.

13. Steny H. Hoyer (Md.).

Mr. Speaker, I believe that the provisions of section 5 are wholly consistent with the fundamental purpose of the rest of the conference report and are therefore germane and the point of order should not be sustained. . . .

MR. [HAMILTON] FISH [Jr., of New York]: . . . The so-called taxicab rider which would be repealed by section 5 of this bill currently impedes the ability of the FTC to bring the very type of injunctive relief enforcement which the bill before us envisions and presumes. While removing the threat of money damages, we do not intend that local governments be totally immune from Federal antitrust laws. Suits for injunctive relief will be a safety net against potential anticompetitive activities by localities.

Thus, repeal of section 510 of Public Law 98–411 is fully consistent with the overall purposes of this bill. To remove section 5 from this legislation would, ironically, prevent the FTC enforcement when a locality is involved in anticompetitive conduct.

Again, the FTC would not recover money damages under the structure of H.R. 6027, but it could seek an injunction to bring anticompetitive activities by localities to a halt. The fair balance in this legislation would be distorted if the FTC remains unable to exercise its normal statutory responsibilities to enforce compliance with our antitrust laws.

Section 5 is consistent with the fundamental purposes of this legislation and should remain in this bill. It is germane in a logical, substantive sense. This is an antitrust bill. The FTC is an antitrust enforcement agency. H.R. 6027 is an amendment to the Clayton Act. The FTC, along with the Department of Justice, enforces that very same Clayton Act.

Section 510 of Public Law 98–411 was, in reality, legislation on an appropriation bill, so its repeal is germane, but the fact is that its original enactment was not germane. . . .

THE SPEAKER PRO TEMPORE: . . . [T]he Chair has had the opportunity of reviewing the point of order raised by the gentleman from Texas that pursuant to clause 4 of rule XXVIII, the conferees on H.R. 6027 have agreed to a nongermane Senate provision. Section 5 of the conference report on H.R. 6027 contains the substance of section 3 of the Senate amendment, which repealed section 510 of Public Law 98–411, the State, Justice, Commerce Appropriation Act for fiscal year 1985. The section proposed to be repealed prohibits the expenditure of funds in that appropriation act for the Federal Trade Commission to conduct antitrust actions against municipalities or other units of local government.

H.R. 6027 as passed by the House only addresses the issue of antitrust remedies for claims against local governments, and merely limits monetary relief for a Federal or private cause of action against a local government under the Clayton Act. While the House bill may limit the remedies which the FTC may obtain in such suits, in the same way it limits any claimant, the House bill does not address the general authority of the FTC to prosecute antitrust actions, or the conditions under which the FTC may use its appropriated funds for the coming fiscal year.

The Chair would also point out that the conference report and Senate

amendment directly amend a general appropriation act not addressed in the House bill.

For the reasons stated, the Chair sustains the point of order. . . .

MR. WILSON: Mr. Speaker, I move, pursuant to clause 4(b) of rule XXVIII, to strike section 5 of the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from Texas [Mr. Wilson] is entitled to 20 minutes in support of his motion.

Parliamentarian's Note: If the Chair sustains a point of order that conferees have agreed to a nongermane Senate provision, a motion to reject that provision is in order pursuant to clause 4(b) of Rule XXVIII, and is debatable for 40 minutes, equally divided between the Member making the motion and a Member opposed; if the motion to reject is not agreed to, debate commences on the conference report itself.

House Bill Narrowly Amending Small Business Act—Senate Amendment Providing for Payment of Attorney Fees to Parties Prevailing Against United States in Court

§ 26.26 To a House bill narrowly amending the Small Business Act reported from the Committee on Small Business, a Senate amendment adding a new title providing for the payment of attorney fees and other court expenses to parties prevailing against the United States in court litigation on any subject matter, and amending title 28 (within the jurisdiction of the Committee on the Judiciary) was held not germane, pending a motion to recede and concur in the Senate amendment with an amendment including such provisions, after the conference report on the bill had been ruled out of order.

The proceedings of Oct. 1, 1980,[14] during consideration of H.R. 5612 in the House, were as follows:

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Smith of Iowa moves that the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 5612) to amend section 8(a) of the Small Business Act and concur therein with the following amendment:

In lieu of the matter proposed to be inserted by the Senate, insert the following:

14. 126 CONG. REC. 28638–42, 96th Cong. 2d Sess.

"PART A. SMALL BUSINESS ADMINISTRATION MINORITY BUSINESS DEVELOPMENT PROGRAM AMENDMENTS

TITLE II—EQUAL ACCESS TO JUSTICE ACT

Sec. 201. This title may be cited as the "Equal Access to Justice Act".

FINDINGS AND PURPOSE

Sec. 202. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings. . . .

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

(Sec. 203. (a)(1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties

"(a)(1) An agency that conducts an adversary adjudication shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency as a party to the proceeding was substantially justified or that special circumstances make an award unjust."

"(d)(1) Fees and other expenses awarded under this section may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made pursuant to section 2414 of title 28, United States Code. . . ."

MR. SMITH of Iowa: Mr. Speaker, this amendment retains all of the language agreed to by the conferees, but it specifically provides that the provisions for the payment of judgments, attorney's fees and other expenses are effective only to the extent and in the amounts approved in advance in appropriations acts. . . .

MR. [GEORGE E.] DANIELSON [of California]: Mr. Speaker, I will again raise a point of order of an appropriation in a legislative bill, for the reason that this amendment, if adopted, would require an affirmative action at any time against, for example, the Comptroller General before he could issue a voucher authorizing the payment of funds from the Treasury as to whether or not the award of attorneys' fees and costs pursuant to this proposed bill was something heretofore authorized and for which funds had theretofore been appropriated.

This would be an added burden and an added activity on the part of the Comptroller General and would constitute, I respectfully submit, an appropriation on a legislative bill. . . .

MR. [DAN] ROSTENKOWSKI [of Illinois]: Mr. Speaker, I further make a point of order. . . .

[T]he amendment, as I understand it, further allows for attorneys' fees to be paid in excess of what was prescribed for in the legislation out of the Small Business Committee. The general application of the bill is far in excess. I still think that the germaneness of the amendment of the gentleman is in question. . . .

THE SPEAKER PRO TEMPORE:[15] The Chair will dispose of the appropriation point of order first.

Then the Chair will take up the matter of germaneness.

On page 22 of the motion the following limitation under section 207 is included:

> The payment of judgments, fees and other expenses in the same manner as the payment of final judgments as provided in this act is effective only to the extent and in such amounts as are provided in advance in appropriation acts.

Therefore, the point of order is overruled under clause 5 rule XXI.

The Chair would like to inquire of the gentleman from Illinois (Mr. Rostenkowski) if he desires to make a point of order as to the germaneness of a portion of the motion offered by the gentleman from Iowa.

MR. ROSTENKOWSKI: In my opinion, Mr. Speaker, the attorneys' fees is not germane to the narrow small business bill.

Therefore, the gentleman's amendment strikes at the germaneness of the bill that is being considered before us. Therefore, Mr. Speaker, if it is in excess, I would deem that the amendment is not germane.

THE SPEAKER PRO TEMPORE: The Chair is now ready to rule. While the motion is germane to the Senate amendment which contains the provision concerning attorneys' fees, the Chair would rule that the language is not germane to the original House bill which narrowly amended the Small Business Act in an unrelated way. That is, under clause 5 of rule XXVIII, the Chair would sustain a point of order as to title II of the motion.

Does the gentleman from Illinois have a motion to reject that portion?

MR. ROSTENKOWSKI: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Rostenkowski moves to strike title II of the motion offered by the gentleman from Iowa, Mr. Smith.

Housed-passed Bill Relating to Employment and Training—Senate Provision To Promote Formation of Labor-Management Committees

§ 26.27 A Senate provision contained in a conference report, proposing the establishment of programs to encourage the formation of joint labor-management committees, was held not germane to the House-passed bill, which amended the Comprehensive Employment and Training Act with respect to improved employment and training services but did not address labor-management relations.

During consideration of the conference report on S. 2570 in the House on Oct. 14, 1978,[16] a point of order against the provision de-

15. William H. Natcher (Ky.).

16. 124 CONG. REC. 38559–62, 95th Cong. 2d Sess.

scribed above was conceded. The proceedings were as follows:

MR. [AUGUSTUS F.] HAWKINS [of California]: Mr. Speaker, I call up the conference report on the Senate bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

The Clerk read the title of the Senate bill.

THE SPEAKER PRO TEMPORE:[17] Pursuant to the rule, the statement of the managers is considered as read. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Speaker, I raise a point of order with respect to the conference report on S. 2570, Comprehensive Employment and Training Act Amendments of 1978, on the grounds that the conference report contains nongermane matter. Specifically, section 6 of the report proposes to include a "Labor Management Cooperation Act of 1978.". . .

MR. HAWKINS: Mr. Speaker, I concede the point of order. I think it is valid.

THE SPEAKER PRO TEMPORE: The point of order is conceded.

MR. ASHBROOK: Mr. Speaker, I make a motion of high privilege to reject the nongermane matter which was the subject of the point of order just sustained.

The Clerk read as follows:

Mr. Ashbrook moves to reject section 6 of the conference report.

In speaking on his motion, Mr. Ashbrook further addressed the issues affecting the germaneness of the Senate provision:

MR. ASHBROOK: Mr. Speaker, the point of order was conceded for obvious reasons. It is a statutory enactment.

Mr. Speaker, this section has absolutely nothing to do with the Comprehensive Employment and Training Act. Further it was not contained in the House bill H.R. 12542 nor was it contained in the amendments of the House to the bill S. 2570.

This section was added by the Senate. In examining the substance of this section, it is quite clear that it is not germane to the Comprehensive Employment and Training Act. The joint statement of managers accompanying the conference report specifically notes that it is: "a separate statute to provide for the establishment of programs to encourage the formation of joint labor management committees."

The purpose of such committees would be to improve communications between labor and management, to enhance job security and organizational effectiveness and to assist labor organizations and employers in resolving problems not susceptible to resolution within the collective bargaining process. These joint labor management committees would operate on a plant, area and industrywide basis.

Significantly, this section of the conference report amends several sections of existing law in the Labor-Management Relations Act of 1947. It amends section 203 and 205 to provide for administration of this new program by Federal mediation and conciliation services.

In addition, section 6 of the conference report amends section 203(C) of the Labor Management Relations Act. The effect of this amendment is to

17. George E. Danielson (Calif.).

make employer payments to such joint labor management committees a mandatory subject of bargaining.

I believe that the precedents unequivocally establish that this section of the conference report is nongermane. For instance, under section 799 of the annotation of the Rules of the House of Representatives—on page 539—it is stated:

> Generally to a bill amending one existing law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976).

Further in Deschler's Procedure, chapter 28, section 33, precedents are cited with respect to amendments changing existing law to bills not citing the law. For instance the precedent cited at section 33.2 holds that to a bill amending two sections of the Fair Labor Standards Act an amendment proposing changes in the Tariff Act of 1930 was ruled out as nongermane (113 CONG. REC. 27214, 90th Cong. 1st Sess., Sept. 28, 1967).

In sum, because section 6 of the conference report amends existing law that was not the subject of the House passed bill to reauthorize the Comprehensive Employment and Training Act, such section should be ruled out as nongermane. . . .

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Ohio (Mr. Ashbrook) to reject section 6 of the conference report.

The question was taken; and the Speaker Pro Tempore announced that the noes appeared to have it. . . .

On a division (demanded by Mr. Symms) there were—ayes 61, noes 96.

So the motion was rejected.

House Bill Concerning Foreign Relations and Operation of State Department and Other Agencies—Senate Amendment To Provide Guidelines for Acceptance of Foreign Gifts

§ 26.28 To a House bill containing diverse amendments to existing laws within the jurisdiction of the Committee on International Relations, relating to foreign relations and the operation of the Department of State and related agencies, a portion of a Senate amendment thereto contained in a conference report, amending the Foreign Gifts and Decorations Act (within the jurisdiction of the same committee) to provide guidelines and procedures for the acceptance of foreign gifts by United States employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane when a point of order was raised against a portion of the conference report under Rule XXVIII clause 4.

During consideration of the conference report on H.R. 6689[18] in the House on Aug. 3, 1977,[19] the Speaker Pro Tempore overruled a point of order in the circumstances described above. The proceedings were as follows:

FOREIGN GIFTS AND DECORATIONS

Sec. 515. (a)(1) Section 7342 of title 5, United States Code, is amended to read as follows:

"§ 7342. Receipt and disposition of foreign gifts and decorations

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission . . .

"(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress . . .

"(6) 'employing agency' means—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House . . .

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees . . .

"(b) An employee may not— . . .

"(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

"(c)(1) The Congress consents to—

"(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States. . . .

MR. [BRUCE F.] CAPUTO [of New York]: Mr. Speaker, a point of order.

I would like to make a point of order and I regret that it comes at so late an hour and after the previous discussion. I make the point of order that the matter contained in section 515 of the conference report would not be germane to H.R. 6689 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4 of rule XXVIII.

Let me state that the language in the conference report substantially changes the terms under which the Members of Congress can accept or authorize acceptance of things of value from foreign governments.

The Constitution clearly provides in article I that each House shall write its

18. The Foreign Relations Authorization Act for fiscal year 1978.

19. 123 CONG. REC. 26532, 26533, 95th Cong. 1st Sess.

own rules. The House has a rule of its own on this matter, rule 44, which we only recently modified, under which Members of Congress could receive things of value from foreign governments.

The conference report changes that rule because it is a subsequent act of this House and in direct conflict with that rule. In Jefferson's Manual, section 335 and Deschler's Procedures, chapter 5, that is clearly improper. We cannot change the rules of the House in that manner. Let me read from Jefferson's Manual, section 335 briefly. It says:

> But a committee may not report a recommendation which, if carried into effect, would change a rule of the House unless a measure proposing amendments to House rules has initially been referred to the Committee of the Whole by the House.

This has not been referred to the Committee of the Whole by the House as required by the precedents. Indeed, this is the first time the House has viewed this matter and it would have been impossible for us to have referred it to the Committee of the Whole. It was put in by the other body. We never considered it.

If the Chair does not sustain my point of order, he will be in effect sustaining the other body in writing the rules of this House. . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Speaker, clause 4 of House rule 43 deals only with gifts to employees. It does not deal with gifts of foreign governments, which is the subject of this amendment.

Furthermore, Mr. Speaker, we have specifically provided that nothing in this section shall be construed in derogation of any regulations prescribed by any Member or agency, and in this instance it would be the Congress or the Ethics Committee, which provides for more stringent limitations on the receipt of gifts and declarations by employees.

We are dealing with this in this amendment, because it deals with the foreign gifts and declarations section which affects other members of the Government not having anything to do incidentally with Members of the House and in no way changes the rules of the House.

MR. CAPUTO: Mr. Speaker, on page 21 of the committee report, section 515 says such act is amended and then it says, "a Member of Congress." It clearly applies to Members of Congress.

Let me state what it does. It permits Members of Congress to accept gifts of more than minimum value.

Page 22, section (c)(1)(B) clearly changes rule 24.

THE SPEAKER PRO TEMPORE:[20] The Chair is ready to rule.

The gentleman from New York makes a point of order that the conference report contains, in section 515, matter contained in the Senate amendment which would not have been germane to the bill if offered in the House.

Section 515 amends the Foreign Gifts and Declarations Act to provide new guidelines and procedures relating to the acceptance by employees of the United States of gifts and awards from foreign governments. The section provides that the Committee on Standards

20. Dan Rostenkowski (Ill.).

of Official Conduct shall have the functions of regulating the minimum value of an acceptable gift for Members and employees of the House of Representatives, of consenting to the acceptance by Members and employees of gifts in certain circumstances, and of disposing of unacceptable gifts through the General Services Administration. H.R. 6689, the Foreign Relations Authorization Act, as passed by the House, contained a wide variety of amendments to existing laws within the jurisdiction of the Committee on International Relations relating generally to the foreign relations of the United States and the operations of the Department of State, the U.S. Information Agency, and the Board for International Broadcasting. It thus appears to the Chair that an amendment to the Foreign Gifts and Declarations Act, a law within the jurisdiction of the committee and relative to our foreign relations, would have been germane to the bill if offered in the House, particularly since section 111 of the House bill dealt with foreign employment by officers of the United States notwithstanding article I, section 9 of the Constitution. The Foreign Gifts and Declarations Act arose from the identical constitutional provision. The fact that the Senate amendment placed new responsibilities on a standing committee of the House does not render the provision subject to a point of order, since no attempt is made to amend the rules of the House or to otherwise exceed the jurisdiction of the Committee on International Relations.

For the reasons stated, the Chair overrules the point of order.

Parliamentarian's Note: The point of order was based on the grounds that the provision had the effect of amending the Rules of the House, to allow the acceptance of gifts prohibited by House Rule 43, the Code of Official Conduct. The actual effect of the provision, however, was merely to assign the regulatory authority under the Act in relation to the House of Representatives, not to supersede a more restrictive standard imposed by the Rules or standards of the House of Representatives.

Bill Requiring Oil Imports To Be Carried on United States Vessels—Amendment Relating to Construction of Vessels in Domestic and Foreign Commerce

§ 26.29 To a House bill requiring that a percentage of United States oil imports be carried on United States-flag vessels, a modified portion of a Senate amendment contained in a conference report dealing with the construction of vessels in either domestic or foreign commerce to meet certain antipollution requirements was held not germane.

During consideration of the conference report on H.R. 8193[1] in

1. The Energy Transportation Security Act.

the House on Oct. 10, 1974,[2] it was held that to a bill imposing vessel cargo preference rules for the importation of certain products in foreign commerce, a Senate amendment relating to construction of vessels used in foreign and domestic commerce was not germane. The proceedings were as follows:

MRS. [LEONOR K.] SULLIVAN [of Missouri]: Mr. Speaker, I call up the conference report on the bill (H.R. 8193) to require that a percentage of United States oil imports be carried on United States-flag vessels, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

MR. [PIERRE S.] DU PONT [of Delaware]: Mr. Speaker, I make a point of order against section 6 of the conference report under rule 28, clause 4(a), and rule 16, clause 7, the germaneness rule.

Section 6 is not germane because it deals with a different subject matter—the construction requirements of vessels—than the bill which deals with the regulation of oil imports.

The conference report amends section 901 of the Merchant Marine Act of 1936 (46 U.S.C. 1241) which deals with the operation, charter, and cargo of vessels.

Section 6 of the conference report—originally adopted by the Senate and not in the House bill—deals with the construction of vessels and antipollution procedures contained in the Ports and Waterways Safety Act of 1972.

Section 6 has nothing to do with vessel cargoes. It requires construction of vessels with double bottoms for use on certain limited waters of the United States. This is in no way related to the purpose or intent of the bill which is to place cargo preference rules on the importation of oil and oil products.

Under the precedents of the House under rule 16, clause 7 similar amendments have been held nongermane. See precedents V, 5884 and decisions of Chairman Garrett, May 6, 1913 (page 1234) and Speaker Clark, May 8, 1913 (page 1381). . . .

MRS. SULLIVAN: Mr. Speaker, the bill as amended by the Senate, and as modified by the conferees, makes explicit the fact that the U.S.-flag tankers subject to the bill must be constructed and operated using the "best available pollution technology." In any case, this would in all probability be inferred from the term "U.S.-flag commercial vessels" in the House-passed bill—see Public Law 92–340.

In addition, the provision requires that certain tankers have double bottoms, but the requirement in no way changes the thrust of the House bill. In all candor, Mr. Speaker, I cannot see how it can be argued that a provision requiring pollution prevention technology and standards on the vessels carrying the preference cargo mandated by the bill can be considered nongermane. . . .

THE SPEAKER:[3] The Chair is prepared to rule.

The gentleman from Delaware makes a point of order against section

2. 120 CONG. REC. 35181, 93d Cong. 2d Sess.

3. Carl Albert (Okla.).

6 of the conference report on H.R. 8193 on the ground that the section is not germane to the provisions of the bill as passed by the House.

The bill as passed by the House related solely to the requirement that a percentage of U.S. oil imports to be carried on U.S.-flag vessels and provided regulations in relation thereto. Section 7 of the Senate amendment in the nature of a substitute is directed to the construction of vessels transporting oil either in foreign or domestic commerce. As modified by section 6 of the conference report, that portion of the conference report is clearly not related to the subject matter of the House bill, and the Chair sustains the point of order that section 6 of the conference report is not germane to H.R. 8193.

MR. DU PONT: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. du Pont moves that the House reject section 6 of the bill, H.R. 8193, as reported by the committee of conference.

(Mr. du Pont asked and was given permission to revise and extend his remarks.)

MR. DU PONT: Mr. Speaker, the Chair has just ruled that section 6 of the bill as reported by the committee of conference is not germane. Let me say to my colleagues what this means. This is not a point of order similar to a point of order made in a regular House procedure. In that case section 6 would simply be stricken from the bill under consideration and that would be the end of it, but that is not the situation we have here.

We are dealing with a conference report and because we are dealing with a conference report we are entitled to a separate vote on the nongermane section, so even though section 6 of the conference report was ruled not germane, the debate now occurs on that section, and at the end of 40 minutes we will have a vote solely on section 6, and then we will go on to consider the rest of the conference report.

Certain Exemptions From Tariff Duty Applicable to United States Vessels—Amendment To Extend Unemployment Benefits

§ 26.30 To a bill exempting from tariff duty certain equipment and repairs for vessels operated by or for agencies of the United States, a modified section of a Senate amendment thereto extending benefits under the unemployment compensation program was held to be not germane.

On July 31, 1974,[4] the House had under consideration the conference report on H.R. 8217, a bill exempting from tariff duty certain equipment and repairs for vessels operated by or for agencies of the United States. A Senate amendment, reported from conference in disagreement, had added nongermane provisions, including pro-

4. 120 CONG. REC. 26082, 26083, 26088, 26089, 93d Cong. 2d Sess.

posed changes relating to unemployment compensation and the Social Security program. Some modification of the Senate provisions was proposed, by means of a motion to recede and concur in the Senate amendment with a further amendment. A point of order was made on the grounds that such portion of the Senate amendment as was contained in the motion was not germane to the House-passed measure.

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I call up the conference report on the bill (H.R. 8217) to exempt from duty certain equipment and repairs for vessels operated by or for any agency of the United States, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

THE SPEAKER:[5] Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 16, 1974.) . . .

MR. MILLS: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Mills moves that the House recede from its disagreement to the Senate amendment to the text of the bill, H.R. 8217, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill (page 2, after line 6)), insert the following:

Sec. 3. The last sentence of section 203(e)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (as added by section 20 of Public Law 93–233 and amended by section 2 of Public Law 93–256 and by section 2 of Public Law 93–329) is amended by striking out "August 1, 1974" and inserting in lieu thereof "April 30, 1975".

Sec. 4. (a) The second sentence of section 204(b) of the Emergency Unemployment Compensation Act of 1971 is amended to read as follows: "Amounts appropriated as repayable advances and paid to the States under section 203 shall be repaid, without interest, as provided in section 905(d) of the Social Security Act.". . .

Sec. 5. Section 1631 of the Social Security Act is amended by adding the following at the end thereof:

"REIMBURSEMENT TO STATES FOR INTERIM ASSISTANCE PAYMENTS

"(g)(1) Notwithstanding subsection (d)(1) and subsection (b) as it relates to the payment of less than the correct amount of benefits, the Secretary may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Secretary and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished on behalf of the individual by the State (or political subdivision). . . .

MR. [J. J.] PICKLE [of Texas]: Mr. Speaker, I make a point of order on section 3 of this bill because it does not conform to the House germaneness rule, rule 28, clause 5(b)(1).

In no way can this section be germane to the House-passed H.R. 8217.

5. Carl Albert (Okla.).

The House bill dealt with exempting from duty certain equipment and repairs for vessels operated by or for any agency of the United States where the entries were made in connection with vessels arriving before January 5, 1971.

Section 3 deals with the unemployment compensation program as it relates to extended benefits. This has nothing to do with the "repair of vessels."

Mr. Speaker, I feel that it is necessary to take time to explain why the Senate unemployment compensation amendment is nongermane to the House-passed tariff bill.

It is nongermane on its face, and I ask that my point of order be sustained. . . .

MR. MILLS: Mr. Speaker, I must admit that the point of order is well taken. I cannot resist the point of order.

THE SPEAKER: The point of order is sustained.

MR. PICKLE: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Pickle moves that the House reject section 3 of the proposed amendment to the Senate amendment to the text of the bill H.R. 8217.

THE SPEAKER: The gentleman from Texas (Mr. Pickle) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. Mills) will be recognized for 20 minutes.

Bill Authorizing Appropriations to Carry Out Commodity Exchange Act—Senate Provisions Authorizing Transfer of Forest Lands and Changing Basis for Computing Emergency Compensation Under Agricultural Act

§ 26.31 On a conference report on a Senate amendment to a House bill, where the House bill only authorized appropriations to carry out the Commodity Exchange Act and made technical improvements in that Act, the Chair sustained points of order and entertained motions to reject two nongermane Senate provisions included in the conference report, pursuant to clause 4 of Rule XXVIII, as follows: (1) a provision authorizing the transfer of national forest lands in Nebraska; and (2) a provision changing the basis for computation of emergency compensation for the 1986 wheat program under the Agricultural Act of 1949.

On Oct. 15, 1986,[6] the House had under consideration the con-

6. 132 CONG. REC. 31498, 31499, 31502–06, 99th Cong. 2d Sess.

ference report [7] on H.R. 4613, the Futures Trading Act of 1986, when the proceedings described above occurred, as follows:

Mr. de la Garza submitted the following conference report and statement on the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act:

CONFERENCE REPORT (H. REPT. 99–995)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4613) to reauthorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements to that Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

Section 1. Short Title and Table of Contents.

(a) Short Title.—This Act may be cited as the "Futures Trading Act of 1986".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title and table of contents.

Amendments

TITLE I—FUTURES TRADING

Sec. 101. Fraudulent Practices.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by striking out "on or subject to the rules of any contract market," the second place it appears in the first sentence; and

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

"Nothing in this section shall apply to any activity that occurs on a board of trade, exchange, or market, or clearinghouse for such board of trade, exchange, or market, located outside the United States, or territories or possessions of the United States, involving any contract of sale of a commodity for future delivery that is made, or to be made, on or subject to the rules of such board of trade, exchange, or market". . . .

Sec. 202. Basis for Computation of Emergency Compensation Under the 1986 Wheat Program.

Section 107D(c)(1)(E)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3(c)(1)(E)(ii)) is amended by striking out "marketing year for such crop" and inserting in lieu thereof "first 5 months of the marketing year for the 1986 crop and the marketing year for each of the 1987 through 1990 crops". . . .

Sec. 207. Transfer of Land.

(a) In General.—Subject to subsections (b), (c), and (d), the Secretary of Agriculture shall convey to the Nebraska Game and Parks Commission, all right, title, and interest of the United States in approximately 173 acres of National Forest System land in Dawes County, Nebraska, as depicted on a Department of Agriculture, Forest Service map entitled 'Land Conveyance, Nebraska National Forest', dated October, 1985. The map and legal description of the land conveyed by this section shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. . . .

7. For complete conference report and statement, see the proceedings of the House of Oct. 14, 1986.

MR. [CHARLES O.] WHITLEY [of North Carolina]: Mr. Speaker, I make a point of order against the nongermane amendment contained in the conference report relating to the transfer of national forest lands in the State of Nebraska.

THE SPEAKER:[8] The gentleman from North Carolina (Mr. Whitley) will identify that portion of the bill.

MR. WHITLEY: Mr. Speaker, the point of order is specifically made against section 207 of title II of the conference report. . . .

MR. [E] DE LA GARZA [of Texas]: . . . Mr. Speaker, the committee and the conference committee agreed on the text of the legislation which is the Commodity Futures Trade Commission.

The other body then added various and sundry other bills and we have to concede the point that they were not germane and they were extraneous to the matter. Therefore, I find myself in the situation where I could not but otherwise yield to the point of order, Mr. Speaker.

THE SPEAKER: The point of order is conceded and sustained. . . .

MR. WHITLEY: Mr. Speaker, I move to delete section 207 from the conference report. . . .

THE SPEAKER: The question is on the motion offered by the gentleman from North Carolina [Mr. Whitley].

The motion was agreed to.

MR. [EDWARD R.] MADIGAN [of Illinois]: Mr. Speaker, I make a point of order against the conference report to H.R. 4613 under rule XXVIII, clause 4, of the House rules for the reason that it contains a Senate amendment that is in violation of rule XVI, clause 7, because it contains matter nongermane to H.R. 4613 as passed by the House.

H.R. 4613, as reported by the Committee on Agriculture, and adopted in the House, was a bill 'to authorize appropriations to carry out the Commodity Exchange Act, and to make technical improvements in that act.'

The Senate added a nongermane amendment to H.R. 4613, section 504, entitled "Basis For Computation Of Emergency Compensation Under the 1986 Wheat Program" that amends the Agricultural Act of 1949 relating to the wheat program for cooperating farmers. It is an amendment that would have violated rule XVI, clause 7, had such matter been offered as an amendment in the House. . . .

THE SPEAKER PRO TEMPORE:[9] . . . In the opinion of the Chair, section 202 of the conference report as added in the Senate would not have been germane to the House-passed bill; so the point of order is sustained.

MR. MADIGAN: Mr. Speaker, I move to reject the matter in the conference report originally contained in section 504 of the Senate amendment to H.R. 4613 and now contained in section 202 of the conference report entitled "Basis for Computation of Emergency Compensation Under the 1986 Wheat Program" (H. Rept. 99–995). . . .

THE SPEAKER PRO TEMPORE: The question is on the motion offered by the gentleman from Illinois [Mr. Madigan]. . . .

MR. MADIGAN: Mr. Speaker, I object to the vote on the ground that a

8. Thomas P. O'Neill (Mass.).

9. John J. Moakley (Mass.).

quorum is not present and make the point of order that a quorum is not present.

THE SPEAKER PRO TEMPORE: Evidently a quorum is not present. . . .

The vote was taken by electronic device, and there were—yeas 162, nays 239, not voting 31.

So the motion was rejected.

Parliamentarian's Note: By unanimous consent, the proceedings above by which the House had agreed to Mr. Whitley's motion to reject the nongermane Senate provision included in the conference report, pursuant to clause 4 of Rule XXVIII, by a voice vote, were vacated in order to allow full debate and a recorded vote on the motion to reject. Subsequently, the motion was adopted and the conference report was rejected. .

House Amendment to Senate Joint Resolution Authorizing Conference on Library and Information Services—Senate Amendment Rendering Prohibition Against Sex Discrimination Inapplicable to College Fraternities and Sororities

§ 26.32 To a House amendment in the nature of a substitute for a Senate joint resolution, authorizing the President to call a White House Conference on Library and Information Services, a portion of a Senate amendment contained in the conference report which provided that the prohibition against sex discrimination contained in title IX of the Education Amendments of 1972 shall not apply to college social fraternities and sororities and to certain voluntary youth service organizations was held not germane, thereby permitting a motion under clause 4 of Rule XXVIII to reject that portion of the conference report.

On Dec. 19, 1974,[10] the House had under consideration the conference report on Senate Joint Resolution 40, to authorize and request the President to call a White House Conference on Library and Information Services. The conference report stated in part as follows:[11]

CONFERENCE REPORT (H. REPT. NO. 93–1619)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the joint resolution (S.J. Res. 40) to authorize and request the President to call a White House Con-

10. 120 CONG. REC. 41389, 41392, 93d Cong. 2d Sess.

11. See 120 CONG. REC. 40547–50, 93d Cong. 2d Sess., Dec. 17, 1974.

ference on Library and Information Services in 1976, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the amendment of the House to the text of the joint resolution and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That (a) the President of the United States is authorized to call a White House Conference on Library and Information Services not later than 1978.

(b)(1) The purpose of the White House Conference on Library and Information Services (hereinafter referred to as the "Conference") shall be to develop recommendations for the further improvement of the Nation's libraries and information centers and their use by the public. . . .

Sec. 3. (a) Section 901(a) of the Education Amendments of 1972 is amended by striking out "and" at the end of clause (4) thereof and by striking out the period at the end of clause (5) thereof and inserting in lieu thereof "; and", and by inserting at the end thereof the following new clause:

"(6) This section shall not apply to membership practices—

"(A) of a social fraternity or social sorority which is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or

"(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age". . . .

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the amendments of the House to the joint resolution (S.J. Res. 40) to authorize and request the President to call a White House Conference on Library and Information Services in 1976, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the joint resolution struck out all after the resolving clause and inserted a substitute text. The Senate concurred with the amendment of the House to the text of the joint resolution with an amendment which was a substitute for both the House amendment to the text of the joint resolution and the Senate joint resolution. The House recedes from its disagreement to the amendment of the Senate to the amendment of the House to the text of the joint resolution with an amendment which is a substitute for both the House amendment and the Senate amendment thereto. The differences between the House amendment, the Senate amendment to the House amendment, and the substitute agreed to in conference are noted below except for minor technical and clarifying changes made necessary by reason of the conference agreement. . . .

16. *Amendment to Title IX of the Education Amendments of 1972.* The Senate amendment amends section 901(a) of the Education Amendments

of 1972 (Public Law 92–318, 86 Stat. 373), relating to the prohibition of sex discrimination, to provide that section 901 shall not apply to membership practices of (1) certain social fraternities and social sororities consisting primarily of students in attendance at an institution of higher education; and (2) voluntary youth service organizations, including the YMCA, the YWCA, Girl Scouts, Campfire Girls, and Boy Scouts, the membership of which traditionally has been limited to persons of one sex and to persons 19 years of age or less.

The Senate amendment also provides that this amendment shall be effective on, and retroactive to July 1972.

There is no comparable House provision. The House recedes with an amendment clarifying the exemption from the provisions of title IX of the membership practices of the YMCA's, YWCA's, Girl Scouts, Boy Scouts, and Campfire Girls. The conferees agree that any reference to fraternities, sororities, or organizations exempted under section 501(a) of the Internal Revenue Code of 1954 shall be limited to those fraternities, sororities, or organizations which are socially oriented and do not engage in political activities. Social fraternities which are service oriented shall also qualify under clause 6(A) of section 901(a). For purposes of section 901(a), alumni of fraternities and sororities shall not be deemed to be active members.

A point of order was made against a portion of the conference report, as follows:

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against section 3 of the conference report, that section which amends section 901(a) of the Education Amendments of 1972, on the basis that had this been offered as an amendment during the consideration of Senate Joint Resolution 40 in the House, it would have been a nongermane amendment.

Under clause 4, rule XXVIII a motion can be offered to handle this matter separately. Thus I make a point of order that that section of the conference report is nongermane under the rules of the House. . . .

THE SPEAKER:[12] It is obvious to the Chair that section 3 of the conference report is not germane to the House amendment. The point of order is sustained. Does the gentleman from Wisconsin (Mr. Steiger) have a motion to reject the section?

MR. STEIGER of Wisconsin: I do have a motion to reject, Mr. Speaker.

Mr. Speaker, I offer a motion to strike.

The Clerk read as follows:

Mr. Steiger of Wisconsin moves to strike section 3 of the conference report. . . .

THE SPEAKER: The question is on the motion to strike section 3, offered by the gentleman from Wisconsin (Mr. Steiger).

The question was taken; and on a division (demanded by Mr. Steiger of Wisconsin) there were—yeas 37, nays 102.

So the motion to strike was rejected.

12. Carl Albert (Okla.).

Bill Addressing Official Conduct of Federal Officials—Amendment Authorizing Appointment of Prosecutor To Investigate Public and Private Conduct

§ 26.33 The Speaker sustained a point of order, under Rule XXVIII clause 4, that a Senate provision contained in a conference report, authorizing the appointment of a special prosecutor to investigate and prosecute alleged criminal conduct of certain federal officials, including but not limited to conduct directly related to their official duties, would not have been germane if offered to the House-passed bill, which addressed in various ways only the official conduct of federal officials.

On Oct. 12, 1978,[13] during consideration in the House of S. 555, the Ethics in Government Act of 1978, a point of order was sustained against a provision contained in the conference report. The proceedings were as follows:

> MR. [CHARLES E.] WIGGINS [of California]: Mr. Speaker, I make a point of order against title VI of the conference report. That, for the Speaker's information, is the title dealing with the special prosecutor language in the conference report. . . .
>
> Mr. Speaker, my point of order is based upon rule XXVIII, which is the germaneness section. It is my position, Mr. Speaker, that title VI is a nongermane Senate amendment and it violates that section of the House rules which I have cited. . . .
>
> [T]he language in the special prosecutor amendment added by the Senate is so broad and sweeping that it covers in several respects private individuals, that is to say, new classes of people who are not covered under the sweep of the ethics bill. . . .
>
> The special prosecutor bill, which is tacked onto the ethics bill, is a complicated and important piece of legislation. It was considered in detail by a different subcommittee in the Committee on the Judiciary which did not consider the ethics bill. It is true that the Committee on the Judiciary reported out a special prosecutor bill but it was never brought to the floor of the House and, indeed, has never been debated nor subject to amendment by Members of this House.
>
> It is a far-reaching piece of legislation, it is complicated, different in form, different in purpose, different in all respects from the ethics bill which we did consider several days ago.
>
> I hope that the Speaker, when the Speaker is prepared to rule, will recognize that germaneness, if it is to have any meaning at all, is offended in a fundamental way by allowing the Senate to tack on an issue which is so basically different and unrelated to the ethics bill which we considered earlier. . . .

13. 124 CONG. REC. 36459–61, 95th Cong. 2d Sess.

MR. [JAMES R.] MANN [of South Carolina]: . . . The House amendment to S. 555 is actually the text of H.R. 1 as passed by the House. The text of H.R. 1, as finally approved, was actually the text of an amendment in the nature of a substitute as amended. Thus, the issue, as I understand it, is whether the provisions of title VI of the conference report would have been germane to the amendment in the nature of a substitute which eventually became the text of House bill, H.R. 1, had the provisions of title VI been offered as an amendment to the amendment in the nature of a substitute. I believe that the provisions of title VI would have been germane to the amendment in the nature of a substitute and that the Chair should therefore overrule the point of order. . . .

The basic test for determining germaneness is whether the fundamental purpose of the amendment is germane to the fundamental purpose of the bill. The question here, then, is whether the fundamental purpose of title VI is germane to the fundamental purpose of the amendment in the nature of a substitute. I submit that it is. The purpose of the amendment in the nature of a substitute, which is subtitled the "Ethics in Government Act," is to promote ethical conduct by Federal Government officials and certain other private citizens. The purpose of title VI of the conference report is also to promote ethical conduct.

A second test for germaneness is whether the subject matter of the amendment relates to the subject matter of the bill. The question here is whether the subject matter of title VI of the conference report relates to the subject matter of the amendment in the nature of a substitute. I submit that it does.

The subject matter of the amendment in the nature of a substitute was broad. It encompassed ethical standards and conduct involving officials in all three branches of the Federal Government—legislative, executive, and judicial—as well as certain private citizens.

With regard to Federal Government employees and officials, it required detailed financial disclosure statements to be filed by people in all three branches of Government. It established an Office of Government Ethics with broad authority, including the power to promulgate regulations pertaining to "conflicts of interest and ethics in the executive branch." It amended our Federal criminal law in the area of conflicts of interest. . . .

The gentleman from California concedes that the amendment in the nature of a substitute encompasses private citizens. He argues, however, that those private citizens are connected in some way with the Government.

Mr. Speaker, I submit that the private citizens covered in title VI of the conference report encompass only one narrow group. The President's campaign manager is connected to the Government just as much as the partner of some Government employee who may be violating some law in appearing before some Government agency. He is connected in the same way as the business partner of a Government employee would be connected. . .

THE SPEAKER PRO TEMPORE:[14] . . . In looking at the gentleman's point of

14. Norman Y. Mineta (Calif.).

order in this instance the gentleman from California makes two points, one as title VI relates to new classes of persons not covered by the House-passed bill, and the other in terms of the breadth of the types of conduct subject to investigation by the special prosecutor. . . .

It seems that under what is being considered here, the breadth of the investigation which the special prosecutor may undertake, goes far beyond the scope of the activity regulated by the House-passed bill. In looking at title VI, it authorizes the special prosecutor to investigate any violation of any Federal criminal law other than a violation constituting a petty offense—conduct which may or may not directly relate to the official duties of the persons covered. For that reason . . . the Chair does sustain the point of order.

Bill Authorizing Appropriations for Nuclear Regulatory Commission—Amendments to Organic Law Governing Commission

§ 26.34 To a House bill authorizing appropriations for two years for the Nuclear Regulatory Commission but not directly or indirectly amending the Atomic Energy Act regarding nuclear energy policy, a modification of a Senate amendment contained in a conference report providing a ten-year review and monitoring program to limit foreign uranium imports, thereby proposing an extensive change in policy under the organic law governing that agency's operations, was conceded to be not germane.

On Dec. 2, 1982,[15] during consideration of the conference report on H.R. 2330, the Nuclear Regulatory Commission authorization for 1982 and 1983, a point of order was made, pursuant to Rule XXVIII, clause 4, against a Senate amendment contained in the conference report. The Senate amendment as modified in the conference report stated in part as follows, and the point of order was made by Mr. Bill Frenzel, of Minnesota, as indicated below:

Uranium Supply

Sec. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives. . . .

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

Sec. 170B. Uranium Supply.

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992

15. 128 CONG. REC. 28537, 97th Cong. 2d Sess.

report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section. . . .

"e. (1) During the period 1982 to 1992, if the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, then the Secretary shall immediately revise criteria for services offered under paragraph (A) of section 161 v. to enhance the use of source material of domestic origin for use in utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act within or under the jurisdiction of the United States arising under existing contracts or option contracts. . . .

"f. In order to protect essential security interests of the United States, upon the initiation of an investigation under subsection e. to determine the effects on the national security of imports of source material or special nuclear material pursuant to section 232 of the Trade Expansion Act of 1962, it shall be unlawful to execute a contract or option contract resulting in the import of additional source material or special nuclear material from foreign sources, which is intended to be used in domestic utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act. This prohibition shall remain in effect for a period of two years or until the President has taken action to adjust the importation of source material and special nuclear material so that such imports will not threaten to impair the national security, whichever first occurs.". . .

MR. FRENZEL: Mr. Speaker, I have a point of order against section 23 of the conference report substitute. . . .

I make a point of order that the matter contained in section 23 of the conference substitute recommended in the conference report would not be germane to H.R. 2330 under clause 7 of rule XVI if offered in the House and is, therefore, subject to a point of order under clause 4 of rule XXVIII.

THE SPEAKER PRO TEMPORE:[16] Does the gentleman from Arizona (Mr. Udall) desire to be heard?

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, we concede the substance of the point of order the gentleman is making.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

MR. FRENZEL: Mr. Speaker, pursuant to the provisions of clause 4, rule XXVIII, I move that the House reject section 23 of the conference substitute recommended in the conference report.

16. William H. Natcher (Ky.).

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota (Mr. Frenzel) is recognized for 20 minutes on his motion.

§ 26.35 To a House bill authorizing appropriations for two years for the Nuclear Regulatory Commission but not amending the Atomic Energy Act with respect to nuclear energy policy, provisions in a Senate amendment contained in a conference report amending several sections of that Act making permanent changes in the law relating to limitation on use of special nuclear material, disclosure of Department of Energy information, and deadlines for promulgation of environmental standards by EPA and NRC for uranium mill tailings were conceded to be nongermane under Rule XXVIII, clause 4, permitting a divisible motion to reject those portions of the conference report.

On Dec. 2, 1982,[17] a point of order was made against portions of a conference report pursuant to Rule XXVIII, clause 4, which permits such points of order against nongermane matter contained in conference reports. The conference report stated in part as follows, and the point of order was made by Mr. Samuel S. Stratton, of New York, as indicated below:

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

Sec. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes." . . .

Sec. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section"

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to

17. 128 CONG. REC. 28544, 97th Cong. 2d Sess.

subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator. . . .

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed. . . .

MR. STRATTON: Mr. Speaker, I make a point of order that the matter contained in sections 14, 17, and 18 of the substitute for the Senate amendment in the conference report would not be germane to H.R. 2330 if offered in the House and is, therefore, subject to a point of order under the rules of the House.

I make this point of order, Mr. Speaker, because sections 14, 17, and 18 would be permanent changes in law and this bill is a 2-year authorization bill; also, the three sections contain matters that fall within the jurisdiction of the Armed Services Committee.

THE SPEAKER PRO TEMPORE:[18] The Chair recognizes the gentleman from Arizona (Mr. Udall).

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, I concede the point of order and wish to be heard in the regular order on the motion.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

MR. STRATTON: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Stratton moves that the House reject sections 14, 17, and 18 of the substitute recommended in the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from New York (Mr. Stratton) will be recognized for 20 minutes, and the gentleman from Arizona (Mr. Udall) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. Stratton).

Mr. Stratton, in the ensuing debate, further addressed the issue of germaneness:

> Section 14 of the conference report . . . is nongermane as an amendment to the House bill authorizing appropriations for the Nuclear Regulatory Commission. Section 14 was a Senate amendment that deals with special nuclear material by amending the Atomic Energy Act of 1954, but special nuclear material is material that is used for the purpose of making nuclear weapons and is, therefore, under the jurisdiction of the Committee on Armed Services.

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18. William H. Natcher (Ky.).

The language of section 14, as adopted by the conferees, would therefore have been nongermane had such an amendment been offered in the House.

Section 17, which was a Senate amendment to the House bill, is also nongermane since it would revise permanent law through a 2-year authorization. This section would revise a statute dealing with the release of information concerning security measures by the Secretary of Energy, and other matters that involve the nuclear weapons program of the Department of Energy.

Parliamentarian's Note: The motion to reject the nongermane portions of the conference report was substantively and grammatically divisible, so that a division of the question on any of the three sections could have been demanded by any Member prior to the Chair's putting the question on the motion to reject, in order to avoid a subsequent point of order against one of the sections just to obtain a separate subsequent vote on a motion to reject that one section.

§ 27. —Amendment to Senate Amendment

The reader will note from prior sections in this chapter that when judging the germaneness of an amendment to a proposition under consideration and originating in the House, the amendment must relate to the subject matter and to the pending text under immediate consideration. For example, in sections 2 and 18, supra, it is demonstrated that an amendment must be germane to the pending portion of the bill to which offered, or to the amendment to which offered, as the case may be, whether in the form of a motion to strike out and insert, to strike out, or to insert. Similarly, section 21, supra, indicates that perfecting amendments to amendments in the nature of a substitute or to substitute amendments need only be germane to the inserted language contained in said substitutes, it being irrelevant whether or not the perfecting amendment might be germane to the underlying (perhaps broader) bill which said substitute seeks to strike out and replace. In that contest, the language of the underlying bill proposed to be stricken is not taken into consideration when determining the germaneness of a second degree amendment to a substitute proposing to insert other language. It is only the pending text under immediate consideration against which the germaneness of proposed amendments thereto is judged. This test of germaneness is consistent with Rule XIX governing the permis-

sible degree of amendments in the House (see Chapter 27, Amendments, supra). At this stage, the House has not finally adopted any version of a House-passed bill and is free to reject the pending amendment(s) and proceed to other differently drafted amendments which may present another test of germaneness to the bill as a whole.

With respect to proposed House amendments to Senate amendments to a House-passed bill, however, the language of the underlying House-passed bill may be relevant to the question of the germaneness of a subsequently proposed amendment to a Senate amendment, especially where the Senate amendment has stricken out language in the House-passed bill, since in such a situation the House should not be bound only to language or a modification thereof which is germane to Senate inserted provisions, but should be permitted to insist upon retention of all or a portion of House-passed stricken language without having to insist upon disagreement with the entire Senate-inserted language, in an effort to reach a germane compromise with the Senate. Thus where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken, as well as those to be inserted (if any) by the Senate amendment.[19] On the other hand, it is not sufficient that an amendment to a Senate amendment be germane to the original House bill if it is not germane to the subject matter of a Senate amendment which merely inserts new matter and does not strike out House provisions.[20] In that case, House-passed text may have no direct bearing on the germaneness of a House amendment to the Senate-inserted amendment. Therefore, while it is generally true that a proposed House amendment must always be germane to the particular Senate amendment to which offered,[1] the form of the Senate amendment is relevant in determining whether underlying House-passed text is also language to which the proposed amendment must relate.

The test of the germaneness of an amendment to a motion to concur in a Senate amendment with

19. See §§ 27.9, 27.10, 27.13, 27.22, 27.25 and 27.41, infra.

20. See 5 Hinds' Precedents § 6188 and 8 Cannon's Precedents § 2936.

1. See 5 Hinds' Precedents §§ 6188–91, 8 Cannon's Precedents § 2936 and §§ 27.2 and 27.34, infra.

an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered,[2] since at that stage the amendment is being offered to a proposition initially pending in and not yet adopted by the House, rather than directly to a Senate amendment.

Formerly, a Senate amendment was not subject to the point of order that it was not germane to the House bill,[3] but under recent changes in the rules points of order may be made and separate votes demanded on portions of Senate amendments and conference reports containing language which would not have been germane if offered in the House. Clause 4 of Rule XXVIII permits points of order against language in a conference report which was originally in the Senate bill or amendment and which would not have been germane if offered to the House-passed version, and permits a separate motion to reject such portion of the conference report if found nongermane.[4] For purposes of that rule, the House-passed version, against which Senate provisions are compared, is that finally committed to conference, taking into consideration all amendments adopted by the House, including House amendments to Senate amendments.[5] Clause 5 of Rule XXVIII permits points of order against motions to concur or concur with amendment in nongermane Senate amendments, the stage of disagreement having been reached, and, if such points of order are sustained, permits separate motions to reject such nongermane matter. Clause 5 of Rule XXVIII is not applicable to a provision contained in a motion to recede and concur with an amendment (the stage of disagreement having been reached) which is not contained in any form in the Senate version, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7 of Rule XVI.[6]

When a Senate amendment reported in disagreement by conferees is under consideration, a proposal to amend must, under clause 7 of Rule XVI, be germane to the Senate amendment.[7] A point of order may therefore be sustained against a motion to concur in a Senate amendment with

2. See § 27.6, infra.

3. See 8 Cannon's Precedents § 3425.

4. See § 26, supra.

5. See § 26.3, supra.

6. See §§ 27.4 and 27.12, infra.

7. See § 27.35, infra.

an amendment, on the grounds that the proposed amendment is not germane to the Senate amendment.[8]

Accordingly, where a Senate amendment proposing legislation on a general appropriation bill is reported back in disagreement and a motion to concur in the Senate amendment with an amendment is offered, the proposed amendment is subject to the rule of germaneness.[9]

Senate amendments proposing legislation on appropriation bills may be amended by germane amendments. And while it has been held that a Senate amendment proposing legislation on a general appropriation bill may be subject to an amendment of a similar nature offered in the House, the requirement remains in such circumstances that the House amendment be germane to the Senate amendment.[10]

Where, in the consideration of a Senate bill reported from conference in total disagreement, a motion to concur in Senate amendments to a House amendment to the bill is pending or is rejected, the Senate amendments are open to germane amendments.[11]

An amendment to a Senate amendment is germane if it merely changes the effective date of provisions of law contained in the Senate amendment.[12]

While it is normally not in order under the guise of an amendment

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8. See § 27.34, infra.

9. *Id.*

10. See the proceedings at 116 CONG. REC. 41504, 41505, 91st Cong. 2d Sess., Dec. 15, 1970, in which a Senate amendment proposing legislation on a general appropriation bill (H.R. 17755, Committee on Appropriations, comprising Department of Transportation appropriations for fiscal 1971) was reported back from conference in disagreement, pursuant to provisions of Rule XX clause 2 (*House Rules and Manual* § 829) prohibiting conferees from agreeing to certain Senate amendments. A motion to concur in the amendment with a further amendment was held to be in order, even though such further amendment was also legislative in nature.

See the ruling of Speaker McCormack at p. 41505. For further discussion of the rules with respect to legislation on appropriation bills, see Ch. 26, supra.

11. See the remarks of Speaker McCormack at 113 CONG. REC. 19033, 90th Cong. 1st Sess., July 17, 1967, made in response to the parliamentary inquiry of Mr. Adams. The bill under consideration was S.J. Res. 81, providing for settlement of a railway labor dispute.

12. See the ruling of Speaker pro tempore John J. O'Connor (N.Y.) at 81 Cong. Rec. 976, 75th Cong. 1st Sess., Feb. 8, 1937, quoted in § 27.16, infra.

to a numbered Senate amendment to amend an unamended portion of the House engrossed bill,[13] a motion to delete all funding for a program has been offered as an amendment to a Senate amendment which reduced the funding in the original House bill—thus necessitating either an amendment to the House engrossed bill to strike the entire paragraph or some other drafting technique to eliminate the funding.[14]

Senate Amendment Appropriating Funds for Asbestos Hazards Abatement—House Amendment Earmarking Funds for Refinancing Municipal Bond Debt

§ 27.1 When a motion is offered that the House recede from its disagreement to a Senate amendment and concur therein with an amendment, the proposed amendment must be germane to the Senate amendment; and where a Senate amendment appropriated funds for abatement of asbestos hazards in schools, a proposed House amendment to such amendment which would also have earmarked a portion of those funds for the refinancing of the bond debt of the recycle energy system of a specified city was ruled out as nongermane, being totally unrelated to the issue of asbestos hazard.

On Aug. 10, 1984,[15] during consideration in the House of a motion to recede from disagreement to a Senate amendment and concur with an amendment to the Senate amendment to the bill H.R. 6040,[16] Speaker Pro Tempore Doug Barnard, Jr., of Georgia, ruled that the House amendment was not germane to the Senate amendment. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE: The Clerk will designate the next amendment in disagreement.
>
> The amendment reads as follows:
>
> Senate amendment No. 55: Page 17, after line 23, insert:
>
> ABATEMENT, CONTROL, AND COMPLIANCE
>
> For an additional amount for "Abatement, control, and compli-

13. See § 27.8, infra.

14. See 133 CONG. REC. 18297, 100th Cong. 1st Sess., June 30, 1987 (motion offered by Mr. Whitten during consideration of H.R. 1827, supplemental appropriations for fiscal 1987).

15. 130 CONG. REC. 23988, 23989, 98th Cong. 2d Sess.

16. Supplemental appropriations for fiscal year 1984.

ance", $50,000,000, to remain available until expended: *Provided,* That this amount shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $63,000,000, to remain available until expended. Of this amount, $50,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984 (including up to ten percent for administrative expenses as provided for in said Act): *Provided,* That this sum shall not be available for asbestos removal projects until the Environmental Protection Agency develops comprehensive guidelines to classify and evaluate asbestos hazards and appropriate abatement options. And of this amount, $13,000,000 shall be available to the City of Akron, Ohio, to refinance the bond debt of the recycle energy system of such city: *Provided,* That such sum may not exceed sixty percent of such debt: *Provided further,* That the facilities of such recycle energy system shall be made available to the Federal Government as a laboratory facility for municipal waste to energy research. . . .

MR. [ROBERT L.] LIVINGSTON [of Louisiana]: Mr. Speaker, I make a point of order that the amendment in the motion is not germane to the Senate amendment.

THE SPEAKER PRO TEMPORE: The gentleman will state his point of order.

MR. LIVINGSTON: Mr. Speaker, the Senate amendment provided $5 million for abatement, control, and compliance, to remain available until expended for the purposes of the Asbestos School Hazards Abatement Act of 1984.

The amendment in the motion not only provides funds for the same product as the Senate amendment, but goes far beyond the scope of the Senate amendment by earmarking $13 million for the city of Akron, OH, to refinance the bond debt of the recycle energy system of that city.

A motion to recede and concur in a Senate amendment with an amendment must be germane to the Senate amendment. This amendment introduces a new and wholly unrelated purpose and subject into the Senate amendment. There is no relationship whatever between the subject and purpose of the original Senate amendment, which is asbestos hazards, and the bond debt of the city of Akron for its recycle energy system. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The proposed amendment is not germane to the Senate amendment. Therefore, the Chair sustains the point of order.

Computation of Civil Service Retirement Annuities—House Amendment Regarding Mortgage Bond Taxability

§ 27.2 An amendment to a Senate amendment must be germane thereto; and where a

Senate amendment, reported from conference in disagreement on a joint resolution making continuing appropriations, provided for computation of civil service retirement annuities, an amendment (proposed in a motion to recede and concur with an amendment) which sought to amend provisions of the Omnibus Reconciliation Act relating to mortgage bond taxability under the Internal Revenue Code was held not germane.

On Dec. 13, 1980,[17] during consideration of H.J. Res. 637 (further continuing appropriations, fiscal year 1981), the Chair sustained a point of order against a motion that the House recede from its disagreement to a Senate amendment and concur with an amendment. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[18] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment 129: Page 64, after line 21, insert:

Sec. 196. (a) The annuity of an employee retiring under the civil service retirement system with at least five years but less than twenty years of service as a law enforcement officer or firefighter under the civil service system, or any combination thereof, shall be computed with respect to the service of such employee as such a law enforcement officer or firefighter, or any combination thereof, by multiplying 2½ percent of such employee's average pay by the years of such service.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 129 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

Sec. 196. The table contained in paragraph (1) of subsection (n) of section 1104 of the Omnibus Reconciliation Act of 1980 (Public Law 96–499, approved December 5, 1980) is amended by adding at the end thereof the following new item:

"San Bernardino, California—225,000,000 Financing owner-occupied residences in the overall Shandin Hills Project of the State College Redevelopment Project Number 4.". . .

MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Speaker, I renew my point of order . . . on the grounds that [the amendment] is not germane to the Senate amendment or a House amendment on any provision passed in either House, and therefore amounts to legislation on an appropriation bill.

THE SPEAKER PRO TEMPORE: Does the gentleman from Mississippi desire to be heard on the point of order?

MR. WHITTEN: Mr. Speaker, I cannot argue the point of order. The basis for the committee bringing this to the Congress is that this really fits as an

17. 126 CONG. REC. 34097, 96th Cong. 2d Sess.

18. George E. Brown, Jr. (Calif.).

emergency situation which must be handled. If we wait it will force an 8- or 10-month delay. It was thought that we should bring it to the Members on emergency grounds. I have no defense against the point of order.

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The motion is not germane to the Senate amendment, and the Chair sustains the point of order for that reason.

Special Census in Areas Impacted by Influx of—Legal Aliens—Amendment Prohibiting Counting of Aliens in Determining Reapportionment

§ 27.3 When a Senate amendment reported from conference in disagreement is under consideration, an amendment thereto must be germane to the Senate amendment; thus, to a Senate amendment authorizing the President to order a special census in state or local government areas determined to have been significantly impacted by an influx of legal aliens within 6 months of a regular census, an amendment not only modifying that provision but also prohibiting the counting of all aliens (legal and illegal) in determining reapportionment of the House of Representatives was held to be not germane because broadening the scope of the Senate amendment beyond the issue of a special census in those areas impacted by legal aliens.

During consideration of House Joint Resolution 610 (continuing appropriations for fiscal 1981) in the House on Sept. 30, 1980,[19] the proceedings described above occurred as follows:

THE SPEAKER:[20] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 12, after line 4, insert:

Sec. 121. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. Any such special census of revised estimate shall be conducted solely at Federal expense. Such special census or revised estimate shall be conducted no later than twelve months after the regular census date

19. 126 CONG. REC. 28503, 28504, 96th Cong. 2d Sess.

20. Thomas P. O'Neill (Mass.).

and shall be designated the official census statistics and may be used in the manner provided by applicable law.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Sec. 118. (a) Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code. . . .

(b) Notwithstanding any other provision of law, the number of Representatives in Congress to which each State would be entitled under the twentieth decennial census shall be determined only on the basis of the number of persons in each State who are citizens of the United States.

MR. [ROBERT] GARCIA [OF NEW YORK]: Mr. Speaker, I raise a point of order against the motion to recede and concur in the Senate amendment with an amendment.

Mr. Speaker, the motion to recede and concur is not in order because it does not meet the germaneness test under clause 7 of rule 16 of the rules of the House which provide that, "no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

Under the precedents of the House germaneness is determined by the text of the amendment and the burden of proof must be carried by the proponent of the amendment.

The Senate amendment is limited to situations such as the unprecedented influx of Cuban refugees who were lawfully admitted into the country after the census got underway. Senator Chiles' amendment is limited in scope and addresses a unique problem not heretofore encountered in the census.

The amendment is limited to a specific period of time and to a specific category of people who enter the country lawfully around the time the census is taken.

Specifically, the Senate amendment authorizes the Secretary of Commerce to conduct a special census, within 6 months of the decennial census, in order where there has been an unprecedented influx of legal aliens. The number of legal aliens counted in this special census would then be added to the official census figures and used for all legal purposes. The House amendment on the other hand would fundamentally alter and enlarge the purpose of the Senate amendment, and accordingly, the entire motion to recede and concur with an amendment is not in order.

The House amendment directly impacts on the reapportionment of the House following the decennial census. Specifically, the amendment to the Senate amendment would base the apportionment of seats in the House on the number of citizens counted in the census. It would exclude legal as well as illegal aliens counted in the census and incorporated into the apportion-

ment base. Unlike the Senate amendment which is limited to a specific situation, the amendment to the Senate amendment encompasses legal as well as illegal aliens counted in the census. Moreover, it is not restricted to any time frame so that any alien who enters the country regardless of the circumstances and legality of their entry are subject to exclusion from the census.

Thus, the amendment is not germane because it vitiates the applicability of the Senate amendment for all legal purposes. Mr. Speaker, for the foregoing reasons, I must insist on my point of order. . . .

MR. [JOSEPH M.] MCDADE [of Pennsylvania]: . . . Mr. Speaker, I rise in opposition to the point of order. Under the precedents, when a motion is made to recede and concur in an amendment of the Senate with a further amendment, the only test is whether the proposed amendment is germane to the Senate amendment reported in disagreement.

This amendment is germane to the Senate amendment. Both the Senate amendment, and the amendment in the motion, constitute permanent law, since they both contain the phrase "Notwithstanding any other provision of law."

Both of the amendments deal with the same subject, that is, the census. Both deal with the question of who shall be included in the census.

The amendment is germane, and the point of order should be overruled. . . .

THE SPEAKER: The gentleman from New York makes the point of order that the amendment contained in the motion offered by the gentleman from Mississippi (Mr. Whitten) is not germane to the Senate amendment No. 35. Under the precedents as cited in Deschler's Procedure, chapter 28, section 21, when a Senate amendment reported in disagreement by conferees is under consideration, a proposal to amend must be germane to the Senate amendment.

Senate amendment No. 35 provides that the President may order a special census to be taken if he determines that a State or local unit of government is significantly impacted by a major population change due to a large number of legal aliens within 6 months of a regular decennial census, and that such census in those areas when conducted would be designated as the official census under all applicable law.

The proposed amendment to the Senate amendment, in addition to a slight modification of the Senate language, contains, the additional requirement that representation in Congress to which each State would be entitled under the 20th Decennial Census shall be determined only on the basis of the number of persons in each State who are U.S. citizens. In the opinion of the Chair, the proposed amendment represents a significant broadening of the issue presented by the Senate amendment No. 35, as it addresses not only those areas impacted by legal immigrants within 6 months of a general census, but attempts to legislate on the issue of whether legal and illegal aliens in all areas of the United States should be counted for reapportionment of the House of Representatives. The Chair sustains the point of order.

Point of Order Should Be Based on Rule XVI, Not Rule XXVIII

§ 27.4 Where a motion is made to concur in a Senate amendment with an amendment, and such proposed House amendment contains new matter and is not germane to the Senate amendment, any point of order against the House amendment should be based on Rule XVI, clause 7, rather than on Rule XXVIII, clauses 5(a) and 5(b), which permits points of order against Senate matter (including Senate amendments proposed to be amended by a motion to concur with an amendment); thus, where a point of order is based on the contention that a Senate amendment as proposed to be amended would not have been germane to the House bill, under Rule XXVIII, the Chair may treat the point of order as having been raised under Rule XVI, clause 7.

On June 30, 1987,[1] during consideration of H.R. 1827 (supplemental appropriations for fiscal year 1987), the motion described above was offered to the following amendment in disagreement:

THE SPEAKER PRO TEMPORE:[2] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 5: Page 3, after line 7, insert:

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, none of the funds appropriated for fiscal year 1987 shall be used for the purpose of granting any patent for vertebrate or invertebrate animals, modified, altered, or in any way changed through engineering technology, including genetic engineering.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 5 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Not to exceed $14,100,000 appropriated and available for obligation and expenditure under section 108(a)(1) of Public Law 99–190, as amended, shall remain available for obligation through September 30, 1988: *Provided*, That the Economic

1. 133 CONG. REC. 18294, 18295, 100th Cong. 1st Sess.

2. Dan Glickman (Kan.).

Development Administration shall close out the audits concerning grants to New York, New York pursuant to title I of the Local Public Works Capital Development and Investment Act of 1976, not later than August 1, 1987.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

None of the funds appropriated by this or any prior Act to the Patent and Trademark Office shall be used to purchase the mass storage requirement (PTO–10) portion of the U.S. Patent and Trademark Office Automation Project. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order against amendment No. 5 reported in disagreement of the supplemental appropriation conference report on page 13 of the report, and on page 3 lines 19 through 23 of the printed bill now before us which relates to procurement by the U.S. Patent and Trade Market Office automation project pursuant to rule XXVIII, clause 5(a)(1). This rule relates to nongermane matter in amendments in disagreement.

As I interpret it, the rule states that any matter introduced as a new issue in a conference committee which would have been otherwise ruled out of order if it came before the House, would likewise be made eligible for a point of order as reported in amendments in disagreement from the conference committee should there be a motion from the House to recede from its disagreement with the Senate.

Mr. Speaker, the Senate amendment introduced as new material in the conference committee would delay procurement funds for the Patent Office for the purchase of mass storage requirement equipment. The purchase is part of the overall automation of the U.S. Patent Office and I urge my point of order be sustained.

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota [Mr. Frenzel] is raising a point of order against the motion, is that correct, as being not germane to the Senate amendment under rule XVI, clause 7?

MR. FRENZEL: Yes, Mr. Speaker. . . .

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Iowa [Mr. Smith] concedes the point of order and the point of order is sustained against the motion.

Point of Order, Based on Nongermane Senate Matter, Against Portion of Motion To Recede and Concur With Amendment

§ 27.5 Pursuant to clause 5(b) of Rule XXVIII, a Member may make a point of order against a portion of a motion to recede and concur in a Senate amendment reported from conference in disagreement, with a further amendment, on the ground that that portion of the Senate amendment contained in the motion was not germane to the House-passed measure; and a motion rejecting that portion of the motion to re-

cede and concur with an amendment is in order if the point of order is sustained.

The proceedings of July 31, 1974, relating to the conference report on H.R. 8217, to provide exemptions from tariff duty of certain equipment on United States vessels, are discussed in section 26.30, supra.

Test of Germaneness of Amendment to Motion To Concur in Senate Amendment With Amendment

§ 27.6 The test of the germaneness of an amendment to a motion to concur in a Senate amendment with an amendment is the relationship between the amendment and the motion, and not between the amendment and the Senate amendment to which the motion has been offered.

On Aug. 3, 1973,[3] there was pending a motion to concur in a Senate amendment to a House amendment to a Senate bill with a further amendment. The Speaker indicated in response to a parliamentary inquiry that any amendment offered to the pending motion upon rejection of the previous question thereon must be germane to the amendment contained in the motion. The proceedings were as follows:

> MR. [WILLIAM R.] POAGE [of Texas]: Mr. Speaker, I call up the conference report on the bill (S. 1888) to extend and amend the Agricultural Act of 1970 for the purpose of assuring consumers of plentiful supplies of food and fiber at reasonable prices.
>
> The Clerk read the title of the bill.
>
> THE SPEAKER:[4] The Clerk will read the conference report.
>
> The Clerk read the conference report.
>
> (For conference report and statement, see proceedings of the House of July 31, 1973.)
>
> THE SPEAKER: The Clerk will read the Senate amendment to the House amendment.
>
> The Clerk proceeded to read the Senate amendment to the House amendment.
>
> (For Senate amendment to House amendment, see proceedings of the Senate of July 31, 1973.) . . .
>
> MR. POAGE: Mr. Speaker, I offer a motion.
>
> The Clerk read as follows:
>
> > Mr. Poage moves to concur in the Senate amendment to the House amendment to the bill, S. 1888, with an amendment as follows: On page 48, line 14, in the engrossed Senate amendment, insert the following new subsection (d) to section 815 of paragraph 27:
> >
> > "(d) The Secretary of Agriculture is directed to implement policies under this Act which are designed to encourage American farmers to produce to their full capabilities dur-

3. 119 CONG. REC. 28121, 28122, 93d Cong. 1st Sess.

4. Carl Albert (Okla.).

ing periods of short supply to assure American consumers with an adequate supply of food and fiber at fair and reasonable prices." . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: Mr. Speaker, as I understand the situation now, it is a very delicate parliamentary situation. What we are voting on is a Senate amendment to a House amendment to a Senate bill. That means it has been amended to the first degree, and with the chairman of the Committee on Agriculture adding this innocuous amendment, that is an amendment to the second degree, and no more are allowed.

My question is, On the motion for the previous question, if the question is voted down, should a substitute or an amendment be offered to the motion of the chairman, must it be germane to the innocuous amendment?

THE SPEAKER: The amendment proposed by the gentleman from Texas is now before the House. The amendment contained in the motion of the gentleman from Texas would be subject to a germane amendment if the previous question on this motion were rejected.

Test of Germaneness of Portion of Conference Report Originally Contained in Senate Amendment—Effect of House Amendment to Senate Amendment Prior to Conference

§ 27.7 The test of germaneness under Rule XXVIII, clause 4, of a portion of a conference report originally contained in a Senate amendment is its relationship to the final House version of the bill committed to conference, and not to the original House-passed bill which may have been superseded by a House amendment to the Senate amendment prior to conference; thus, where the House (by unanimous consent) amended a Senate amendment to include matter germane to the Senate amendment although not germane to the original House-passed bill, the Chair stated that a germaneness point of order would not lie against the Senate amendment as so modified in a conference report.

The proceedings of July 28, 1983, relating to the conference report on H.R. 2973 (interest and dividend tax withholding repeal), are discussed in § 26.3, supra.

Amendment to Provisions Not in Disagreement

§ 27.8 During consideration of a Senate amendment in disagreement, a motion to recede and concur in the Senate amendment with an amendment is not in order if its effect is to amend a part of the House-passed bill not in disagreement.

In the 78th Congress, a bill[5] was under consideration making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1944. During consideration of certain Senate amendments reported from conference in disagreement, Mr. Stephen Pace, of Georgia, made a motion that "the House recede and concur in the amendment of the Senate" with an amendment striking out unamended language passed by the House, in addition to language stricken by the Senate, and inserting language in lieu thereof not relevant to the language stricken by the Senate.[6] A point of order was made as follows:

> MR. [MALCOLM C.] TARVER [of Georgia]: Mr. Speaker, I make the point of order against the language of the motion offered by the gentleman from Georgia that it is not relevant to the subject matter. The motion is offered in part in lieu of language which has not been stricken from the bill and in regard to which the two Houses are not in disagreement. . . .

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

> As the matter stands, the gentleman has offered a motion to strike out certain language that the two Houses have agreed to. The Chair sustains the point of order. . . .

Senate Amendment Striking Language in House Bill—Test of Germaneness of House Amendment

§ 27.9 Where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment.

The proceedings of Dec. 12, 1974, relating to H.R. 16901, the agriculture, environment and consumer appropriations bill for fiscal 1975, are discussed in § 27.14, infra.

Reinserting or Amending Provisions Stricken by Senate Amendment

§ 27.10 Where a Senate amendment struck language of a House bill and inserted language in lieu thereof, an amendment offered in the House substantially retaining both the Senate language and the language of the

5. H.R. 2481 (Committee on Appropriations).
6. See motion reported at 89 CONG. REC. 7041, 78th Cong. 1st Sess., July 2, 1943.
7. Sam Rayburn (Tex.).

House bill was held to be germane. The Speaker in making his ruling relied in part on the relationship between the House amendment and the language proposed to be stricken from the House bill by the Senate amendment.

In the 78th Congress, during consideration of a bill[8] comprising Treasury and Post Office appropriations for 1944, the following amendment was reported in disagreement:[9]

> Amendment No. 26: On page 52, line 11, strike out the following:
>
> Sec. 204. No part of the money appropriated in this title shall be expended for the purpose of collecting, sorting, handling, transporting, or delivering free the mail of any officer in any executive department or administrative agency of government.
>
> And insert in lieu thereof the following:
>
> Sec. 204. The Director of the Bureau of the Budget and the Postmaster General are hereby directed to conduct jointly a study of the use of the mails free of postage by the departments and independent establishments of the executive branch of the Government, and shall report to the Congress not later than 60 days after the passage of this act such actions as may be considered in the best interests of the Government toward reduction in the volume and cost of handling such penalty mail.

As part of a motion offered by Mr. Frank B. Keefe, of Wisconsin, an amendment was introduced containing substantially the same provisions as the Senate version of the section under consideration, and adding the following language:

> . . . Provided further, That after January 1, 1944, no part of the money appropriated in this title shall be expended for the purpose of collecting, sorting, handling, transporting, and delivering free the mail of any officer in any executive department or administrative agency of the Government.

The following points of order were raised against the amendment:

> Mr. [Emmet] O'Neal [of Kentucky]: Mr. Speaker, I make the point of order that the amendment is not germane to the paragraph under discussion. It goes beyond the matters considered in the paragraph.
>
> MR. [LOUIS] LUDLOW [of Indiana]: I supplement that with the suggestion, Mr. Speaker, also that it is legislation on an appropriation bill.

Mr. O'Neal further stated:[10]

> . . . The Senate amendment has only to do with a study of penalty mail, unless the Senate amendment includes the matter stricken from the House bill. The Keefe amendment deals with the use of the money after January 1, 1944, and this seems to go beyond the

8. H.R. 1648 (Committee on Appropriations).

9. 89 CONG. REC. 5899, 78th Cong. 1st Sess., June 15, 1943.

10. *Id.* at pp. 5899, 5900.

scope of paragraph 204, the amendment of the Senate, in that among other matters there is a wide degree of prohibition as to all agencies of the Government. . . .

The Speaker[11] overruled the point of order, stating that:[12]

. . . The only difference that the Chair can see between the motion of the gentleman from Wisconsin and what was in the House bill and is now in the bill as it comes from the Senate is fixing the dates January 1, 1944, and June 30, 1944. . . .

Parliamentarian's Note: The Speaker apparently rejected the view implicit in Mr. O'Neal's argument, that the Keefe amendment was required to be germane to the language inserted by the Senate amendment.[13]

11. Sam Rayburn (Tex.).
12. 89 CONG. REC. 5900, 78th Cong. 1st Sess., June 15, 1943.
13. See § 27.14, infra, supporting the view that the test of germaneness under such circumstances is the relationship between the language in the motion and the provision in the House bill proposed to be stricken by, and/or the language inserted by, the Senate amendment. Clearly the language proposed to be stricken is part of the subject under consideration under such circumstances.

Test of Germaneness as Affected by Whether Amendment to Senate Amendment is—Modification' of Senate Amendment or Entirely New Provision

§ 27.11 Clause 5(b) of Rule XXVIII is not applicable to a provision contained in a motion to recede and concur with an amendment which was not contained in any form in the Senate version and which is not therefore a "modification" of the Senate provision, the only requirement in such circumstances being that the motion as a whole be germane to the Senate amendment as a whole under clause 7, Rule XVI.

For discussion of the requirement of germaneness of Senate amendments to House bills and amendments and related procedures under Rule XXVIII clause 5, see § 26, supra.

The proceedings of Oct. 4, 1978, relating to H.R. 7843, the Omnibus Judgeship Bill, are discussed in § 27.12, infra.

Diverse Provisions Affecting Organization and Administration of Federal Courts

§ 27.12 To a Senate amendment to a House bill con-

taining diverse provisions relating to the organization and administration of the federal courts, including appointment of additional district and circuit judges, a split of the fifth circuit into two new circuits, assignments, terms and jurisdictional requirements, an amendment in the nature of a substitute containing comparable provisions, omitting any split of the fifth circuit but permitting courts of appeals of a certain size to establish administrative units, was held germane to the Senate amendment as a whole.

On Oct. 4, 1978,[14] during consideration of the conference report on the Omnibus Judgeship Bill[15] in the House, the Speaker Pro Tempore overruled a point of order against the amendment described above. The proceedings were as follows:

MR. [PETER W.] RODINO [Jr., of New Jersey]: Mr. Speaker, I call up the conference report on the bill (H.R. 7843) to provide for the appointment of additional district and circuit judges, and for other purposes, and ask for its immediate consideration.

THE SPEAKER PRO TEMPORE:[16] The Clerk will read the conference report.

The Clerk read the conference report [in total disagreement].

THE SPEAKER PRO TEMPORE: The Clerk will report the Senate amendment.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That (a) the President shall appoint, by and with the advice and consent of the Senate, two additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California. . . .

Sec. 6. On the effective date of this Act the nine active circuit judges of the fifth circuit whose official station is located in the States of Alabama, Florida, Georgia, and Mississippi are assigned as circuit judges of the fifth judicial circuit as redesignated by this Act; and the six active circuit judges whose official station is located in the States of Louisiana or Texas are assigned as circuit judges of the eleventh judicial circuit as constituted by this Act. The seniority in service of each of the judges so assigned shall run from the date of his original appointment to be a judge of the fifth circuit as it existed prior to the effective date of this Act. . . .

Sec. 10. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"§ 48. Terms of court

"Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule

14. 124 CONG. REC. 33502–06, 95th Cong. 2d Sess.

15. H.R. 7843.

16. Abraham Kazen, Jr. (Tex.).

of court. Each court of appeals may hold special terms at any place within its circuit.

[Fifth circuit sessions to be held in Atlanta, Birmingham, Jackson, Jacksonville, Miami, and Montgomery. . . .]

Sec. 11. Section 46 of title 28, United States Code, is amended to read in part as follows:

"§ 46. Assignment of judges; panels; hearings; quorum

* * * * *

"(c) Cases and controversies shall be heard and determined by a court or panel of not more than three judges, unless a hearing or rehearing before the court en banc is ordered by a majority of the circuit judges of the circuit who are in regular active service. A court en banc shall consist of all circuit judges of the circuit in regular active service.". . .

Sec.15. (a) Section 1337, of title 28 of the United States Code, is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided however,* That the district courts shall have original jurisdiction of an action brought under and by virtue of paragraph (11) of section 20, chapter 1, or section 319, chapter 8 of title 49 of the United States Code, only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs. . . .

MR. RODINO: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Rodino moves that the House recede and concur in the Senate amendment to the bill H.R. 7843 with an amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

That (a) the President shall appoint, by and with the advice and consent of the Senate, three additional district judges for the northern district of Alabama, one additional district judge for the middle district of Alabama, three additional district judges for the district of Arizona, two additional district judges for the eastern district of Arkansas, one additional district judge for the northern district of California, three additional district judges for the eastern district of California. . . .

Sec. 6. Any court of appeals having more than 15 active judges may constitute itself into administrative units complete with such facilities and staff as may be prescribed by the Administrative Office of the United States Courts, and may perform its en banc function by such number of members of its en banc courts as may be prescribed by rule of the court of appeals. . .

Sec. 9. (a) Section 1337 of title 28 of the United States Code is amended to read as follows:

"§ 1337. Commerce and antitrust regulations; amount in controversy, costs

"(a) The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies: *Provided however,* That the district court shall have original jurisdiction of an action brought under section 20(11) of part I of the Interstate

Commerce Act (49 U.S.C. 20 (11)) or section 219 of part II of such Act (49 U.S.C. 319), only if the matter in controversy for each receipt or bill of lading exceeds $10,000, exclusive of interest and costs. . . .

MR. [ROBERT] MCCLORY [of Illinois]: Mr. Speaker, I make the point of order that section 6 of the amendment offered by the gentleman from New Jersey is not a germane modification of the House bill and the Senate amendment thereto. Section 6 is an entirely new subject introduced under color of amendment contrary to clause 7 of rule XVI. Section 6 is not what is commonly known as a nongermane Senate amendment but rather is a nongermane House amendment.

Section 6 treats with the subject of "administrative units." Neither the House bill nor the Senate amendment treat with that subject. The Senate amendment did create a new 11th circuit. But the creation of new administrative units are very different subjects, the former being quite fundamental and the latter being—in the chairman's view—much less so. Moreover, while the Senate amendment dealt with the creation of one new circuit, the pending amendment deals with all circuits.

Finally, section 6 sets new law for en banc courts. The House bill did not. The Senate amendment did not. But the pending amendment says that the number of members of an en banc court may be set by rule of court. Current law—which neither body has sought to change—requires en banc courts comprised of all the judges.

For these reasons, section 6 is not germane. . .

MR. RODINO: Mr. Speaker, I urge, first of all, that the matter in section 6 is wholly appropriate to the subject matter of the bill, which includes matters pertaining to all 11 circuits, and there is no issue of germaneness, therefore. If it is outside of the scope of the conference, that is not relevant. We are in technical disagreement. . . .

MR. MCCLORY: Mr. Speaker, I just point this out, as I did: It is not a question of technical disagreement: it is a question that there was nothing in the Senate bill and nothing in the House bill. The Senate bill did provide for splitting the fifth circuit. I guess that is what they are trying to accomplish here, but what in fact is occurring is that they are trying to develop an administrative procedure which will set up the courts themselves without any law, without any act on the part of this body, to do something.

In a sense, we are delegating a legislative authority to administrative bodies of the courts to enact legislation. So, it is for all circuits throughout the country. It is something that is entirely new. It is new in the Senate, it is new here, and it is entirely nongermane as far as our House rules are concerned in my opinion, Mr. Speaker. . . .

MISS [BARBARA] JORDAN [of Texas]: Just briefly, Mr. Speaker, on the point of order, the question of germaneness is inappropriate to be raised at this time. This bill has as its total subject matter the creation of new district court judges and the creation of circuit judges, so "circuits" is viable, relevant subject matter of this conference.

The fact that this compromise proposal which is reported in the technical disagreement amendment proposed by the gentleman from New Jersey, the

point that we did not talk about administrative units when the bill was before the House, is not applicable to a germaneness question. The question of circuits was a question with us, and we can do anything within the context of that general subject matter of circuits which is desirable to be done.

This particular administrative unit amendment is apropos and germane to the subject matter of circuits. The gentleman from Illinois is arguing the scope of the conference rather than a point of germaneness. Mr. Speaker, on the issue of germaneness, the gentleman from Illinois must be overruled.

MR. MCCLORY: Mr. Speaker, may I just respond to that statement simply in this way: We are not dealing in this bill with the subject of circuits. We are dealing with the subject of additional district court and additional circuit court judges for the Federal courts. The limited effect of the legislation before us was an amendment on that judgeship bill in the Senate with respect to one circuit, not all the circuits; so that this is not legislation dealing with division of the circuits. It is legislation dealing with additional judges.

May I say further that the subject of en banc courts is something upon which this body had better legislate independently. I do not see how we could possibly be delegating to an administrative body authority to decide legislation with respect to what is and what is not an en banc court, in contradistinction to what the law presently is, which is to the effect that all of the circuit judges represent the en banc court.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

The Chair agrees with the gentlewoman from Texas on the essence of her argument. The essential question, since the conferees reported in disagreement, is whether the proposed motion is germane to the Senate amendment. The Senate amendment was much broader than the House version.

The Chair has a little difficulty in really pinpointing the point that the gentleman from Illinois makes. It may be that he intends his point of order to lie against the motion under rule XXVIII, clause 5. Clause 5(b)(2) of rule XXVIII provides that a point of order may be made upon the offering of a motion to recede and concur with an amendment in an amendment of the Senate reported from conference in disagreement, but only if the Senate amendment or a portion thereof as proposed to be amended by such motion contains matter which would not have been germane if offered to the House bill when it was under consideration.

The Chair would note, however, that the nongermane Senate matter to which the gentleman refers, the split of the 5th circuit into a 5th and an 11th circuit, is not proposed to be included even in modified form in the motion offered by the gentleman from New Jersey.

The amendment proposed to the Senate amendment provides, in section 6, for the establishment of administrative units in any court of appeals with more than 15 active judges, but deletes any mention of an adjustment of the fifth circuit.

Section 6 appears to the Chair to be a new proposition, not a modification of the portion of the Senate amend-

ment dealing with the fifth circuit. Therefore, a point of order under clause 5 of rule XXVIII does not apply in this instance.

The only appropriate test is whether the entire amendment proposed by the gentleman from New Jersey in his motion is germane to the Senate amendment as a whole, and it appears to the Chair that it is germane since the Senate amendment dealt with diverse subjects including appointment of additional district and circuit judges, a split of the fifth circuit, assignments and terms of the courts, and jurisdictional requirements.

For all of these reasons, the Chair will very respectfully overrule the point of order.

Parliamentarian's Note: The Chair mentioned the inapplicability of clause 5 of Rule XXVIII, although Mr. McClory did not specifically mention that clause, because the point of order was based on the argument that section 6 of the Rodino motion, taken alone, was not germane to the provision in the Senate amendment for a split of the fifth circuit. As the Chair indicated, that was not the proper test of germaneness where the provision complained of is an entirely new provision in an amendment to a Senate amendment rather than a "modification" of the Senate amendment.

Striking Appropriation for Missile Program—House Amendment Reinserting Funds and Earmarking Other Funds for Unrelated Grants

§ 27.13 To a Senate amendment striking an appropriation for a missile program from a general appropriation bill, a House amendment not only reinserting a portion of those funds but also earmarking other funds in the bill for specific grants unrelated to that missile program and waiving provisions of law otherwise restricting such grants was conceded to be nongermane.

On Nov. 15, 1989,[17] during consideration of the Department of Defense Appropriations for fiscal 1990[18] in the House, it was demonstrated that an individual proposition is not germane to another individual proposition when a point of order was conceded and sustained against the amendment described above:

THE SPEAKER PRO TEMPORE:[19] The Clerk will designate the next amendment in disagreement.

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17. 135 CONG. REC. p. —, 101st Cong. 1st Sess.

18. H.R. 3072.

19. Al Swift (Wash.).

The text of the amendment is as follows:

Senate amendment No. 94: Page 32, line 17, strike out all after "diseases" down to and including "program" in line 20.

MR. [JOHN P.] MURTHA [of Pennsylvania]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Murtha moves that the House recede from its disagreement to the amendment of the Senate numbered 94, and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert ": *Provided further*, That of the amount herein provided for the Strategic Defense Initiative, $52,000,000 shall be available only for the Arrow missile program: *Provided further*, That of funds appropriated in Research, Development, Test and Evaluation, Defense Agencies in fiscal year 1989, $46,000,000 shall be available only for grants as follows:

(1) $15,000,000 for the National Center for Industrial Innovation at Lehigh University . . .

Provided further, That of the total amount appropriated in this appropriations account for fiscal year 1990, $15,200,000 shall be available only for grants, as follows:

(1) $5,200,000 for the proposed Center for Environmental Medicine at the Medical College of Ohio;

(2) $8,000,000 for the proposed Center for commerce and Industrial Expansion at Loyola University of Chicago; and

(3) $2,000,000 for the Pilot Program for Combat Casualty Care Management and Research at the Martin Luther King, Jr. General Hospital-Charles R. Drew University of Medicine and Science . . .

Provided further, That the grants provided for in the preceding provisions shall be made without regard to, and (to the extent necessary) in contravention of, subsection (a) of section 2361 of title 10, United States Code (which is hereby superseded to the extent necessary to make such grants), and shall be made without regard to subsection (b)(2) of such section, and shall be made without regard to the requirements of section 2304 of title 10, United States Code. . . .

MR. [STEVE] BARTLETT [of Texas]: Mr. Speaker, I make a point of order on the amendment.

Mr. Speaker, I make the point of order that the amendment offered by the gentleman from Pennsylvania (Mr. Murtha) violates clause 7 of rule XVI in that it is not germane to the subject matter under consideration, and I would seek to speak to my point of order.

MR. MURTHA: Mr. Speaker, we concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Senate Amendment Striking Prohibition Against Use of Funds To Control Air Pollution by Regulating Parking Facilities—House Amendment To Prohibit Use of Funds for Plans Requiring Review of Indirect Sources of Air Pollution

§ 27.14 A specific proposition may not be amended by a proposition more general in scope; thus, to a Senate amendment striking a provision in a general appropria-

tion bill which precluded the use of funds therein by the Environmental Protection Agency to control air pollution by regulating parking facilities, a motion in the House to recede and concur in the Senate amendment with an amendment which temporarily prohibited the use of such funds to implement any plan requiring the review of any indirect sources of air pollution was held more comprehensive in scope and was held to be not germane.

On Dec. 12, 1974,[20] during consideration in the House of the conference report on H.R. 16901,[1] it was demonstrated that where a Senate amendment proposed to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment was the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment. The proceedings were as follows:

THE SPEAKER:[2] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 8: Page 52, line 20, strike: "Sec. 510. No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax, limit, or otherwise regulate parking facilities."

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 8 and concur therein with an amendment, as follows:

"Sec. 510. No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to implement or enforce any provision of a state implementation plan promulgated or approved pursuant to Section 110 of the Clean Air Act that requires the review of indirect sources, as defined in 40 CFR 52.22(b)(1), pending completion of judicial review, pursuant to Section 307(b) of the Clean Air Act, of the indirect source regulations set forth in 40 CFR 52.22, or any other such regulation relating to indirect sources.". . .

MR. [PAUL G.] ROGERS [of Florida]: Mr. Speaker, I raise a point of order on the ground of nongermaneness.

The House provision provided only for parking, and the Senate struck completely the House provision.

This language is not germane in that it goes far beyond parking. The amendment would cover airports, it would cover highways, it would cover shopping centers, and it would cover sports arenas, regardless of whether any parking facilities are attached or associated.

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20. 120 CONG. REC. 39272, 39273, 93d Cong. 2d Sess.

1. Agriculture, Environment and Consumer Appropriations, fiscal 1975.

2. Carl Albert (Okla.).

There is no question but what this is not germane. It is far beyond what the House had stated, and I think it is not appropriate to be in an appropriation bill at all. Therefore I ask that it be stricken in accordance with the arguments used against the amendment. . . .

MR. WHITTEN: . . . Mr. Speaker, the legislation to which the gentleman from Florida has referred has had the effect of stopping employment in the cities of this country. It has done this because they have to have a permit from the Environmental Protection Agency for parking. It has prevented new buildings in universities, hospitals, shopping centers—and this at a time of great unemployment in the United States.

It was felt when the bill passed in the House that in order to prevent that effect upon our economy and upon the growth of our cities, and in order to protect the inner cities so that efforts could be made to live there, that we, in turn, should keep this one item from being used to effect this legislation.

In the Senate it was felt that since there are lawsuits pending throughout the United States, I think in at least four instances, that this legislation covering parking was the key, that that part which had parking in it should be included in the conference and the conferees felt that in the interest of the Nation that those related matters which are a part and parcel of the provisions to which we were trying to direct our attention, should be accepted, and it was accepted by the conferees.

So, Mr. Speaker, on that basis I respectfully submit that while we touched on only one part of this provision, that the other parts thereby came before the conference, and on that basis we have gone along with delaying this, not to prohibit, but to restrict EPA from causing such delays or work stoppages in this area until such time as the courts determine the issue. And, as I said, the question is now pending before the Federal courts in at least four cases. Of course neither of these provisions, either the House or the conference provision, affects the rights of the cities, towns or of a State from taking such action as they wish. . . .

THE SPEAKER: The Chair is ready to rule.

There is only one issue involved here and that is whether the amendment included in the motion of the gentleman from Mississippi is germane. It obviously is far more comprehensive than the House provision, and is not germane thereto. The Chair, therefore, sustains the point of order.

Rule Against Offering Amendments Which Change Existing Law to Appropriation Bills as Not Applicable to Motion To Dispose of Senate Amendment

§ 27.15 Where a Senate amendment proposing legislation on a general appropriation bill is, pursuant to Rule XX, clause 2, reported back from conference in disagreement, a proposed House amendment to the Senate amendment adding further legislation is in order if germane

thereto, as clause 2(c) of Rule XXI proscribing amendments to general appropriation bills which change existing law has been held not to apply to motions to dispose of Senate amendments; thus, to a Senate amendment providing for prepayment of certain loans by Rural Electrification Administration borrowers serving a specified density of population, a proposed House amendment eliminating the population density criterion to broaden the applicability of the Senate amendment to additional borrowers within the same class was held germane.

During consideration of H.R. 1827 (supplemental appropriations, fiscal 1987) in the House on June 30, 1987,[3] the Chair overruled points of order in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[4] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 223: Page 49, after line 17, insert:

RURAL ELECTRIFICATION ADMINISTRATION

Notwithstanding the amount authorized to be prepaid under section 306A(d)(1) of the Rural Electrification Act of 1936 (7 U.S.C. 936a(d)(1)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) that serves 6 or fewer customers per mile may, at the option of the borrower, prepay such loan (or any loan advance thereunder) during fiscal year 1987 or 1988, in accordance with section 306A of such Act.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 223 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

RURAL ELECTRIFICATION ADMINISTRATION

Hereafter, notwithstanding section 306A(d) of the Rural Electrification Act of 1936 (7 U.S.C. 936(d)), a borrower of a loan made by the Federal Financing Bank and guaranteed under section 306 of such Act (7 U.S.C. 936) may, at the option of the borrower, prepay such loan (or any loan advance thereunder) in accordance with section 306A of such Act. . . .

MR. [RON] PACKARD [of California]: Mr. Speaker, I make a point of order, the following points of order, actually:

No. 1, that subject to rule 21, clause 2, this amendment is legislating on appropriation bills.

3. 133 CONG. REC. 18307, 18308, 100th Cong. 1st Sess.

4. Dan Glickman (Kan.).

No. 2, that this amendment is not germane to the supplemental appropriations bill. . . .

MR. WHITTEN: Mr. Speaker, I rise in opposition to the point of order. This amendment is germane to the amendment of the Senate.

What the amendment does is quite straightforward. It removes the phrase "that serves 6 or fewer customers per mile" from the Senate amendment. This has the direct result of allowing REA's that have population density of up to 12.4 customers per mile to qualify, rather than just 6 customers per mile.

The amendment does not change the class of borrowers that can prepay; it simply enlarges the same class. It does not add some other type of borrower.

The Senate amendment allows Rural Electrification Administration borrowers who serve 6 or fewer customers per mile of line to refinance their REA guaranteed debt with the Federal Financing Bank without being assessed a prepayment penalty.

There are 51 borrowers whose loans bear an interest rate such that they would be worthwhile to refinance at present interest rates.

At present there are 31 borrowers with loans whose density is 6 or fewer per mile.

There are 20 borrowers with loans whose density is greater than 6 customers per mile of line.

The conference agreement would allow all 51 borrowers to refinance their loans rather than only 31 borrowers.

This type of amendment is clearly in order and is germane.

Cannon's procedures states, "A general subject may be amended by specific proposition of the same class." Mr. Speaker, this is exactly what is being done.

In fact, the amendment is even stricter. In effect, what is involved is a proposition being amended by the same proposition in the same class. Clearly, such an amendment expands the scope, but is germane. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

With respect to the issue of whether this motion constitutes legislation on an appropriations bill, the Chair rules that it is not in violation of clause 2 [of Rule XX], since the amendment was brought back in disagreement for a separate vote, not as part of the conference report. . . .

With respect to the germaneness issue that the gentleman raises, the motion is germane to the Senate amendment since relating to the same class of borrowers covered by the Senate amendment and the Senate amendment itself is being brought back in disagreement for a separate vote. Therefore, there is no valid germaneness point of order with respect to the motion disposing of the Senate amendment. . . .

Therefore, the Chair overrules the various points of order.

Amending Senate Amendment Comprising Legislation on Appropriation Bill

§ 27.16 Where a Senate amendment on a general appropriation bill proposes an expenditure not authorized by law, it is in order in the House to

perfect the Senate amendment by germane amendments.

In the 75th Congress, during consideration of a deficiency appropriation bill,[5] a Senate amendment as described above was reported in disagreement.[6] Mr. Clifton A. Woodrum, of Virginia, made a motion to concur in the Senate amendment with an amendment, and Mr. Henry Ellenbogen, of Pennsylvania, made the point of order that the motion constituted "legislation on an appropriation bill."[7] The Speaker pro tempore[8] responded that, "the Senate amendment is legislation, and the amendment to that amendment . . . is not out of order because it contains legislation."

The following exchange then occurred:

> MR. [THOMAS] O'MALLEY [of Wisconsin]: Mr. Speaker, I make the point of order that the amendment of the gentleman from Virginia is not germane, since it limits the Senate amendment by date.
>
> THE SPEAKER PRO TEMPORE: The Chair will state that it deals with the same subject matter, and the mere limitation of the Senate amendment by date does not destroy its germaneness, and the Chair therefore overrules the point of order.

Amendment to Special Order From Committee on Rules

§ 27.17 To a resolution providing that the House disagree to a Senate amendment that directed a joint committee to conduct a study of excess-profits tax legislation and further directed the appropriate committee to report such legislation and agree to a conference, an amendment providing that the House concur in the Senate amendment with an amendment actually enacting excess-profits tax legislation was held to be not germane, as a special order providing for consideration of a certain subject may not be amended by a proposition providing for consideration of another nongermane subject.

On Sept. 14, 1950, the House had under consideration a resolution providing for action on a tax

5. H.R. 3587 (Committee on Appropriations).
6. 81 CONG. REC. 975, 75th Cong. 1st Sess., Feb. 8, 1937. See § 27.10, supra, for discussion of a similar instance in which a Senate amendment comprising legislation on an appropriation bill was sought to be amended.
7. *Id.* at p. 976.
8. John J. O'Connor (N.Y.).

bill.[9] The proceedings were as follows:

MR. [ADOLPH J.] SABATH [of Illinois]: Mr. Speaker, I call up House Resolution 842 and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution the bill (H.R. 8920) to reduce excise taxes, and for other purposes, with Senate amendments thereto, be, and the same is hereby, taken from the Speaker's table; that the Senate amendments be, and they are hereby, disagreed to; that the conference requested by the Senate on the disagreeing votes of the two Houses on the said bill be, and hereby is, agreed to; and that the Speaker shall immediately appoint conferees without intervening motion.

Following rejection of the previous question on the resolution, an amendment in the nature of a substitute was offered which sent all other Senate amendments to conference and which amended, in particular, a Senate amendment relating to a study of excess-profits tax legislation. The Senate amendment stated:[10]

(a) The House Committee on Ways and Means and the Senate Committee on Finance are hereby directed to report to the respective Houses of Congress during the first session of the Eighty-second Congress, and as early as practicable during said session, a bill for raising revenue by the levying, collection, and payment of corporate excess-profits taxes with retroactive effect to October 1, or July 1, 1950, said bill to originate as required by article I, section 7, of the Constitution.

(b) The Joint Committee on Internal Revenue Taxation, or any duly authorized subcommittee thereof, is hereby authorized and directed to make a full and complete study of the problems involved in the taxation of excess profits accruing to corporations as the result of the national defense program in which the United States is now engaged. The joint committee shall report the results of its study to the House Committee on Ways and Means and the Senate Committee on Finance as soon as practicable.

Mr. Herman P. Eberharter, of Pennsylvania, offered the amendment to the resolution:

Amendment offered by Mr. Eberharter: Strike out all after the word "*Resolved*" and insert in lieu thereof the following:

"That immediately upon the adoption of this resolution, the bill H.R. 8920 with Senate amendments thereto be, and the same is hereby, taken from the Speaker's table to the end—

"(1) That all Senate amendments other than amendment No. 191 be, and the same are hereby, disagreed to and the conference requested thereon by the Senate is agreed to; and

"(2) That Senate amendment No. 191 be, and the same is hereby, agreed to with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate insert the following:

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9. See 96 CONG. REC. 14832 et seq., 81st Cong. 2d Sess., Sept. 14, 1950. The bill, to reduce excise taxes and for other purposes, was H.R. 8920 (Committee on Ways and Means).

10. See 96 CONG. REC. 14054, 81st Cong. 2d Sess., Sept. 1, 1950.

"'TITLE VII—EXCESS-PROFITS TAX

"'Sec. 701. Excess-profits tax applied to taxable years ending after June 30, 1950.

"'Notwithstanding section 122(a) of the Revenue Act of 1945, the provisions of subchapter E of chapter 2 of the Internal Revenue Code shall apply to taxable years ending after June 30, 1950.

"'Sec. 702. Computation of tax in case of taxable year beginning before July 1, 1950, and ending after June 30, 1950.

"'Section 710 (a) (relating to imposition of excess-profits tax) is hereby amended by adding at the end thereof the following new paragraph:

"'"(8) Taxable years beginning before July 1, 1950, and ending after June 30, 1950: In the case of a taxable year beginning before July 1, 1950, and ending after June 30, 1950, the tax shall be an amount equal to that portion of a tentative tax, computed without regard to this paragraph, which the number of days in such taxable year after June 30, 1950, bears to the total number of days in such taxable year." . . .

"'Sec. 704. Unused excess-profits credit

"'(a) Definition of unused excess-profits credit: Section 710 (c) (2) (relating to definition of unused excess-profits credit) is hereby amended to read as follows:

"'"(2) Definition of unused excess-profits credit: The term 'unused excess-profits credit' means the excess, if any, of the excess-profits credit for any taxable year ending after June 30, 1950, over the excess profits net income for such taxable year, computed on the basis of the excess-profits credit applicable to such taxable year. The unused excess-profits credit for a taxable year of less than 12 months shall be an amount which is such part of the unused excess-profits credit determined under the preceding sentence as the number of days in the taxable year is of the number of days in the 12 months ending with the close of the taxable year. The unused excess-profits credit for a taxable year beginning before July 1, 1950, and ending after June 30, 1950, shall be an amount which is such part of the unused excess-profits credit determined under the preceding provisions of this paragraph as the number of days in such taxable year after June 30, 1950, is of the total number of days in such taxable year." . . .

A point of order was raised against the amendment, as follows:[11]

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Speaker, I make the point of order against the amendment on the ground that the amendment is neither germane to the resolution sought to be amended, nor to the Senate amendment No. 191. The language of the Senate amendment would direct the Committee on Ways and Means of the House and the Finance Committee of the Senate to conduct a study of excess-profits-tax legislation during the Eighty-second Congress, ostensibly to report back to the House and Senate for passage with a retroactive date of July 1, 1950, or October 1, 1950.

The provision of the bill does not in any way attempt to legislate an excess-profits tax in connection with H.R. 8920. The amendment offered by the gentleman from Pennsylvania proposes an excess-profits tax in connection with H.R. 8920. . . .

In defense of the amendment, the proponent stated as follows:[12]

11. *Id.* at p. 14843.

12. *Id.* at pp. 14843, 14844.

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: In the first place, Mr. Speaker, this amendment seeks to amend the resolution reported out by the Committee on Rules. . . .

Mr. Speaker, the main purpose of this resolution from the Committee on Rules is to waive a rule requiring that matter subject to a point of order in the first place in the House if put in in the Senate shall be considered in the Committee of the Whole House on the State of the Union. The resolution of the Committee on Rules waives that. It is our contention, Mr. Speaker, that this being so the House has a right by its vote on this substitute resolution to waive the rule pertaining to germaneness, which my substitute amendment attempts to do.

The Speaker,[13] in ruling on the point of order, stated:[14]

It is a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject or matter.

It is true that in Senate amendment No. 191 to the bill, which came from the Senate, there is a caption "Title VII," which states "Excess Profits Tax." But in the amendment which the Senate adopted to the House bill there is no excess-profits tax.

The Chair is compelled to hold under a long line of rulings that this matter, not being germane if offered to the Senate amendment it is not germane here. The Chair sustains the point of order.

Special Rule Waiving Points of Order Against Nongermane House Amendments Proposed in Joint Statement of Managers

§ 27.18 Prior to consideration of a conference report, a special order was reported from the Committee on Rules waiving points of order against nongermane House amendments proposed in the joint statement of managers to be offered to certain numbered Senate amendments reported from conference in disagreement.

On July 28, 1983,[15] the House agreed to House Resolution 284, waiving germaneness points of order against certain House amendments to Senate amendments to H.R. 3069 (supplemental appropriations for fiscal 1983):

MR. [JONAS M.] FROST [of Texas]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 284 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

13. Sam Rayburn (Tex.).

14. 96 CONG. REC. 14844, 81st Cong. 2d Sess., Sept. 14, 1950.

15. 129 CONG. REC. 21478–80, 98th Cong. 1st Sess.

H. RES. 284

Resolved, That during the consideration of the amendments reported from conference in disagreement on the bill (H.R. 3069) making supplemental appropriations for the fiscal year ending September 30, 1983, and for other purposes, all points of order under clause 7 of rule XVI are hereby waived against the proposed House amendments printed on the following pages of the joint statement of managers accompanying the conference report, to the following numbered Senate amendments reported from conference in disagreement: on pages 9 through 10, to number 1; on page 11, to number 8; on page 35, to number 83; on page 45, to number 119; on page 48, to numbers 128 through 132; on page 56, to number 164; on page 57, to number 168; and on page 67, to number 231. . . .

MR. FROST: Mr. Speaker, the Committee on Rules has reported House Resolution 284 to provide for the orderly and expeditious disposition of the conference report on the fiscal year 1983 supplemental appropriation and its amendments in disagreement. The rule specifically waives points of order on proposed House amendments to certain amendments in disagreement. The rule waives clause 7 of Rule XVI, the germaneness rule, against 12 specified amendments to the Senate amendments reported from the conference in disagreement.

This unusual procedure is necessary in order that the House might consider these 12 amendments on their merit, for otherwise, it would be possible for any one Member of the House to raise a point of order against consideration of each of these amendments and would thereby preclude the House the opportunity to come to a decision on these amendments. The waivers granted in the rule in no way change the normal procedure under which conference reports of the Appropriations Committee are considered, and as is customary, the conference report will be considered in the House under the hour rule. Once it has been adopted, the manager of the conference agreement, the distinguished chairman of the Committee on Appropriations, Mr. Whitten, will then bring up each of the 105 amendments in disagreement which will be considered and subject to a vote. In the 12 specific instances where waivers have been granted in the special order reported by the Committee on Rules, the waiver will enable each amendment to be called up, debated and voted on without a point of order being raised and sustained. Each of the amendments in disagreement is allowed 1 hour of debate, equally divided and each is subject to a rollcall vote. . . .

Mr. Speaker, I move the previous question on the resolution.

THE SPEAKER PRO TEMPORE [Mr. Dennis E. Eckart, of Ohio]: The question is on ordering the previous question. . . .

The previous question was ordered.

THE SPEAKER PRO TEMPORE: The question is on the resolution.

The question was taken; and on a division (demanded by Mr. Thomas of California) there were—ayes 161, noes 63.

MR. [WILLIAM M.] THOMAS of California: Mr. Speaker, I demand a recorded vote. . . .

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes

138, answered "present" 1, not voting 27. . . .

So the resolution was agreed to.

Senate Prohibition on Use of Funds in Appropriation Bill—House Amendment Adding Nongermane Authorization

§ 27.19 While a point of order against a motion to amend a Senate legislative amendment to a general appropriation bill reported from conference in disagreement will not lie merely because the proposed House amendment adds legislation, the amendment must be germane to the Senate amendment; thus, to a Senate amendment prohibiting use of funds in a general appropriation bill for only one basing mode for the MX Missile, a motion in the House to recede and concur with an amendment adding to that prohibition an authorization of appropriations for research and development of another weapons system (PARCS) was ruled out of order as not germane.

During consideration of H.R. 5359 [16] in the House on Dec. 12, 1979,[17] the Speaker sustained a point of order in the circumstances described above. The amendment in disagreement and the point of order thereto were as follows:

THE SPEAKER:[18] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 29, line 7, insert: None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

MR. [JOSEPH P.] ADDABBO [of New York]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert: . . .

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $5,000,000 only for research and development on the Perimeter Acquisition Radar Attack Characterization System (PARCS). . . .

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Speaker, I make a point of order against the motion offered by the gentleman from New York (Mr. Addab-

16. The Department of Defense Appropriations for fiscal 1980.

17. 125 CONG. REC. 35520, 35521, 96th Cong. 1st Sess.

18. Thomas P. O'Neill (Mass.).

bo) for the reason that this calls for an authorization. The amendment calls for an authorization in an appropriation bill.

. . . Mr. Speaker, the amendment is not germane, and I would point out for the edification of the Chair that the authorization for the PARCS radar was rejected by both the Committee on Armed Services of the House and the permanent Select Committee on Intelligence of the House, which are the authorizing committees for this particular weapons system. . . .

MR. [JACK] EDWARDS of Alabama: Mr. Speaker, I hate to find myself at odds with my subcommittee chairman, but I do not believe that I can concede the point of order.

This is a point of order raised against an amendment brought back in disagreement. It is not a point of order raised to a bill, and my understanding of the rules is that a point of order would not lie to an amendment brought back in disagreement.

THE SPEAKER: The Chair will rule that the germaneness point of order is well taken. It is very obvious that the motion is not germane as it relates to the Senate amendment 56, and the Chair sustains the point of order.

Amendment Affecting Funds in Other Acts

§ 27.20 To a Senate amendment prohibiting the use of funds appropriated for a fiscal year for a specified purpose, a proposed House amendment prohibiting the use of funds appropriated by "this or any prior Act" for a different unrelated purpose is not germane.

The proceedings of June 30, 1987, relating to H.R. 1827, supplemental appropriations for fiscal 1987, are discussed in section 27.4, supra.

§ 27.21 To a Senate amendment reducing the amount and restricting the availability of a certain appropriation in the bill, a House amendment proposing (1) to make a portion of the appropriation available for a specified purpose notwithstanding any other provision of law and (2) to prohibit the use of funds appropriated in the bill or in any other act for another specified purpose was held not germane.

On Sept. 30, 1988,[19] during proceedings relating to H.R. 4781, the defense appropriations bill, a motion was made that the House recede from its disagreement to a Senate amendment, and concur therein with an amendment.

Senate amendment No. 23: Page 9, line 24, strike out "$21,890,400,000" and insert "$21,817,327,000 of which $1,549,883,000 shall not become available for obligation until July 1, 1989, and shall be available only for

19. 134 CONG. REC. 27147, 27148, 100th Cong. 2d Sess.

civilian personnel compensation and benefits".

MR. [WILLIAM V.] CHAPPELL [of Florida]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE:[20] The Clerk will designate the motion.

The text of the motion is as follows:

> Mr. Chappell moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided* That $26,000,000 shall be available only for the operation of the SR–71 Base in the Pacific area and, notwithstanding any other provision of law, these funds shall be available for obligation and expenditure for this purpose: *Provided further,* That none of the funds appropriated in this or any other Act may be obligated or expended for the purpose of disestablishing or reducing the Air Force SR–71 survivable airborne reconnaissance capability for the Far East and Middle East Theatres from the level of such capability available on October 1, 1987". . . .

MR. [DICK] CHENEY [of Wyoming]: Mr. Speaker, with respect to the Senate amendment numbered 23, I make the point of order that the amendment to the Senate amendment offered by the gentleman from Florida is not germane to the Senate amendment as required by clause 7 of House rule XVI. The amendment waives the application of any other law—including the requirements of the Intelligence Authorization Act, Fiscal Year 1989, which was signed by the President on September 29, and section 502 of the National Security Act of 1947, as amended. It also seeks to limit the obligation and expenditure of funds in other appropriations acts. For both those reasons, the amendment is not germane to the Senate amendment. . . .

THE SPEAKER PRO TEMPORE: For the reasons given by the gentleman from Wyoming, the point of order is sustained against the motion.

Parliamentarian's Note: Where an amendment revises an aggregate figure in a bill, an amendment to that amendment addressing other accounts within that aggregate figure may be germane; similarly, the fact that the amendment in the first degree addresses one account within the aggregate figure that it proposes to revise does not affect the germaneness of an amendment in the second degree addressing other accounts within that aggregate figure, because the proposal to revise the aggregate figure potentially opens to germane amendment all accounts within that figure.

Limitation on Particular Use of Funds—Amendment Limiting Other Funds

§ 27.22 To a proposition limiting the use of funds in a bill for a particular purpose, an amendment limiting the use of funds in other Acts

20. G. V. Montgomery (Miss.).

and for a purpose more general in scope is not germane; thus, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking out a House provision prohibiting the use of funds in the bill for a designated Outer Continental Shelf lease sale in California, a House amendment prohibiting the use of funds in the bill or in any other Act for that lease sale and other California lease sales was conceded to be nongermane as more general in scope.

On Oct. 5, 1983,[1] during consideration of the Department of the Interior appropriations for fiscal 1984 (H.R. 3363) in the House, a point of order was conceded and sustained in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[2] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 95: Page 38, strike out all after line 21 over to and including line 15 on page 40.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 113. (a) No funds in this or any other act may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning area described in (1) through (4) below. No funds may be expended for lease or sale of lands within the area described in (1) through (4) so long as adjacent State Tidelands continue to be designated as State Oil and Gas Leasing Sanctuary pursuant to Sec. 6871.1 et seq. of the California Public Resources Code . . .

(1) An area of the Department of the Interior Southern California Planning Area off the coastline of the State of California Oil and Gas Leasing Sanctuary as described by Sec. 6871.1 et seq. of the California Public Resources Code in effect September 29, 1983. . . .

(4) An area within the boundaries of the Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by Department of the Interior, Bureau of Land Management Public Land Order 4587. . . .

(b) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands in OCS Lease Sale #80 which lie within an area located off the coastline of the State of California Oil and Gas Leasing Sanctuary as defined by Sec. 6871.1 et seq. California Public Resources Code in effect September 29, 1983. . . .

(c) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands within the Department of the

1. 129 CONG. REC. 27319, 27320, 98th Cong. 1st Sess.
2. Dale E. Kildee (Mich.).

Interior Southern California Planning area, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Santa Monica Bay, State of California, which lies within a line on the California (Lambert) Plane Coordinate System. . . .

(f) In OCS Lease Sale 80, lease or sale of lands affecting the responsibilities of the Department of Defense shall be with the concurrence of the Secretary of Defense. . . .

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Speaker, I make a point of order against Senate amendment No. 95, the point of order being that under rule XVI, clause 7, the provisions are not germane.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained. .

Amendment Changing Amount of Appropriation

§ 27.23 In amending a Senate amendment which appropriates a specific sum for a given purpose, the House is not confined within the limits of the amount set by the original bill and that set by the Senate amendment; but the amendment to the Senate amendment must be germane.

In the 76th Congress, following disposition of a conference report on an agriculture appropriations bill,[3] the following Senate amendment was reported from conference in disagreement:[4]

Amendment No. 110: On page 93, after line 13, insert:

Loans: For loans in accordance with sections 3, 4, and 5, and the purchase of property in accordance with section 7 of the Rural Electrification Act of May 20, 1936, as amended (7 U.S.C. 901–914), $40,000,000, which sum shall be borrowed from the Reconstruction Finance Corporation. . . .

The following motion was made:

Mr. Cannon of Missouri moves that the House recede from its disagreement to the amendment of the Senate No. 110 and agree to the same with an amendment as follows: In lieu of the sum of $40,000,000 named in said amendment insert "$100,000,000."

A point of order was made as follows:[5]

MR. [JOHN] TABER [of New York]: Mr. Speaker, I make the point of order that this amount exceeds the amount carried in the Senate amendment and is not in order at this time.

Mr. Clarence Cannon, of Missouri, stated:

Mr. Speaker, the only requirement is that it be germane, and this is certainly germane to the Senate amendment to which it is offered. . . .

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3. H.R. 8202 (Committee on Appropriations).

4. 86 CONG. REC. 6184, 76th Cong. 3d Sess., May 15, 1940.

5. *Id.* at p. 6185.

The Speaker[6] ruled as follows:

. . . The Chair cites section 3189, of Cannon's Precedents, volume 8:

In amending a Senate amendment the House is not confined within the limits of amount set by the original bill and the Senate amendment.

The Chair therefore overrules the point of order.

Appropriation for One Year—Change in Permanent Law

§ 27.24 To a Senate amendment pertaining only to an appropriation amount for an agency for one year, an amendment not only changing that figure but also adding language having the effect of permanent law is not germane; thus, to a Senate amendment, reported from conference in disagreement, only striking the fiscal year 1984 appropriation for the Congressional Research Service and inserting in lieu thereof a new figure, an amendment proposed in a motion to recede and concur with an amendment, permanently amending the Legislative Reorganization Act to require the Congressional Research Service to submit budget estimates for inclusion in the United States Budget, was conceded to be not germane and was ruled out on a point of order.

During consideration of the Legislative Branch Appropriations for fiscal 1984[7] in the House on June 29, 1983,[8] Speaker Pro Tempore Abraham Kazen, Jr., of Texas, sustained a point of order in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE: The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment number 17: Page 16, line 15, strike out "$35,543,550" and insert "$37,700,000".

MR. [VIC] FAZIO [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fazio moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$36,620,000 to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), and section 203(g) of such act is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and

6. William B. Bankhead (Ala.).

7. H.R. 3135.

8. 129 CONG. REC. 18129, 18130, 98th Cong. 1st Sess.

approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government.". . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment embodied in the motion offered by the distinguished gentleman from California is not germane to the Senate amendment presently under consideration, and therefore that the gentleman's motion is in violation of clause 7 of rule XVI.

The gentleman's amendment has the effect of amending the Legislative Reorganization Act of 1970, and, for this reason, goes far beyond the scope of the Senate amendment and introduces a completely new subject. The amendment clearly is not germane.

It is equally clear, Mr. Speaker, that the germaneness test is applicable in the present parliamentary circumstances. In chapter 28, the most recent edition of Procedures in the House, it is stated in section 21 that:

> Where a motion is offered to concur in a Senate amendment with an amendment, the proposed amendment must be germane to the Senate amendment. The rule of germaneness also applies to motions to recede and concur in a Senate amendment with an amendment.

Moreover, in the same section:

> When considering a Senate amendment reported in disagreement by conferees, a proposal to amend must be germane to the Senate amendment.

Mr. Speaker, the germaneness test clearly applies and the amendment clearly is not germane. I ask that my point of order be sustained. . . .

MR. FAZIO: . . . I do concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Striking Funds for Fisheries Program—House Amendment Permanently Amending Authorizing Law

§ 27.25 To a Senate amendment to an appropriation bill reported from conference in disagreement, striking funds for a certain fisheries program, a House amendment permanently amending the authorizing law to provide authority for funding for a state ineligible under existing law was conceded not to be germane and was ruled out on a point of order.

An example of the principle that, to a proposition affecting funds for a program for one fiscal year, an amendment permanently amending the authorizing law relating to eligibility for funding in any fiscal year is more general in scope and is not germane, may be found in the proceedings of the House on Oct. 5, 1983,[9] during consideration of the Department of the Interior appropriations for fiscal 1984 (H.R. 3363):

9. 129 CONG. REC. 27313, 27314, 98th Cong. 1st Sess.

THE SPEAKER PRO TEMPORE:[10] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

> Senate amendment No. 16: Page 10, lines 10 and 11, strike out "; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f)".

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "; $4,000,000, to remain available until expended, for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f), of which $500,000 shall be made available to the State of Idaho without regard to the limitation as stated in 16 U.S.C. 757e and without regard to the Federal cost sharing provisions in 16 U.S.C. 757a–757f: *Provided* That 16 U.S.C. 757e is amended by adding the following new sentence: 'The State of Idaho shall be eligible on an equal standing with other states for Federal funding for purposes authorized by sections 757a to 757f of this title.". . .

MR. [JOHN B.] BREAUX [of Louisiana]: . . . My point of order is pursuant to clause 7 of rule XVI, the provisions of which indicate that [the amendment] is not germane.

Mr. Speaker, I make this point of order for two reasons, if the Speaker would want me to be heard at this time.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

Raising Ceiling on Number of District of Columbia Employees for Fiscal Year—Amendment Affecting Permanent Law Regarding Hiring Preferences

§ 27.26 To a Senate amendment raising a ceiling on the number of employees of the District of Columbia government during the fiscal year funded by the bill, a House amendment proposing also to address in permanent law a hiring preference system for such employees was held not germane.

The proceedings of Oct. 11, 1989, relating to H.R. 3026, District of Columbia appropriations for fiscal 1990, are discussed in § 24.5, supra.

Condition Unrelated to That Imposed by Senate Amendment

§ 27.27 To a Senate amendment to a general appropriation bill prohibiting the availability of funds in any Act for salaries and expenses for the Office of the Assistant Secretary of Treasury for Enforcement and Operations

10. Dale E. Kildee (Mich.).

after a date certain unless Congress enacts authorizing legislation for the Customs Service, a proposed House amendment restricting availability of funds in that bill for the same office unless specific categories of products, determined to have been produced by slave or convict labor in the Soviet Union unless the Commissioner of Customs is provided with evidence to the contrary, are barred from customs entry into the United States was conceded to be not germane as a condition totally unrelated to that contained in the Senate amendment.

On Nov. 7, 1985,[11] during consideration of H.R. 3036[12] in the Committee of the Whole, the Chair sustained a point of order against an amendment, thereby holding that to a proposition conditioning the availability of funds upon the enactment of an authorizing statute for an enforcing agency, a substitute proposal conditioning the availability of some of those funds upon a prohibition of certain imports into the United States was not germane, as establishing a contingency unrelated to that contained in the proposition to which offered. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[13] The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 2, line 14, after "Annex" insert ": *Provided further,* That none of the funds contained in this or any other Act shall be available for the salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations, after March 1, 1986, unless United States Customs Service authorizing legislation is passed by the Congress."

MR. [EDWARD R.] ROYBAL [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed said amendment, insert the following: "*Provided*, That none of the funds appropriated by this Act shall be available for the salaries and expenses of the Office of the Assistant Secretary of the Treasury for Enforcement and Operations if any of the following products of the Union of Soviet Socialist Republics are entered, or withdrawn from warehouse, for consumption in the customs territory of the United States after December 31, 1985, unless the Commissioner of Customs is

11. 131 Cong. Rec. 30984, 30985, 99th Cong. 1st Sess.

12. The Department of the Treasury and Postal Service Appropriations, fiscal 1986.

13. John P. Murtha (Pa.).

provided with sufficient information pursuant to 19 CFR 12.43 attesting to the fact that the products have not been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions:

"(1) gold ore,

"(2) agricultural machinery. . . .

"(8) any other product that the Commissioner of Customs determines to have been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions: *Provided further,* That none of the funds appropriated by this Act shall be available to hinder or impede the Commissioner of Customs in making determinations under subsection (8) of the preceding proviso'. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order that the amendment is not germane to the Senate amendment numbered 3 under clause 7 of rule XVI of the rules of the House.

Senate amendment numbered 3 provides that no funds shall be available for salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations after March 1, 1986, unless Congress passes authorizing legislation for the U.S. Customs Service.

The proposed substitute amendment, on the other hand, prohibits funding of that office unless seven specific categories of products and other categories determined by the Commissioner of Customs to be produced by slave or convict labor in the Soviet Union are barred entry into the United States after December 31.

The amendment clearly raises new issues and involves subject matter quite different from the Senate amendment. It also constitutes legislation specifically to prohibit certain imports within the jurisdiction of another committee. . . .

MR. ROYBAL: Mr. Speaker, I rise in opposition to the point of order at this particular point, and I just would like to state that the original Senate amendment provided that none of the funds contained in this or any other act shall be available unless the U.S. Customs Service authorizing legislation is passed by the Congress. . . .

This provision is more restrictive than the amendment in the Senate bill in that, No. 1, it limits the prohibition of funds to those made available by this act only and it does not apply to any other act.

No. 2, the language included in the amendment could appropriately be included in the authorizing legislation designated in the Senate amendment. It, therefore, does not address any additional topic, question, issue, or proposition not committed to committee or conference because the Customs authorizing legislation could contain all of the provisions included in the amendment.

It is the committee's position that the primary purpose of this provision is not to change the scope of existing law. The purpose of this amendment is to compel the U.S. Customs Service to enforce existing laws.

I would like to put the administration on notice that we expect them to start enforcing the law.

Having said that, Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman concedes the point of order,

and the point of order of the gentleman from Minnesota [Mr. Frenzel] is sustained.

Rescinding Agency's Funds for Research on Seat Belts and Passive Restraints—Amendment Imposing Conditions on Availability of All Funds for Agency

§ 27.28 To a proposition rescinding an agency's funds for research and education on the subject of motor vehicle seat belts and passive restraints, an amendment conditioning the availability of all of that agency's funds on certain findings with respect to state compliance with federal standards for mandatory seat belt use was conceded to be not germane, in that it affected regulatory operations and was not confined to research and education funds.

During consideration of H.R. 2577[14] in the House on July 31, 1985,[15] a point of order against a motion to recede and concur with an amendment to the pending proposition was conceded and therefore sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[16] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 262: Page 75, lines 14 and 15, strike out "$7,500,000 or so much thereof as may be available on May 2, 1985" and insert "$2,000,000". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 262 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "no funds shall be obligated until the Secretary has made a complete, definitive and binding ruling on the compliance of each state mandatory safety belt use law that has been enacted as of the date of this act with the minimum criteria set forth in Federal Motor Vehicle Safety Standard 208. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I make a point of order regarding amendment No. 262. The point of order is that that amendment is nongermane to the Senate amendment and so is violative of the rules of the House relative to this point.

MR. WHITTEN: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Mississippi concedes the point of order. The point of order, therefore, is sustained.

14. 131 CONG. REC. 21832–34, 99th Cong. 1st Sess.

15. Supplemental Appropriations, fiscal 1985.

16. Philip R. Sharp (Ind.).

Rescinding Funds for B–1 Bomber—Amendment To Delay Effectiveness of Rescission Pending Ratification of Salt II Treaty

§ 27.29 The amendment proposed in a motion to concur in a Senate amendment with an amendment must be germane to the Senate amendment; thus, to a Senate amendment to a general appropriation bill rescinding funds for continued construction and development of the B–1 bomber program, an amendment proposed in a motion to concur therein with an amendment, to delay the effectiveness of the rescission until after either House of Congress so approves and until after ratification by the Senate of a Salt II treaty, was ruled out as a nongermane unrelated contingency, since the condition involved actions by agencies and authorities not charged with administration of the B–1 bomber program, and the Salt II negotiations involved a broad range of arms control issues not necessarily related to the B–1 bomber program.

During consideration of the conference report on H.R. 9375 (supplemental appropriations for fiscal year 1978), the Speaker sustained a point of order in the circumstances described above. The proceedings in the House on Feb. 22, 1978,[17] were as follows:

> MR. [ROBERT K.] DORNAN [of California]: Mr. Speaker, I offer a preferential motion.
>
> The Clerk read as follows:
>
> > Mr. Dornan moves to concur in the amendment of the Senate numbered 43 with an amendment as follows:
> >
> > "Provisions of the Senate amendment No. 43 to H.R. 9375 shall not take effect unless either House of Congress enacts a resolution to the effect and in any case not before a period of 90 days following ratification of a SALT II treaty by the Senate.". . .
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I make a point of order that this is legislation not germane to the issue before us.
>
> I make the point of order that involved in the SALT talks are a wide variety of issues, like the level of forces, the deployment of forces, the types and number of warheads, and so forth. It does not relate to the B–1 mission. The B–1 here is not a part of the SALT talk agreements. . . .
>
> MR. DORNAN: Mr. Speaker, I believe it is in order. It is a limitation. . . .
>
> MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I do not think the gentleman from Texas has made a proper point of order. The question of

17. 124 CONG. REC. 4072–74, 95th Cong. 2d Sess.

legislation on an appropriation bill is not applicable at this point to an amendment adopted by the other body. The question of introducing new material is not in order, either. The amendment of the gentleman from California simply sets a future time when the effectiveness of the amendment of the other body will take place after ratification of the SALT agreement. It is a contingency and a limitation as to a future time, but I think the amendment is in order. . . .

MR. MAHON: Mr. Speaker, with further reference to the point of order, the matter involved is that the proposed amendment is not germane to the issues involved before the House at this time. It is extraneous. It is not germane. . . .

MR. BAUMAN: Mr. Speaker, the point I was making earlier in support of the amendment being in order is that there are ample precedents in the House to support a limitation as to a future time which is contingent upon action of either House or both Houses of Congress. This amendment simply delays the effect of the amendment of the other body to a time contingent upon the other body's action.

That has been upheld by the Chair on many occasions to be a proper limitation. I would add that the issue of the continuance of the B–1 bomber is certainly directly related to the outcome of the SALT talks and is, in my view, fully germane.

MR. MAHON: Mr. Speaker, I wish to make a further point.

It is true we can have limitations in an amendment, but not on an extraneous and totally different issue. The SALT issue is not related to the B–1 bomber rescission before the House and pending at this time. It is an unrelated matter and not germane. It is not subject to the limitation issue that has been set forth.

MR. DORNAN: Mr. Speaker, it will be noted in my amendment that it is only the action of either body, without concurrence of the other, that would implement this amendment No. 43 to H.R. 9375. That way, one House, either the Senate or the House, can make this decision at a time certain after that particular House or both Houses and the American people are assured that we do have a secure defense replacement for this manned bomber.

THE SPEAKER:[18] The Chair is ready to rule.

The gentleman from Texas (Mr. Mahon) makes a point of order against the motion offered by the gentleman from California (Mr. Dornan) on the grounds that it proposes to concur in the Senate amendment with a nongermane amendment.

Senate amendment No. 43 would rescind the appropriation for the B–1 bomber program. The motion offered by the gentleman from California (Mr. Dornan) would amend the Senate amendment to condition the effectiveness of the rescission on the approval of the SALT II treaty between the United States and the Soviet Union. It is well established that is not in order to amend a proposition to delay the effectiveness of the legislation pending an unrelated contingency, such as actions within the responsibility of other agencies or authorities not specifically involved in the administration of the pending proposition.

18. Thomas P. O'Neill (Mass.).

While it is apparent to the Chair that continued development and construction of the B–1 bomber may as a matter of national policy be related to the progress and conclusion of the SALT II negotiations, it does not appear to the Chair that there is a sufficient nexus between the two issues to permit as germane the requirement that the denial of funding for the bomber program hinge upon the actions of the Departments of State, and their negotiators, for the United States as well as another country, and upon the action of the U.S. Senate in ratifying any agreement which may be reached. The Chair would also note that the issues under consideration in the SALT II negotiations go far beyond the issue of the construction of the B–1 bomber, and that the amendment would therefore condition its construction on the conclusion and approval of deliberations on other and unrelated arms control issues.

The point of order is well taken, and the Chair sustains the point of order.

Allocation of Funds for Defense Construction—Amendment To Restore Facilities Destroyed by Natural Disasters

§ 27.30 To a Senate amendment in disagreement which sought to establish certain priorities in the allocation of funds for construction projects related to defense, an amendment relating to restoration of facilities destroyed by acts of God was held not germane.

The following proceedings in the 78th Congress took place during consideration of the First Defense Appropriations Bill of 1945,[19] and Senate amendments thereto in disagreement:[20]

THE SPEAKER:[1] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment No. 17: Page 13, line 7, insert the following: "*Provided further*, That in making allocations out of the funds appropriated in this paragraph for construction projects priority shall be given to emergency projects involving an estimated cost to the Federal Government of less than $250,000."

MR. [CLARENCE] CANNON of Missouri: Mr. Speaker, I move that the House recede from its disagreement to the amendment of the Senate No. 17 and concur therein.

MR. [FRANCIS H.] CASE [of South Dakota]: Mr. Speaker, I offer a preferential motion to concur with an amendment.

THE SPEAKER: The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Case: On page 13, amendment No. 17, lines 7 to 11, Mr. Case moves to concur in the Senate amendment [No. 17] with an amendment striking out the period, inserting a semicolon and

19. H.R. 5587 (Committee on Appropriations).

20. See the proceedings at 90 CONG. REC. 9611, 9612, 78th Cong. 2d Sess., Dec. 16, 1944.

1. Sam Rayburn (Tex.).

the following language: "*Provided further*, That the funds appropriated in this paragraph shall be available for restoration of community facilities destroyed by hurricane or other public disaster where the ability of the local community to restore or repair the facilities has been impaired by meeting demands created by the war." . . .

MR. CANNON: . . . I make a point of order. . . .

Mr. Speaker, this is entirely new matter. The proposition before us is restricted specifically to situations growing out of the war. Here is a proposition which has no relation to the war; it is extraneous matter and is not in order. . . .

MR. CASE: Mr. Speaker, I would like to observe that the last part of the language which I have offered conditions the action proposed upon the repairing of community facilities where the ability of the community has been impaired by meeting demands created by the war. . . .

THE SPEAKER: The Chair . . . cannot see anything in the amendment . . . except an act of God; therefore the Chair thinks that the amendment is not germane and sustains the point of order. . . .

MR. CASE: Mr. Speaker, is it not true that in ruling upon questions of this sort where they involve securing an agreement between the two bodies of the Congress considerable latitude is allowed for the purpose of reaching an agreement in the interest of comity and that the ordinary rules of germaneness do not apply strictly?

THE SPEAKER: The Chair would differ with the gentleman on that. The Chair does not think that conferees on the part of the House and the Senate could set aside the rule of germaneness.

General Amendment to Specific Proposition: Senate Amendment Providing for Vessel for One State Maritime Academy—Amendment Regarding Vessels for All State Maritime Academies

§ 27.31 To a Senate amendment providing for a training vessel for one state maritime academy, a proposed House amendment relating to training vessels for all state maritime academies was held not germane as more general in scope.

During consideration of H.R. 1827 (supplemental appropriations for fiscal 1987) in the House on June 30, 1987,[2] it was demonstrated that a specific proposition may not be amended by a proposition more general in scope when a point of order against the following motion was conceded and sustained:

The text of the amendment is as follows:

Senate amendment No. 33: Page 8, after line 21, insert:

OPERATIONS AND TRAINING

Funds appropriated under this head in Public Law 98–396 for a

2. 133 CONG. REC. 18297, 100th Cong. 1st Sess.

training vessel for the State University of New York Maritime College shall be available for acquisition, preconversion and conversion costs of such vessel.

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE:[3] The Clerk will designate the motion.

The text of the motion is as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

Funds appropriated under this head in Public Law 98–396 for a training vessel for the State University of New York Maritime College shall be available for acquisition, preconversion and conversion costs of such vessel: *Provided*, That prior to the obligation of such funds and prior to the obligation of unobligated funds appropriated under this head for state maritime academies in Public Law 99–500 and Public Law 99–591, except for obligations necessary to complete current shipyard work and voyages in progress, all state maritime academies furnished a training vessel shall agree to such sharing of training vessels as shall be arranged by the Maritime Administration: *Provided further*, That the Maritime Administration shall submit its final plans for such a ship-sharing arrangement to the state maritime academies by October 1, 1987. . . .

MR. [GERRY E.] STUDDS [of Massachusetts]: Mr. Speaker, I make a point of order against the motion on the ground that the amendment that it purports to add to the Senate amendment is not germane to said amendment. The Senate amendment deals solely with the New York State Maritime Academy. The amendment proposed on the part of the House to the Senate amendment deals with the full range of all the state maritime academies and as such is beyond the scope of the Senate amendment and is not germane thereto. . . .

MR. [NEAL] SMITH of Iowa: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman concedes the point of order.

The point of order is sustained.

Restrictions on Funds for Legal Services Corporation—Amendment Making Other Provisions of Law Applicable to Corporation

§ 27.32 To a Senate amendment to a general appropriation bill subjecting funds for the Legal Services Corporation to a comprehensive series of restrictions on its activities for that fiscal year and reconstituting its board of directors, a proposed amendment also applying to that corporation "with respect to the use of funds in the bill" certain substantive provisions of Federal criminal and civil law not otherwise applicable to it was held not germane.

The proceedings of Oct. 26, 1989, relating to the conference

3. Dan Glickman (Kan.).

report on H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, are discussed in § 34.37, infra.

§ 27.33 To a Senate amendment striking from a general appropriation bill language earmarking the availability of funds therein, a House amendment not only reinserting the appropriation as so earmarked but also authorizing that program was conceded to be not germane.

On Nov. 15, 1989,[4] during consideration of the Department of Defense Appropriations for fiscal 1990[5] in the House, a point of order was conceded and sustained against the amendment described above, demonstrating that an authorization for a program is not germane to an appropriation earmarking for that program. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[6] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 27: Page 10, line 3, strike out all after "law" down to and including "Mission" in line 9.

MR. [JOHN P.] MURTHA [of Pennsylvania]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Murtha moves that the House recede from its disagreement to the amendment of the Senate numbered 27, and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert "*Provided*, That notwithstanding Section 502 of the National Security Act of 1947, Section 136 of the Department of Defense Authorization Act for fiscal years 1990 and 1991 (H.R. 2461) or any other provision of law heretofore or hereafter enacted, neither the SR–71 nor the classified program referred to in Section 136 of the Department of Defense Authorization Act for fiscal years 1990 and 1991 (H.R. 2461) shall be terminated and that both the SR–71 and the classified system are hereby authorized: *Provided further*, That notwithstanding any other provision of law, any appropriations included in this Act for personnel, operation and maintenance, procurement, or research and development for the SR–71, the classified system referred to in Section 136 of the Department of Defense Authorization Act for fiscal years 1990 and 1991 (H.R. 2461) or any other classified airborne reconnaissance system are hereby authorized: *Provided further*, That operation of the SR–71 aircraft shall be transferred to the Air National Guard no later than July 1, 1990: *Provided further*, That of the amount appropriated, $175,000,000 shall be solely for expenses associated with the SR–71 program, of which, $100,000,000 shall be transferred to Operation and Maintenance, Air National Guard: *Provided further*, That $130,000,000 is hereby authorized in addition to any other authorization for airborne reconnaissance programs and that of the amount appropriated, $130,000,000 shall be transferred to Research, De-

4. 135 CONG. REC. p. —, 101st Cong. 1st Sess.
5. H.R. 3072.
6. Ted Weiss (N.Y.).

velopment, Test and Evaluation, Defense Agencies 1990/1991 to be merged with and to be available for the same purposes and for the same time period as the appropriation to which transferred. . . .

MR. [ANTHONY C.] BEILENSON [of California]: Mr. Speaker, I make the point of order that the motion from the gentleman from Pennsylvania [Mr. Murtha] is not in order because it violates clause 7 of rule XVI because it proposes a nongermane amendment to the proposed amendment.

THE SPEAKER PRO TEMPORE: Does the gentleman from Pennsylvania want to be heard on the point of order?

MR. MURTHA: Mr. Speaker, we concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Philippine War Damage Commission—House Amendment to Enlarge Application of Senate Prohibition on Use of Funds

§ 27.34 Where a Senate amendment to a general appropriation bill sought, in part, to prohibit the use of specified funds as compensation of certain services of former employees of the Philippine War Damage Commission performed in connection with payment of Philippine war damage claims, a proposed House amendment thereto enlarging the class of persons ineligible for such compensation was held to be not germane.

On May 14, 1963, during consideration of Senate amendments in disagreement on a general appropriation bill, a Senate amendment was read which related to Philippine war damage claims and which sought to change existing law by designating the Republic of the Philippines as payee in lieu of individual claimants, and by requiring the Republic to give assurances:

> That no part of [the appropriated sums would] be directly or indirectly paid to any former Commissioner or employee of the Philippine War Damage Commission as compensation for services rendered as attorney or agent in connection with any such claim.[7]

A motion to recede and concur was offered with an amendment continuing the existing method of payment to individual claimants through the Foreign Claims Settlement Commission and providing that:

> [N]o part of such appropriation shall be used . . . for payment to any former Commissioner or employee of the Philippine War Damage Commission, or to

7. 109 CONG. REC. 8505, 88th Cong. 1st Sess., May 14, 1963 (proceedings relating to H.R. 5517 [Committee on Appropriations], making supplemental appropriations for fiscal 1963).

any corporation, association, firm or other individual or party whatsoever, as compensation for services rendered as attorney or agent in connection with any such claim. . . .

Provided, That any person subject to the jurisdiction of the United States . . . who accepts . . . any . . . compensation . . . for services in furtherance of a claim . . . shall be fined . . . or imprisoned. . . .[8]

A point of order was made by Mr. Robert R. Barry, of New York, who stated:

Mr. Speaker, in my opinion the amendment is not germane in that it adds language to the Senate amendment setting forth penalties in violation of the criminal code of the United States. . . .

Mr. Albert Thomas, of Texas, in defending the amendment, stated:

[Y]ou are dealing here with a single subject matter. You have not changed the subject matter. You have merely tightened it up by inserting a penal provision, and I think it is germane.

The Speaker,[9] in ruling on the point of order, stated:

The amendment offered brings in an additional class other than provided in the Senate amendment. The language reads "or to any corporation, association, firm or other individual or party whatsoever" and so forth, and provides criminal penalties.

The Chair feels that with respect to the additional class for criminal penalties the point of order is well taken, and the Chair sustains the point of order.

Travel Allowances: Payments From Senate Contingent Fund—House Contingent Fund

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

The following proceedings took place on Mar. 29, 1961:[10]

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 5188) making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes. . . .

THE SPEAKER:[11] The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

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

ADMINISTRATIVE PROVISION

The contingent fund of the Senate is hereafter made available for the

8. *Id.* at p. 8506.
9. John W. McCormack (Mass.).
10. 107 CONG. REC. 5275, 5277, 5278, 87th Cong. 1st Sess.
11. Sam Rayburn (Tex.).

payment of mileage, to be computed at 10 cents per mile [for certain travel undertaken], by employees in each Senator's office in any fiscal year. . . .

MR. THOMAS: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Thomas moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In addition to the matter proposed by said amendment, add, at the end thereof, the following:

HOUSE OF REPRESENTATIVES

CONTINGENT FUND

The contingent fund of the House is hereafter made available for the payment of mileage, to be computed at ten cents per mile [for certain travel by Members] . . . in addition to mileage otherwise provided by law.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, I make a point of order against the amendment on the ground that the amendment is in violation of rule XVI, clause 7, of the rules of the House. The amendment is not germane because it deals with an entirely different class of people. . . .

MR. THOMAS: . . . This deals with travel by Members of the two bodies and is directly affected by the same general subject matter.

THE SPEAKER: 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.

The Chair sustains the point of order.

Availability of Senate Contingent Funds for Art and Historical Items in Capitol—Availability of House Unexpended Balances for Other Purposes

§ 27.36 To a Senate amendment relating to availability of the Senate contingent fund for art and historical items in the Capitol buildings, a proposed House amendment relating also to the availability of House unexpended balances for those or other purposes authorized by law, or required to implement specified House resolutions (such as those relating to "mass franked mailings") was conceded to be not germane.

During consideration of the conference report on H.R. 4404 (12) in the House on May 24, 1990,(13) a point of order against the amendment described above was conceded and sustained, demonstrating that an individual proposition may not be amended by another individual proposition more general in scope.

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12. Dire Emergency Supplemental Appropriations.

13. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

THE SPEAKER PRO TEMPORE:[14] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 171: Page 24, after line 9, insert:
>
> Sec. 317. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or within any room, corridor, or other space therein. . . .

MR. [VIC] FAZIO [of California]: Mr. Speaker, I offer a motion.

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I reserve a point of order on the motion.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Fazio moves that the House recede and concur in the amendment of the Senate numbered 171, with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:
>
> Sec. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate in the case of the Senate and, subject to the approval of the Committee on Appropriations of the House of Representatives, any unexpended and unobligated funds in any appropriation account disbursed by the Clerk of the House in the case of the House of Representatives, which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein in the case of the Senate and for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the House wing of the United States Capitol, any House Office Building, or any room, corridor, or other space therein or for other purposes as authorized by law in the case of the House of Representatives. . . .
>
> (d) The Committee on House Administration and the Committee on Rules, by July 15, 1990, shall use such unexpended funds as necessary to study and report to the House of Representatives the feasibility of implementing the provisions of H. Res. 386 and H. Res. 387. . . .

MR. CONTE: Mr. Speaker, reserving my point of order, I make a parliamentary inquiry. . . .

14. Douglas H. Bosco (Calif.).

Is the motion offered by the gentleman the motion that was presented, that was printed, in the joint statement of the managers?

MR. FAZIO: If the gentleman will yield, no, this has been modified slightly to include some language which would allow for a study and report to the House of Representatives on the feasibility of implementing provisions of House Resolution 386 and House Resolution 387 which are legislation introduced by the gentleman from Minnesota (Mr. Frenzel) and the gentleman from Illinois (Mr. Michel) to consider a new method of handling congressional frank mail. We felt those measures had sufficient validity that we ought to ask the Committee on House Administration as well as the Committee on Rules to review those bills and report back by July 15 on the feasibility of implementing them.

I would urge that the gentleman from Massachusetts (Mr. Conte) not insist on his point of order, because I think this is legislation that modifies and enhances the basic motion that I have made.

THE SPEAKER PRO TEMPORE: Does the gentleman from Massachusetts (Mr. Conte) insist on his point of order?

MR. CONTE: Mr. Speaker, yes, I do. The motion is not protected against points of order under the rule. The motion contains reference to funds of the House of Representatives. The Senate amendment pertains only to matters of the Senate. Further, the motion makes reference to a study by the Committee on House Administration in two House resolutions, none of which are mentioned in the Senate amendment. These items and the motion are clearly nongermane to the Senate amendment, and the motion is, therefore, subject to a point of order.

THE SPEAKER PRO TEMPORE: Does the gentleman from California (Mr. Fazio) wish to be heard on this point of order?

MR. FAZIO: Mr. Speaker, I must regretfully concede the point of order. I do so very regretfully, because I think this was an effort to reach out to the minority and meet them halfway on what is obviously a very contentious issue.

If we are not allowed to do that tonight, I would have to concede.

MR. CONTE: Mr. Speaker, I appreciate the statement of the gentleman from California. I am not objecting to the study under the gentleman's new motion. The House fund is not protected, and I object to the fund, the slush fund, and that is what we want to knock out, and it should be knocked out.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Legislative Amendment on Appropriation Bill: Senate Office Extension—House Amendment Reducing Funding Ceiling for Extension and Containing Related Specifications

§ 27.37 A Senate amendment containing legislation reported from conference in disagreement may be amended by a germane amendment

even though the proposed amendment is also legislative; thus, to a Senate amendment reported from conference in disagreement on the Energy and Water Appropriations bill, appropriating funds for a Senate office building extension, providing a funding ceiling on such extension, and providing for the transfer of personnel and equipment to such extension upon completion, a proposed House amendment making a reduced appropriation for construction of such extension with a reduced funding ceiling, and providing that such extension upon completion meet all personnel needs currently satisfied by the buildings presently used for Senate office space, was held germane.

On Aug. 1, 1979,[15] during consideration of the conference report on H.R. 4388 in the House, the Speaker overruled a point of order in the circumstances described above. The proceedings were as follows:

The Clerk read as follows:

Senate amendment No. 37: Page 32, line 21, insert:

Sec. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate Office Building" $57,480,700, to remain available until expended: *Provided,* That the amount of $142,627,700 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building: *Provided further,* That, it is the will of the Senate that upon completion of the Hart Senate Office Building, the Committee on Rules and Administration shall provide for the expeditious removal of personnel, equipment, and furnishings from the buildings known as the Carroll Arms, the Senate Courts, the Plaza Hotel, and the Capitol Hill Apartments and that said buildings shall remain unoccupied by the Senate until demolished: *Provided further,* That the Architect of the Capitol shall, within six months of the vacating of the buildings known as the Carroll Arms, the Senate Courts, the Plaza Hotel, and the Capitol Hill Apartments, submit to the Senate Committee on Appropriations estimates of the cost of razing and demolishing said buildings together with recommendations for future use, renovation, or demolition of the building known as the Immigration Building.

MR. [TOM] BEVILL [of Alabama]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Bevill moves to recede in the amendment of the Senate No. 37 and concur therein with an amendment as follows in lieu of the matter proposed to be inserted by the Senate insert:

Sec. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate

15. 125 CONG. REC. 22002, 22007, 22008, 22010, 22011, 96th Cong. 1st Sess.

Office Building" $52,583,400 toward finishing such building and to remain available until expended: *Provided*, That the amount of $137,730,400 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building.

It is *further provided*, That such building and office space therein upon completion shall meet all needs for personnel presently supplied by the Carroll Arms, the Senate Courts, the Plaza Hotel, the Capitol Hill Apartments and such building shall be vacated.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a point of order. . . .

Mr. Speaker, this amendment offered at this time would not have been in order had it been offered to the bill as originally before the House. The bill is an appropriation bill and this constitutes legislation on an appropriation bill. . . .

MR. BEVILL: Mr. Speaker, I wish to point out this is merely a change of the report language that is in the appropriation bill and it is germane and it is a part of the bill.

THE SPEAKER PRO TEMPORE:[16] The Chair is prepared to rule. The Chair would like to state that the only requirement of the amendment in the motion offered by the gentleman from Alabama is that it be germane to the Senate amendment. The language is quite clearly germane to the Senate amendment No. 37 and, therefore, the motion is in order and the point of order is overruled.

16. James C. Wright, Jr. (Tex.).

Census of Agriculture by Director of Census—House Amendment To Prohibit Other Agencies From Collecting Agricultural Information

§ 27.38 To a Senate amendment in disagreement providing for a census of agriculture by the Director of Census, a motion to concur in the amendment with an amendment proposing that no other bureau or agency make such census or collect agricultural information, was held not germane.

In the 78th Congress, during consideration of the State, Justice and Commerce Appropriation Bill, 1945,[17] a Senate amendment in disagreement was reported as follows:[18]

The Clerk read as follows: Amendment No. 10: On page 59 of the bill after line 3 insert:

Census of agriculture: For all expenses necessary for preparing for, taking, compiling, and publishing the quinquennial Census of Agriculture of the United States, including the employment by the Director, at rates to be fixed by him, of personnel at the seat of government and elsewhere without regard to the civil-service and classification laws; books of reference, newspapers, and

17. H.R. 4204 (Committee on Appropriations).

18. 90 CONG. REC. 6049, 78th Cong. 2d Sess., June 16, 1944.

periodicals; construction of tabulating machines; purchase, maintenance, repair, and operation of motor-propelled passenger-carrying vehicles; travel expenses, including expenses of attendance at meetings concerned with the collection of statistics, when incurred on the written authority of the Secretary; printing and binding; $7,250,000, to be available until December 31, 1946, and to be consolidated with the appropriation "Census of Agriculture" contained in the First Supplemental National Defense Appropriation Act, 1944.

MR. [JOHN H.] KERR [of North Carolina]: Mr. Speaker, I move that the House recede and concur.

The Clerk read as follows:

Mr. Kerr moves that the House recede from its disagreement to the amendment of the Senate No. 10 and agree to the same.

MR. [ROBERT F.] JONES [of Ohio]: Mr. Speaker, I ask for a division of the question.

THE SPEAKER:[19] The gentleman may have that. The question is divisible.

The question is on the motion that the House recede from its disagreement to the Senate amendment.

The motion was agreed to.

MR. JONES: Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Jones moves that the House recede from its disagreement to the amendment of the Senate No. 10 and agree to the same with an amendment as follows: At the end of the Senate amendment insert "*Provided*, That no other bureau . . . of the Federal Government shall collect agricultural information . . . for a period of 2 years from the date of this act without a specific appropriation. . . ."

Mr. Malcolm C. Tarver, of Georgia, made the point of order that the Jones amendment was not germane to the provisions of the Senate amendment. Mr. Jones stated in reply:[20]

Mr. Speaker, I think the amendment is a limitation upon this provision in the Senate amendment and a limitation upon an appropriation bill. It limits the scope of what it may be used for and limits who may use the information.

The following argument was also made in support of the Jones amendment:

MR. [JOHN] TABER [of New York]: Mr. Speaker, it seems to me that the amendment is clearly germane in that in providing for a census of agriculture it is clearly in order to provide by amendment that no other census of agriculture or the gathering of information of that same type shall be permitted in any other place. . . .

The Speaker, in ruling on the point of order, stated:

The Senate amendment provides for a specific amount of money for a specific purpose. The motion offered by the gentleman from Ohio (Mr. Jones) is clearly not a limitation on the expenditure of money or on the action of the Department in taking a census; therefore, the Chair sustains the point of

19. Sam Rayburn (Tex.).

20. 90 CONG. REC. 6050, 78th Cong. 2d Sess.

order in that the motion is not germane.

Feasibility Study of Land Transfer in State—House Amendment Waiving Law Affecting Environmental Liabilities in Another State

§ 27.39 To a Senate amendment proposing a feasibility study of a certain land transfer in one State, a House amendment waiving existing law concerning certain environmental liabilities in another State was conceded to be nongermane

During consideration of the Department of Defense Appropriations for fiscal 1990[1] in the House on Nov. 15, 1989,[2] a point of order was conceded and sustained against an amendment as follows:

THE SPEAKER PRO TEMPORE:[3] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 243: Page 79, after line 4, insert:

Sec. 9114. Feasibility Study of Land Transfer for Use as a Correctional Facility.—(a)(1) The Secretary of Defense, in consultation with the United States Attorney General, shall conduct a study of the feasibility of selling or otherwise transferring to the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, a parcel of land approximately 100 acres not more than 100 miles from the southern boundary of Arlington County, from the military installations within Virginia which encompass land that may be suitable for use by the Commonwealth of Virginia, subdivisions thereof, or any combination of subdivisions thereof, as a site for medium security correctional facility for persons sentenced in the courts of Virginia or in the United States District Court in Virginia. . . .

MR. [JOHN P.] MURTHA [of Pennsylvania]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Murtha moves that the House recede from its disagreement to the amendment of the Senate numbered 243, and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

Sec. 9121. Notwithstanding the provisions of sections 1301 and 1341 of title 31 of the United States Code, or section 3732 of the Revised Statutes, or Section 119 of the Super Fund Amendments and Reauthorization Act of 1986, the Secretary of the Army may have the authority to hold harmless and indemnify the Coolbaugh Township and/or its duly created and authorized authority or authorities or other properly designated body or bodies, located in Monroe County, Pennsylvania (hereinafter "Township") for certain liabilities to third persons not compensated by insurance or otherwise for loss of or damage to property, death, or bodily injury, including the expenses of litigation or settlement arising out of the Township's performance of remedial activities for

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1. H.R. 3072.

2. 135 CONG. REC. p.—, 101st Cong. 1st Sess.

3 Al Swift (Wash.).

the Army: *Provided,* That—(1) such liabilities were caused solely by hazardous substances, as that term is defined at section 9601(14) of title 42 of the United States Code, that were released by the Army, or its authorized agents and employees. . . .

MR. [RICHARD] RAY [of Georgia]: Mr. Speaker, I make a point of order against the manager's motion, pursuant to clause 7 of rule 16. That clause requires that in the consideration of Senate amendments to a House bill, an amendment must be germane to the particular amendment to which it is offered.

In this case, Mr. Speaker, the proposed House amendment to Senate amendment 243 is not germane because it relates to a different subject than the Senate amendment and indirectly amends existing law by waiving the application of certain statutes to the authority of the Secretary of the Army in a particular case. On these bases, Mr. Speaker, the House amendment is not germane.

THE SPEAKER PRO TEMPORE: Does the gentleman from Pennsylvania wish to be heard on the point of order?

MR. MURTHA: Mr. Speaker, we concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Senate Amendment Restricting Transfer of Jurisdiction Over Arizona Lands—House Amendment Restricting Creation of Historic Sites

§ 27.40 To a Senate amendment reported in disagreement, which provided that jurisdiction over Arizona lands should not be transferred to the Secretary of Interior except by act of Congress, an amendment providing that no national monument or historic site be created except by act of Congress was held not germane.

On June 19, 1941, in proceedings relating to an Interior Department appropriation bill,[4] several Senate amendments to the bill were reported in disagreement. Mr. Jed Johnson, of Oklahoma, offered an amendment to one such Senate amendment, as described above. A point of order was then raised, as follows:[5]

MR. [JAMES M.] FITZPATRICK [of New York]: Mr. Speaker, I make a point of order against the amendment; first, it is not germane to Senate amendment No. 152 . . . .

Mr. Johnson having conceded the point of order, the Speaker[6] sustained the point of order.

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4. H.R. 4590 (Committee on Appropriations).

5. 87 CONG. REC. 5374, 77th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

Senate Amendment Striking Language Prohibiting Payments to Named Individuals—House Amendment To Prohibit Payment From Government Funds to Class of Persons

§ 27.41 To a Senate amendment which struck from an appropriation bill language prohibiting the payment of compensation to three named individuals, an amendment providing that it shall be unlawful to pay, from government funds, individuals who have engaged in subversive activities, was held not germane.

On June 8, 1943, the House was considering Senate amendments to an appropriation bill.[7] During consideration of one such amendment, Mr. Sam Hobbs, of Alabama, moved that the House recede and concur in the amendment, with an amendment as described above.[8] Responding to a point of order made by Mr. Clarence Cannon, of Missouri, Mr. Hobbs stated:

> [The amendment] is germane because it deals with the same identical subject matter which is covered by the Kerr amendment.[9] The Kerr amendment deals, it is true, with only three named persons, but this sets up the same standard, only more rigorous, which was sought to be set up in the Kerr amendment. . . .
>
> . . . The Kerr amendment differs from this substitute, insofar as germaneness is concerned, only in this: It named three men as the objects of its legislative wrath, whereas my substitute sets up a standard by which the eligibility of all in an indicated class must be judged. . . .

The Speaker,[10] in ruling on the point of order, stated:

> The provision of the Senate amendment that the gentleman seeks to amend by his motion very definitely applies to three individuals and no more. The motion of the gentleman from Alabama would cover numberless people if numberless people came under the provisions of his motion. The language of the bill is specific. The language of the motion of the gentleman from Alabama is general. The Chair must, therefore, hold that the motion is not germane, and sustain the point of order.

§ 28. Requirement That Amendments to Motions To Instruct Conferees Be Germane

The rule that amendments must be germane applies to the instruc-

7. H.R. 2714, Urgent Deficiency Appropriations, 1943 (Committee on Appropriations).

8. See the motion reported at 89 CONG. REC. 5511, 78th Cong. 1st Sess.

9. The Kerr amendment was that stricken by the Senate amendment.

10. Sam Rayburn (Tex.).

tions in a motion to instruct conferees,[11] and the test of an amendment to a motion to instruct conferees is the relationship of the amendment to the subject matter of the House or Senate version of the bill[12] and not necessarily to the original motion to instruct.

Amendments to Motion Where Previous Question Not Ordered

§ 28.1 One motion only is in order to instruct conferees prior to the Speaker's appointment of conferees, but is subject to an amendment to the motion, an amendment to the amendment, a substitute for the original amendment, and an amendment to the substitute, if such amendments are germane and the previous question is not ordered.[13]

Test of Germaneness

§ 28.2 An amendment to a motion to instruct conferees must be germane to the subject matter of either the House or Senate bill and not necessarily to the original motion to instruct.

On Oct. 31, 1939,[14] the following parliamentary inquiry and response thereto were made:

> MR. [JOSEPH W.] MARTIN [JR. of Massachusetts]: Mr. Speaker, a parliamentary inquiry. . . .
>
> For the information of the House, is it correct that an amendment to the motion to instruct conferees offered by the gentleman from Connecticut is in order at any time until the previous question is ordered?
>
> THE SPEAKER:[15] If a Member gets recognition to offer an amendment and it is germane to the subject matter of either the House or Senate bill.
>
> The Chair thinks it important in construing the rules, for the information of all Members of the House, to state that it must always be remembered that an amendment must be germane to the subject matter under consideration. In this instance it means the amendment must be germane to some provision in the Senate amendment to the House joint resolution or in the House joint resolution itself.
>
> The Chair may state, in order fully to clarify this matter so there may be no misunderstanding or confusion about the rights of Members—and there is no legitimate ground for confusion on this question—that now that a

11. See 8 Cannon's Precedents §§ 3230, 3235.
12. See 28.2, infra.
13. See § 28.2, infra.
14. 85 CONG. REC. 1105, 76th Cong. 2d Sess. (special session). Under consideration was H.J. Res. 306 (Committee on Foreign Affairs), the Neutrality Act.
15. William B. Bankhead (Ala.).

motion has been offered by the gentleman from Connecticut to instruct the conferees, an amendment to that motion will be in order if germane, and to that amendment an amendment may be offered if germane. To the original amendment to the motion a substitute may be offered and an amendment to the substitute may be offered . . . and all five of those propositions may be pending at the same time.

D. AMENDMENTS IMPOSING QUALIFICATIONS OR RESTRICTIONS

Restrictions, qualifications, and limitations sought to be added by way of amendment must be germane to the provisions of the bill.

Thus, to a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane;[16] and an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill.[17]

But it is not in order to amend a bill to delay the effectiveness of the legislation pending an unrelated contingency,[18] such as the enactment of state legislation.[19] Thus an amendment delaying the bill's effectiveness or availability of authorizations pending unrelated determinations involving agencies and committee jurisdictions not within the purview of the bill is not germane.[20]

An amendment conditioning the availability of funds to certain recipients based upon their compliance with Federal law not otherwise applicable to them and within the jurisdiction of other House committees may be ruled out as not germane.[1]) An amendment delaying the availability of an appropriation pending the enactment of certain revenue legislation into law is an unrelated contingency and is not germane.[2] However, an amendment to an authorization bill which conditions the expenditure of funds covered

16. See § 30.30, infra.

17. See 8 Cannon's Precedents § 3029 and § 31.18, infra.

18. See 8 Cannon's Precedents §§ 3035, 3037 and § 30, infra.

19. See § 31.5, infra.

20. See §§ 31.26 and 31.27, infra.

1. See § 30.23, infra.

2. See § 31.8, infra.

by the bill by restricting their availability during months in which there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress,[3] and an amendment proposing a conditional restriction on the availability of funds to carry out an activity, which merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the funding of that governmental activity, may be germane as a related contingency.[4] Likewise, an amendment which conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts or a level in a congressional budget resolution is germane as long as the amendment does not directly affect the use of other funds.[5] Generally, where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.[6]

While it may be in order on a general appropriation bill to delay the availability of certain funds therein if the contingency does not impose new duties on executive officials, the contingency must be related to the funds being withheld and cannot affect other funds in the bill not related to that factual situation.

Where a proposition confers broad discretionary power on an executive official, an amendment is germane which directs that official to take certain actions in the exercise of the authority.

Where a provision delegates certain authority, an amendment proposing to limit such authority is germane.[7] To a proposition authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane as a more limited approach involving the same agency.[8]

An amendment seeking to restrict the use of funds must be limited to the subject matter and

3. See § 34.1, infra.

4. See §§ 31.15 and 31.16, infra.

5. See §§ 34.2 and 34.3, infra.

6. See § 31.16, infra.

7. See 8 Cannon's Precedents § 3022.

8. See § 30.37, supra.

scope of the provisions sought to be amended. To a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of funds to a subcategory of the same recipients is germane,[9] and to a bill authorizing appropriations for an agency, an amendment to prohibit the use of such funds for any purpose to which the funds may otherwise be applied is germane.[10] To a provision authorizing funds for a fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto for a specified purpose until enactment of a subsequent law authorizing that purpose is germane.[11] To an amendment precluding the availability of an authorization for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative.[12] A legislative amendment to an appropriation bill must not only retrench expenditures under Rule XXI, clause 2, but must also be germane to the provisions to which offered. A limitation must apply solely to the money of the appropriation under consideration,[13] and may not be made applicable to a trust fund provided[14] or to money appropriated in other acts.[15]

§ 29. In General; Amendments Providing for Exceptions or Exemptions

Allocation of Funds for Pest Control

§ 29.1 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment was held to be germane which provided that no appropriation in the act be used for the application of chemical pesticides, where state law would prohibit such act by citizens or agencies of local government.

9. See § 34.4, infra.
10. See § 34.31, infra.
11. See § 31.6, infra.
12. See § 34.8, infra.
13. 7 Cannon's Precedents §§ 1596, 1600.
14. See 4 Hinds' Precedents § 4017.
15. See 4 Hinds' Precedents § 3927 and 7 Cannon's Precedents §§ 1495, 1597–1599.

In the 91st Congress, a bill[16] was under consideration comprising Department of Agriculture appropriations for fiscal 1970. The bill included an allocation of funds for plant and animal disease and pest control.[17] The following amendment was offered by Mr. Richard L. Ottinger, of New York:[18]

> Amendment offered by Mr. Ottinger: On page 5, line 5, change the semicolon to a colon and add the following: "*Provided*, That no appropriation contained in this act shall be used for the purchase or application of chemical pesticides, except for small quantities for testing purposes, within or substantially affecting States in circumstances in which the purchase or application of such pesticides would be prohibited by State law or regulation, for any citizen or instrumentality of State or local government."

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

> MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Chairman, upon reading the amendment, I notice it goes further than I thought it did. In the first place, I do not know of any provision in this bill for the purchase of chemical pesticides.
>
> May I say further, Mr. Chairman, that the amendment before us goes to the State law, exempting or including pesticides based on those States which have passed State laws.
>
> The Chairman,[19] in ruling on the point of order, stated:
>
> It is a well-established rule that an amendment to an appropriation bill is germane wherein it denies the use of funds for a specific purpose.
>
> The amendment offered by the gentleman from New York [Mr. Ottinger] appears to fall within that rule. It is a limitation upon the use of funds appropriated in the bill. It is a denial of the use of those funds for a specific purpose. Therefore, the Chair overrules the point of order.

Use of Mexican Farm Labor

§ 29.2 To a proposition that the use of Mexican farm labor during 1964 be limited to those farms that had employed such labor during 1963, an amendment adding a proviso that none of the workers "may be used to produce crops that are in surplus supply" was held to be germane.

In the 88th Congress, during proceedings relating to a bill[20] extending the Mexican farm labor program, the following amendment in the nature of a substitute was under consideration:[1]

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16. H.R. 11612 (Committee on Appropriations).

17. See 115 CONG. REC. 13752, 13753, 91st Cong. 1st Sess., May 26, 1969.

18. *Id.* at p. 13753.

19. James C. Wright, Jr. (Tex.).

20. H.R. 8195 (Committee on Agriculture).

1. See 109 CONG. REC. 20721, 88th Cong. 1st Sess., Oct. 31, 1963.

Amendment offered by Mr. [James] Roosevelt [of California]:

Strike out all after the enacting clause and insert in lieu thereof the following: That section 510 of the Agricultural Act of 1949 is amended to read as follows:

Sec. 510. No worker will be made available under this title for employment after December 31, 1963, except that during the calendar year 1964, workers may be made available under this title for employment on farms where such workers were employed during the preceding year, but only if and to the extent that the Secretary determines that every reasonable effort has been made to obtain suitable domestic labor and that such labor is unavailable for such employment.

To such amendment, an amendment was offered[2] as described above. Mr. Harold D. Cooley, of North Carolina, raised the point of order that the amendment was not germane. The Chairman[3] ruled, without elaboration, that the amendment was germane.[4]

Benefits for Disabled Longshoremen—Bill Inapplicable in District of Columbia

§ 29.3 To a bill providing for increased benefits for disabled longshoremen and harbor workers, an amendment making provisions of the bill inapplicable, with certain exceptions, in the District of Columbia was held to be germane.

In the 84th Congress, during consideration of a bill[5] to amend the Longshoremen's and Harbor Workers' Compensation Act, the following amendment was offered:[6]

Amendment offered by Mr. [Howard W.] Smith of Virginia: On page 6, after line 16, add the following new section as follows:

Sec. 10. The amendments made by the first section and sections 2, 4, and 5 of this act shall not be applicable with respect to injuries or death of an employee of an employer carrying on any employment in the District of Columbia, other than disability or death resulting from an injury occurring upon the navigable waters of the United States (including any dry dock), notwithstanding the provisions of the act of May 17, 1928, as amended (45 Stat. 600, ch. 612, secs. 1 and 2).

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

MR. [CLEVELAND M.] BAILEY [of West Virginia]: Mr. Chairman, I desire to make a point of order, that the amendment proposed by the gentleman from Virginia [Mr. Smith] is not germane to this bill. . . .

. . . The original bill in 1927 came out of the Committee on Labor. It

2. *Id.* at p. 20723.
3. William H. Natcher (Ky.).
4. 109 CONG. REC. 20723, 20724, 88th Cong. 1st Sess., Oct. 31, 1963.
5. H.R. 10765 (Committee on Education and Labor).
6. 102 CONG. REC. 12707, 84th Cong. 2d Sess., July 13, 1956.

makes no mention of the District of Columbia. In 1928, the Congress by a separate bill out of the Committee on the District of Columbia, not out of the Committee on Labor, covered the employees of the District of Columbia under the terms of the Longshoremen's Act. Congress did not amend the Longshoremen's Act, they just passed a separate piece of legislation.

. . . [N]owhere in the Longshoremen's Act in the initial bill or in any amendment to it, do they mention the District of Columbia. . . .

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

. . . The Chair . . . invites attention to this paragraph on page 2 of the committee report accompanying the pending bill, where it states:

It covers, with few exceptions, (1) all privately employed workers in the District of Columbia—

And so on. The report itself shows clearly that the pending bill covers the workers of the District of Columbia, and the amendment . . . seeks to narrow or restrict the application of the pending bill.

The Chair is of the opinion that the amendment is germane and overrules the point of order.

Eligibility for Social Security Benefits

§ 29.4 To that section of a bill containing miscellaneous provisions and describing several requirements for receiving benefits under the Social Security Act, an amendment adding another requirement was held germane.

In the 76th Congress, a bill[8] under consideration proposed to amend the Social Security Act. To that section of the bill described above, an amendment was offered which stated in part:[9]

Amendment offered by Mr. [Karl E.] Mundt [of South Dakota]: Page 104, line 3, insert a new section, as follows:

Sec. 904. Beginning with January 1, 1941, no provisions of the Social Security Act shall be operative or effective for foreign-born aliens who have not taken out their full American citizenship papers by that date or who do not become American citizens within 6 years after their entrance into this country. . . .

A point of order was raised by Mr. Jere Cooper, of Tennessee, on the ground that the amendment was not germane to the bill. The Chairman,[10] however, ruled that the amendment was in order; he stated:

. . . This amendment is offered to title IX, which is the miscellaneous section. The Chair thinks it is clearly in order and therefore overrules the point of order.

7. Jere Cooper (Tenn.).

8. H.R. 6635 (Committee on Ways and Means).

9. 84 CONG. REC. 6969, 76th Cong. 1st Sess., June 10, 1939.

10. Lindsay C. Warren (N.C.).

Exception Regarding Interest Payment Added to Joint Resolution Approving Loan Agreement

§ 29.5 To a joint resolution approving the action of the Secretary of the Treasury in signing an agreement amending the Anglo-American Financial Agreement of December 6, 1945, an amendment to provide that the interest for 1956 due on the loan be paid into the Treasury of the United States was held to be germane as an exception to the loan agreement being approved.

In the 85th Congress, the Committee of the Whole had under consideration the Anglo-American Financial Agreement.[11]

> The Clerk read as follows:[12]
>
> *Resolved, etc.,* That section 1 of the act of July 15, 1946 (60 Stat. 535; 22 U.S.C. 286*l*), is hereby amended by changing the period at the end thereof to a comma and adding the following "and the action of the Secretary of the Treasury in signing the agreement dated March 6, 1957, amending said agreement is hereby approved."

The following amendment was offered:

> Amendment offered by Mr. Sheehan: On page 1, line 8, after the period insert a comma and add the following: "with the exception that the 1956 interest payment due and held in a special account pending resolution of the waiver provisions, that this interest for 1956 must be paid into the United States Treasury."

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

> MR. [JOHN M.] VORYS [of Ohio]: The amendment is not germane to the bill. As I heard the amendment read, the amendment would attempt substantially to amend the provisions of the agreement, and neither under the law which is being amended nor under the present bill can the Congress act on the terms of the agreement. So that it is not germane.

In defending the amendment, the proponent, Mr. Timothy P. Sheehan, of Illinois, stated:

> . . . The language on line 6 reads: "and the action of the Secretary of the Treasury in signing the agreement dated March 6, 1957, amending said agreement is hereby approved."
>
> No agreement is approved up to this point until the Congress of the United States agrees to it. So, therefore, we can make any amendments or extensions or reductions in the agreement until such time as the Congress approves it.

The Chairman,[13] in ruling on the point of order, stated:

> . . . [T]he Chair rules that the amendment offered by the gentleman

11. S.J. Res. 72 (Committee on Foreign Affairs).

12. 103 CONG. REC. 5473, 85th Cong. 1st Sess., Apr. 10, 1957.

13. Hale Boggs (La.).

from Illinois is germane, that it deals with the subject that is before us.

Bill To Adjust Postal Rates—Amendment Relating to Postal Deficit

§ 29.6 To a bill to adjust postal rates, an amendment providing that "the postal deficit shall not be covered by taxes on incomes, imports, corporations, fur coats, railroad tickets," and the like, was held not germane.

The above ruling was made on Feb. 8, 1950, by Chairman Chet Holifield, of California, in response to a point of order raised by Mr. Thomas J. Murray, of Tennessee. The point of order had been conceded by the proponent of the amendment, Mr. Gordon Canfield, of New Jersey.(14)

Agencies Exempted From Government Reorganization

§ 29.7 To an amendment providing that no government reorganization plan shall affect any provision of the Railroad Retirement Acts, the Railroad Unemployment Insurance Act, the Railway Labor Act, or specified portions of the Internal Revenue Code, or any agencies functioning pursuant to any of such acts, a substitute amendment providing that no reorganization plan shall affect the Civil Service Commission, Federal Deposit Insurance Corporation, the Federal Power Commission, the Railroad Retirement Board, and other boards and commissions, was held germane.

In the 79th Congress, during consideration of a bill(15) to reorganize agencies of the government, Mr. Robert Crosser, of Ohio, offered an amendment to which Mr. Charles A. Halleck, of Indiana, offered a substitute amendment, as described above. Mr. William M. Whittington, of Mississippi, raised the point of order that the substitute amendment was not germane to the Crosser amendment. The Chairman,(16) without elaboration, overruled the point of order.(17)

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14. See the proceedings at 96 CONG. REC. 1690, 1691, 81st Cong. 2d Sess., Feb. 8, 1950. Under consideration was H.R. 2945 (Committee on Post Office and Civil Service).

15. H.R. 4129 (Committee on Expenditures in the Executive Departments).

16. Jere Cooper (Tenn.).

17. See the proceedings at 91 CONG. REC. 9427, 79th Cong. 1st Sess., Oct. 4, 1945.

Amount of Gross Receipts Tax Paid Added to Ceiling Price

§ 29.8 To a bill extending and amending an act which authorized the President to establish ceiling prices and which contained conditions and exceptions, an amendment permitting a seller who is liable for a gross receipts tax to receive the amount of such tax in addition to the ceiling price was held to be germane.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1951,[18] the following amendment was offered:[19]

> Amendment offered by Mr. [Charles A.] Halleck [of Indiana]: On page 18, line 4, insert the following new subsection:
>
> (f) Section 402 of the Defense Production Act of 1950 is amended by adding at the end thereof the following new subsection:
>
> "(j) Where the sale or delivery of a material or service makes the person selling or delivering it liable for a State or local gross receipts tax or gross income tax, he may receive for the material or service involved, in addition to the ceiling price;"
>
> "(1) an amount equal to the amount of all such State and local taxes for which the transaction makes him liable; or
>
> "(2) one cent, whichever is greater. . . ."

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

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill or to the section to which it refers. It has reference to a gross sales tax which is in lieu of an income tax, as I understand it.

In defense of the amendment, the proponent stated:

> Mr. Chairman, it very definitely has to do with the pricing features of this bill. The whole purport of the measure before us is an attempt to fix ceiling prices and to control prices. There are many provisions in the bill that have to do with exceptions that may be granted, or other conditions that may be made, and they are in this title in respect to the determination of what is a fair price.

The Chairman,[20] in ruling on the point of order, stated:

> It is the opinion of the Chair that the amendment is germane to the subject matter of the bill, for the amendment proposes certain standards with respect to the fixing of ceiling prices, which is the subject matter of the bill.
>
> Therefore, the Chair overrules the point of order.

Limitation on Appropriations in Bill To Make Certain Payments

§ 29.9 To a paragraph of an appropriation bill, an amend-

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18. H.R. 3871 (Committee on Banking and Currency).

19. 97 CONG. REC. 8387, 82d Cong. 1st Sess., July 18, 1951.

20. Wilbur D. Mills (Ark.).

ment providing that no part of any appropriation contained in the act shall be paid as compensation to certain named individuals was held to be germane.

In the 78th Congress, a bill[1] was under consideration comprising Treasury and Post Office appropriations for 1944, and providing in part:[2]

> Expenses of loans: The indefinite appropriation "Expenses of loans, act of September 24, 1917, as amended and extended" (31 U.S.C. 760, 761), shall not be used during the fiscal year 1944 to supplement the appropriations otherwise provided for the current work of the Bureau of the Public Debt, and the amount obligated under such indefinite appropriation during such fiscal year shall not exceed $57,000,000 to be expended as the Secretary of the Treasury may direct . . .

An amendment was offered:

> MR. [JOSEPH E.] HENDRICKS [of Florida]: Mr. Chairman, I offer the following amendment, which I send to the desk.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Hendricks: Page 12, line 22, after the word "Treasury", strike out the period and insert a colon and the following: "*Provided further*, That no part of any appropriation contained in this act shall be used to pay the compensation of William Pickens, Frederick L. Schuman, Goodwin B. Watson, William E. Dodd, Jr., . . . George Slaff, A. C. Shire, and Edward Scheunemann."

The following point of order was raised:

> MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make the point of order that the amendment provides for the refusal of payment of salaries to individuals whose salaries are not provided for in this appropriation bill and, therefore, that the amendment is not germane. Further, I make the point of order that it is legislation on an appropriation bill.

The Chairman,[3] overruling the point of order, stated:[4]

> With respect to the point of order made by the gentleman from New York (Mr. Marcantonio), amendments of this character have been inserted in appropriation bills heretofore. The amendment simply limits the appropriation. . . .

Federal Government Exempted From Daylight Saving Time

§ 29.10 To a bill authorizing the Board of Commissioners of the District of Columbia to put daylight saving time into effect, an amendment providing that such action shall not apply to offices or agencies of the federal govern-

1. H.R. 1648 (Committee on Appropriations).
2. See 89 CONG. REC. 645, 78th Cong. 1st Sess., Feb. 5, 1943.
3. Wirt Courtney (Tenn.).
4. 89 CONG. REC. 646, 78th Cong. 1st Sess., Feb. 5, 1943.

ment was held to be germane.

In the 82d Congress, a bill[5] was under consideration relating to daylight saving time in the District of Columbia. A point of order against the amendment described above was raised by Mr. Oren Harris, of Arkansas, who stated:[6]

> As I understood the amendment, it would amend the general statute with reference to standard time throughout the United States. This bill applies only to the District of Columbia.

Mr. Paul C. Jones, of Missouri, stated:[7]

> Mr. Speaker, I do not think the gentleman from Arkansas understood the amendment. We are not trying to affect the general statute at all. This amendment only seeks to prevent time within the District of Columbia interfering with the operation of the Government's business in the District of Columbia. . .

The following exchange ensued:

> THE SPEAKER:[8] . . . Does the gentleman from Missouri intend for his amendment to apply only to Federal offices in the District of Columbia?
>
> MR. JONES of Missouri: . . . The amendment reads, "except it . . . shall have no effect upon the operation of any offices or agencies of the Federal Government which shall continue to operate on standard time."
>
> THE SPEAKER: Does that mean in the District of Columbia?
>
> MR. JONES of Missouri: In the District of Columbia, yes.
>
> THE SPEAKER: The Chair is going to hold the gentleman's amendment germane and in order.

Denial of Education Benefits—Exceptions

§ 29.11 To a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others is germane; accordingly, where an amendment denied eligibility for certain higher education assistance benefits to persons refusing to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.

On July 28, 1982,[9] during consideration in the Committee of the Whole of H.R. 6030 (military procurement authorization for fiscal 1983), it was demonstrated that

5. S. 2667 (Committee on the District of Columbia).

6. 98 CONG. REC. 2064, 82d Cong. 2d Sess., Mar. 10, 1952. . . .

7. *Id.* at p. 2065.

8. Sam Rayburn (Tex.).

9. 128 CONG. REC. 18355–58, 18361, 97th Cong. 2d Sess.

the test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill. The proceedings were as follows:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment which is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3. . . .

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon as a substitute for the amendment offered by Mr. Solomon: At the end of the bill add the following new section:

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"A) submit to the institution of higher education which the person intends to attend, or is attending,

proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under section 3, and for collecting statements described in paragraph (1)(C) from such institutions.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning on or after July 1, 1983. . . .

MR. SOLOMON: Mr. Chairman, I raise a point of order . . . [T]he amendment which I offered and was printed in the Record was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. Simon) is offering in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that. . . .

MR. SIMON: . . . Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

THE CHAIRMAN PRO TEMPORE:[10] The Chair is prepared to rule.

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is germane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

Incidental Conditions or Exceptions Related to Fundamental Purpose of Bill

§ 29.12 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in

10. Les AuCoin (Ore.).

the nature of a substitute which was more detailed in its provisions but which sought to achieve the same result was held germane, where the additional provisions not contained in the original bill were construed to be merely incidental conditions or exceptions that were related to the fundamental purpose of the bill.

The proceedings of Aug. 2, 1973, which related to H.R. 9130 (the trans-Alaska pipeline authorization) are discussed in § 30.36, infra.

Exception From Limitation on Powers Conferred in Bill

§ 29.13 To an amendment limiting discretionary powers conferred in a bill, an amendment providing an exception from that limitation is germane; thus, to an amendment prohibiting the Administrator from setting ceiling prices for domestic crude oil above a certain level while performing the functions transferred to him in a bill creating a new Federal Energy Administration, an amendment exempting from the imposition of that ceiling price new crude petroleum sold by producers of less than 30,000 barrels per day was held a germane exception.

During consideration of the Federal Energy Administration Act [H.R. 11793] in the Committee of the Whole on Mar. 6, 1974,[11] the Chair held the following amendment to be germane to the pending amendment:

> MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Eckhardt to the amendment offered by Mr. Dingell: Amend the amendment by adding at the end thereof the following: "; *Provided however,* That no limitation on mandate contained herein shall apply to or affect any producer of new crude petroleum who, together with all persons who control, or are controlled by or under common control with such producer, produces net to his working interests not more than 30,000 barrels of crude oil per day, so as to prevent such producer from selling that new crude petroleum without respect to the ceiling price. However, if the amount of crude petroleum produced and sold in any month subsequent to the effective date of this section is less than the base production control level for that property for that month, any new crude petroleum produced from that property during any subsequent month may not be sold pursuant to this paragraph until an amount of the new crude petroleum equal to the difference between the amount of crude petroleum actually produced from that

11. 120 CONG. REC. 5449, 93d Cong. 2d Sess.

property during the earlier month and the base production control level for that property for the earlier month has been sold at or below its ceiling price. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment for the same reasons that I stated before. The amendment offered by the gentleman from Texas (Mr. Eckhardt) is nongermane to the bill under rule XVI, clause 7. It deals with subject matter which is not in the bill and with policy also which is not the purpose of this section. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment does precisely the same thing as the amendment just briefly offered. It seeks to accomplish the same thing. I would go further and state that it goes far beyond the sweep of the amendment. It issues new categories and classes of producers. It imposes whole new judgments upon the administrator far beyond those which are included in the limitations previously imposed, and it imposes these additional judgments and responsibilities on him in terms of dividing the different kinds of producers into classes and categories.

Essentially it requires acts going beyond action of the original sweep of the amendment and also beyond the legislation before us. For that reason it is no longer a limitation on the authority proposed but rather, on the contrary, is making whole new law. . . .

MR. ECKHARDT: Mr. Chairman, this amendment is quite different from the original amendment. As a matter of fact, the original amendment would, I think, have been greatly preferable, but in deference to the Chair's ruling, this amendment does nothing whatsoever to the Dingell limitation on the authority of the administrator, which limitation prohibits the administrator from cutting back the price of oil any less, I think, than $7.09, which sounds like a strange, negative limitation. But at least that is what it does.

This further limits the administrator in such action not to affect those producing 30,000 barrels or less.

The Dingell amendment has the effect of telling the administrator: You have got to, or you cannot do anything else but, provide a limitation on price that will not exceed the total of $7.09.

What this says is that when we do so, we may not put any limitation on new oil produced by producers of 30,000 barrels or less; so this is an additional limitation in addition to what has been called the Dingell limitation.

I submit that this is entirely in accord with the ruling or holding of the Dingell amendment valid as an amendment on this bill.

I might add, too, that this does not deal with other oil than domestic crude.

THE CHAIRMAN:[12] The Chair is prepared to rule. The gentleman from Texas (Mr. Eckhardt) has offered an amendment to the amendment previously offered by the gentleman from Michigan (Mr. Dingell).

The gentleman from New York makes a point of order against the amendment to the amendment on the grounds that the amendment to the amendment is not germane to the bill or to the amendment to which it is offered.

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12. John J. Flynt, Jr. (Ga.).

The Chair has carefully examined the language of the amendment to the amendment and the Chair rules that since the amendment to the amendment is simply for the purpose of exempting certain specified producers from the limitation of authority established by the amendment offered by the gentleman from Michigan, it is within the scope of and covers the same subject matter as the amendment offered by the gentleman from Michigan. The amendment offered by the gentleman from Texas is, therefore, germane as an amendment to the amendment and the Chair overrules the point of order.

—*Effect of Definition of Terms*

§ 29.14 To a section containing "definitions" of two terms referred to in a bill, an amendment adding a further definition of other terms contained in the bill (and whose effect was to provide an exemption from a limitation on authority contained in another section of the bill) was held to be germane.

On Mar. 7, 1974,[13] during consideration of the Federal Energy Administration Act (H.R. 11793) in the Committee of the Whole, Chairman John J. Flynt, Jr., of Georgia, held the following amendment to be germane to the section to which it was offered:

MR. [GILLIS W.] LONG of Louisiana: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares.". . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, this matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentleman's concern, but these words included are probably included in statutes. It seems to me what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

MR. LONG of Louisiana: Mr. Chairman, the gentleman from New York (Mr. Horton) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and

13. 120 CONG. REC. 5640, 5641, 93d Cong. 2d Sess.

specific place for an amendment of this type to be introduced.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Louisiana (Mr. Long) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. Long).

The Chair will state that subsection (1) of section 11 reads as follows:

> Any reference to "function" or "functions" shall be deemed to include—

and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. Long) starts as follows:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

and so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Railroad Freight Rates—Waiver of Antitrust Laws

§ 29.15 To a proposition amending existing laws in several respects but limited in scope to the issue of federal funding of railroads, an amendment to one of those laws to require any railroad to maintain certain freight rate practices and waiving provisions of antitrust laws to permit enforcement of those rate practices was held not germane as addressing regulatory authorities in law and not confined to the issue of federal financial assistance.

The proceedings of Oct. 14, 1978, relating to H.R. 12161, the ConRail Authorization Act, are discussed in § 35.80, infra.

§ 30. Amendments Providing for Conditions or Qualifications

For introductory discussion of amendments that seek to impose conditions, qualifications, or restrictions, generally, see the introduction to Division D, supra.

Armed Services: Condition on Contract Authority

§ 30.1 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment was held to be germane which required every contract for the supplying of goods or services for the use of persons inducted under the Act, to specify that the company with whom the contract is made shall not discriminate in employment of any person because of race, religion, or the like.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[14] the following amendment was offered:[15]

> Amendment offered by Mrs. Douglas: On page 44, line 11, after the period add a new subsection to read as follows:
>
> Sec. —. (a) Every contract entered into by the United States for the supplying of goods or services to be used by, for, or in connection with any person inducted into, or enlisted in, the armed forces of the United States under the provisions of this act shall specify, as a condition thereof, that the company or individual with whom the contract is made shall not discriminate in the employment of any person, or in the terms and conditions of employment of any person, because of his race, color, national origin, ancestry, language, or religion, and shall specify that a breach of such condition shall result in the termination of such contract. . . .

A point of order was raised against the amendment, as follows:[16]

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .
>
> Mr. Chairman, the amendment goes far beyond the realm of this legislation. . . . This amendment goes so far from the purposes of this legislation that I cannot understand why anybody would offer it. . . .

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

> MRS. [HELEN GAHAGAN] DOUGLAS [of California]: Mr. Chairman, I think the amendment is germane. Section 17(a) deals with procurement and purchase of materials. The amendment simply specifies what kind of contracts must be entered into in the procurement of materials.

The Chairman,[17] in ruling on the point of order, stated:

> The Chair has examined the amendment and is inclined to believe that under the broad purposes of the bill the amendment is in order. It seeks to effectuate portions of the declaration of

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

15. 94 CONG. REC. 8705, 80th Cong. 2d Sess., June 17, 1948.

16. *Id.* at p. 8706.

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

policy and relates to persons and duties within the scope of the bill. The Chair accordingly overrules the point of order.

Prohibition on Military Procurement at Named Facility

§ 30.2 To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement at a particular facility pending the submission of a report by the Comptroller General relating to the feasibility of deactivating that facility was held to be germane.

In the 91st Congress, during consideration of a bill[18] comprising the military procurement authorization for fiscal 1971, the following amendment was offered:[19]

> Amendment offered by Mr. [Harold R.] Collier [of Illinois]:
>
> On page 6, after line 8, insert the following:
>
> Sec. 403. The Comptroller General of the United States is authorized and directed to report to Congress as soon as practicable with respect to the economic feasibility of the deactivation of the facilities of the Forest Park Naval Ordnance Station, Illinois; and until such time as such report is made and the Congress takes action thereon, none of the funds authorized to be appropriated under this Act may be used for the procurement of those weapons or related goods or services which, but for a decision by the Secretary of Defense to deactivate the Forest Park Naval Ordnance Station, would have been procured at such Station during the fiscal year 1971.

A point of order was raised against the amendment, as follows:[20]

> MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, the amendment is subject to a point of order. While it would be in order on a military construction bill, it has nothing to do with the bill now under consideration.

The Chairman,[1] in ruling on the point of order, stated:

> . . . The Chair feels that the amendment deals with procurement of weapons, that the amendment is germane to the legislation, and therefore overrules the point of order.

Restriction on Assignment of Selective Service Inductees

§ 30.3 During consideration of a bill amending the Selective Service Act of 1948, it was held that, to that paragraph prohibiting assignment of inductees, until completion of four months' service, to any areas outside the United

18. H.R. 17123 (Committee on Armed Services).

19. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

20. *Id.* at p. 14482.

1. Daniel D. Rostenkowski (Ill.).

States, and prohibiting assignment of inductees, for a period of six months after induction, to any combat areas outside the United States, an amendment was held germane which provided that "no person inducted under the authority of this act shall be assigned to any theater of operation" in which the commander is denied authority to bomb enemy targets as specified.

In the 82d Congress, during consideration of a bill[2] comprising amendments to the Universal Military Training and Service Act, an amendment was offered[3] as described above. Mr. Carl Vinson, of Georgia, raised the point of order that the amendment was not germane. The Chairman,[4] in ruling on the point of order, stated:

> The Chair has examined the amendment with some degree of care and while it does present a very close question in the opinion of the Chair, yet it does appear to impose a limitation on the use of troops sought to be provided by the pending bill. In view of the fact that it does appear to be such a limitation, the Chair is constrained to overrule the point of order.

2. S. 1–1951 (Committee on Armed Services).
3. 97 CONG. REC. 3883, 82d Cong. 1st Sess., Apr. 13, 1951.
4. Jere Cooper (Tenn.).

Muster-Out Pay Bill

§ 30.4 To a bill providing muster-out pay for members of the armed services, an amendment providing that no wounded or diseased member be discharged until adequate provisions be made for him under the laws and regulations administered by the Veterans' Administration, was held not germane.

In the 78th Congress, during consideration of the Muster-Out Pay Bill of 1944[5] the following amendment was offered:[6]

> Amendment offered by Mr. Hinshaw, as a new section to follow section 8:
>
> Sec. —. No officer or enlisted man or woman shall be . . . released from active duty until his or her . . . final pay, or a substantial portion thereof, including mustering-out pay, [is] ready for delivery to him or her . . . and no wounded, diseased, or handicapped member of the active armed forces shall be released from active service until and unless adequate provisions are made for him or her under the laws and regulations administered by the Veterans' Administration.

Mr. Andrew J. May, of Kentucky, reserved a point of order against the amendment, and Mr. Carl Hinshaw, of California, sub-

5. S. 1543 (Committee on Military Affairs).
6. 90 CONG. REC. 425, 78th Cong. 2d Sess., Jan. 19, 1944.

sequently conceded the point of order.[7]

Waiver of Jurisdiction Over American Troops

§ 30.5 To a bill authorizing the sale or loan of vessels to friendly foreign nations, an amendment providing that no vessel be made available under the act unless the recipient country agree to waive criminal jurisdiction over American troops stationed therein, was held to be not germane.

In the 85th Congress, a bill[8] was under consideration which authorized the transfer of naval vessels to friendly foreign countries. The amendment described above was offered by Mr. Frank T. Bow, of Ohio,[9] and a point of order was raised by Mr. L. Mendel Rivers, of South Carolina, on grounds that the amendment was not germane. Mr. Bow, in discussing the bill and defending the proposed amendment, stated:[10]

> . . . Section 4 provides that no vessel may be made available under this act unless the Secretary of Defense, after consultation with the Joint Chiefs of Staff, determines that its transfer is in the best interests of the United States. . . . I think it is germane for the Congress to decide whether it is in the best interest of American servicemen as to whether or not criminal jurisdiction shall be waived before we turn these vessels over to these countries. . . . This other provision would give these rights and limitations, so the amendment is germane. . . .

Mr. Rivers stated:

> . . . [T]his bill deals only with the transfer of ships by the Department of the Navy. We cannot transgress on the jurisdiction of the Committee on Foreign Affairs in the realm of treaties and such matters. . . .

The Chairman,[11] in ruling on the point of order, stated:

> The Chair is ready to rule. The gentleman from South Carolina makes a point of order against the amendment offered by the gentleman from Ohio [Mr. Bow] on the ground that the amendment is not germane. The Chair holds that the amendment consists of an unrelated contingency which is under the jurisdiction, as has been pointed out by the gentleman from South Carolina, of another committee of the House, namely, the Committee on Foreign Affairs. Therefore, the amendment is not germane and the point of order against it is sustained.

Statement of Congressional Policy Regarding Geneva Accords

§ 30.6 To a bill authorizing military procurement, re-

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7. *Id.* at p. 426. The Chairman was Howard W. Smith (Va.).

8. H.R. 6952 (Committee on Armed Services).

9. 103 CONG. REC. 7271, 7272, 85th Cong. 1st Sess., May 20, 1957.

10. *Id.* at p. 7272.

11. Lee Metcalf (Mont.).

search, development and construction, an amendment comprising a statement of congressional policy with respect to foreign policy affecting Vietnam was held to be not germane.

In the 90th Congress, a bill[12] was under consideration comprising supplemental military authorizations for fiscal 1967 and stating in part:[13]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PROCUREMENT

Sec. 101. In addition to the funds authorized to be appropriated under Public Law 89–501, there is hereby authorized to be appropriated during the fiscal year 1967 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, and tracked combat vehicles in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $533,100,000. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. Reuss: On page 4, line 10, after "$624,500,000", insert:

TITLE IV—STATEMENT OF CONGRESSIONAL POLICY

Sec. 401. None of the funds authorized by this Act shall be used except in accordance with the following declaration by Congress of— . . .

(3) its support of the Geneva accords of 1954 and 1962 and urges the convening of that Conference or any other meeting of nations similarly involved and interested as soon as possible for the purpose of formulating plans for bringing the conflict to an honorable conclusion in accordance with the principles of those accords.

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

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I rise to a point of order on the ground that the amendment is not germane to the bill. The bill before the House is a supplemental authorization bill. The amendment contains no limitation. It declares a matter of policy which obviously is under the jurisdiction of another committee, since it deals with foreign affairs and commitments.

Mr. Henry S. Reuss, of Wisconsin, stated in response:[14]

. . . [T]he amendment I offer is germane because it is a limitation on the legislative authorization for military procurement, research, and construction contained in the first three titles of H.R. 4515. By stating the circumstances under which the authorization may be pursued, it is well within the precedents of this body, and the mere fact that a portion of the lan-

12. H.R. 4515 (Committee on Armed Services).

13. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

14. *Id.* at p. 5140.

guage relates to the foreign policy specialty of the House Committee on Foreign Affairs is entirely irrelevant. . . .

. . . On May 20, 1959, a House bill from my committee, the House Committee on Banking and Currency, was before this House. The gentleman from New York, Mr. Powell, offered an amendment providing that none of the funds authorized by the housing bill should be used except under a policy that such housing should be available without discrimination. . . . The chairman . . . Mr. Walter, of Pennsylvania . . . held the amendment germane upon the ground, "that the amendment offered by the gentleman from New York is restricted to any title of this act and is specific in the opinion of the Chair."

The Chairman,[15] in ruling on the point of order, stated:[16]

The Chair is of the opinion that the subject matter of the amendment comes within the jurisdiction of the Committee on Foreign Affairs, and not the Committee on Armed Services which reported the bill now before the Committee.

The Chair refers the Committee to a decision by Chairman Metcalf, of Montana, in the 85th Congress. The bill then under consideration authorized the sale or loan of certain vessels to friendly foreign nations. It had been reported by the Committee on Armed Services. The amendment on which the Chair was called upon to rule provided that no vessels could be made available under the act unless the recipient country agreed to waive criminal jurisdiction over troops of the United States stationed therein—an amendment which clearly called for diplomatic negotiations with the foreign nations involved.

In holding the amendment not germane, the Chair stated that it consisted of an unrelated matter under the jurisdiction of the Committee on Foreign Affairs—Congressional Record, volume 103, part 6, page 7272. . . .

The Chair, applying one of the accepted tests for germaneness, is of the opinion that the amendment is essentially on a "subject other than that under consideration" and is not germane to the bill under consideration.

The Chair therefore sustains the point of order.

Foreign Assistance—Restrictions Affecting Grain Used to Produce Distilled Spirits

§ 30.7 To a bill authorizing an appropriation for foreign relief, an amendment providing that no part of the funds to be appropriated or advanced shall be used to furnish grain to the peoples of certain countries "as long as grain is used in such countries for the production of distilled spirits for beverage purposes" was held to be germane.

In the 80th Congress, during consideration of a bill[17] pro-

15. Daniel D. Rostenkowski (Ill.).

16. 113 Cong. Rec. 5141, 90th Cong. 1st Sess., Mar. 2, 1967.

17. H.R. 4604 (Committee on Foreign Affairs).

viding for aid to foreign countries, an amendment was offered[18] as described above. Mr. John M. Vorys, of Ohio, raised the point of order that the amendment was not germane to the section or to the bill. The Chairman[19] overruled the point of order.

United Nations Relief and Rehabilitation Organization—Proposed Audit

§ 30.8 To a bill to enable the United States to participate in the work of the United Nations Relief and Rehabilitation Organization, and authorizing an appropriation for such purpose, an amendment was held to be not germane which proposed that the Appropriations Committee of the House employ an auditor to examine the books and files pertaining to expenditures made by the organization from funds appropriated in accordance with the authorization, and report thereon to such committee.

In the 78th Congress, during consideration of a bill[20] to enable the United States to participate in the United Nations Relief and Rehabilitation Organization, an amendment was offered[1] as follows:

> MR. [BENTON F.] JENSEN [of Iowa]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> On page 15, after line 3, insert the following:
>
> "The Appropriations Committee of the House of Representatives shall employ an experienced auditor and other necessary—personnel whose duty it shall be to examine the books, files, papers, and accounts of U. N. R. R. A. and all official documents pertaining to expenditures made by U. N. R. R. A. from funds appropriated in accordance with this authorization. Said auditor shall make a comprehensive report of same to the full Committee of Appropriations quarterly, or at such other times as said committee may direct."

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

> MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the joint resolution.
>
> The resolution . . . authorizes the expenditure of money for the United Nations relief and rehabilitation organization to be handled . . . by the State Department. This amendment seeks to give a legislative committee of this House the power to employ an experienced auditor and other necessary personnel to examine the books, files, papers, and so forth, of U.N.R.R.A. As I understand the resolution, it requires

18. 93 CONG. REC. 11272, 80th Cong. 1st Sess., Dec. 10, 1947.

19. Earl C. Michener (Mich.).

20. H.J. Res. 192 (Committee on Foreign Affairs).

1. 90 CONG. REC. 683, 78th Cong. 2d Sess., Jan. 25, 1944.

a report to the Congress. The Committee on Appropriations has control over the appropriations. This is simply an authorization. If it is desired to place any limitations upon the appropriations, they should be on that bill, not this resolution.

The Chairman[2] sustained the point of order.[3]

Emergency Relief Bill—Prohibition on Discrimination Based on Union Membership

§ 30.9 To that part of an emergency relief bill stating certain criteria affecting eligibility of applicants for relief or for employment on government projects, an amendment prohibiting, in the distribution of funds authorized by the act, any discrimination on account of union membership or nonmembership was held to be germane.

In the 75th Congress, the Emergency Relief and Public Buildings Bill[4] was under consideration, which stated in part:[5]

> Sec. 10. In the employment of persons on projects under the appropriations in this title, applicants in actual need whose names have not heretofore been placed on relief rolls shall be given the same eligibility for employment as applicants whose names have heretofore appeared on such rolls: *Provided*, That . . . no relief worker shall be eligible for employment on any project of the Works Progress Administration who has refused to accept employment on any other Federal or non-Federal project at a wage rate comparable with or higher than the wage rate established for similar work on projects of the Works Progress Administration. . . .

An amendment was offered which sought to add a provision stating:[6]

> *Provided further*, That in the . . . distribution of the funds appropriated or authorized by this act, no discrimination shall be made because of membership or nonmembership in any union or organization.

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

> MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I make the point of order that that is not germane to this section. Section 19 deals with that subject matter.

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

> . . . Section 10 relates to the employment of persons on projects under appropriations in this title and . . . covers in a broad way the applicants who are eligible for employment by W.P.A. The gentleman from Virginia

2. Emmet O'Neal (Ky.).

3. 90 CONG. REC. 684, 78th Cong. 2d Sess., Jan. 25, 1944.

4. H.J. Res. 679 (Committee on Appropriations).

5. 83 CONG. REC. 6808, 75th Cong. 3d Sess., May 12, 1938.

6. *Id.* at p. 6812.

7. John W. McCormack (Mass.).

[Mr. Woodrum] has called to the attention of the Chair the provisions of section 19, and the gentleman from New York [Mr. Taber] has called to the attention of the Chair that section 19 is of a penalty nature. . . . The amendment of the gentleman from Michigan has no relation as the Chair sees it to the penalty provisions of section 19, and, if germane, would have to have some relationship to the employment of persons on projects under the appropriations in this title as contained in section 10. . . .

In the opinion of the Chair [the amendment] is a direction to the Works Progress Administrator in relation to the appointment of persons on projects under the appropriations in this title. The Chair feels that the amendment is germane. . . .

Discrimination in Sale of Housing—Basis for Withholding Funds

§ 30.10 To a substitute for a committee amendment to a housing bill, an amendment was held germane which sought to give the Federal Housing Administrator authority to withhold financial aid under any title of the substitute unless written assurances were received from the recipients of such aid that the property on account of which the aid was to be given would be available for sale or occupancy without discrimination.

In the 86th Congress, during consideration of the Housing Act of 1959,[8] the following amendment was offered to a substitute[9] for a committee amendment:[10]

Amendment offered by Mr. [Adam C.] Powell [Jr., of New York] to the amendment offered by Mr. [Albert S.] Herlong [Jr., of Florida]: Add a new title as follows:

TITLE VIII—NONDISCRIMINATION

Sec. 1007. No . . . assistance authorized under any title of this Act shall be given or made . . . unless the recipient and beneficiary of such . . . assistance gives assurance in writing that the property for which the . . . commitment is to be given or made shall be available for sale, lease or occupancy without regard to the race, creed, or color of the purchaser, lessee or occupant. . . .

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

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, I raise the point of order that the amendment is not germane because it is too general in its nature, it is not specific in applying to any particular provision.

The Chairman,[11] in ruling on the point of order, stated:

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8. S. 57 (Committee on Banking and Currency).

9. The substitute to the committee amendment was language of H.R. 7117.

10. 105 CONG. REC. 8654, 86th Cong. 1st Sess., May 20, 1959.

11. Francis E. Walter (Pa.).

The Chair is ready to rule.

The amendment offered by the gentleman from New York [Mr. Powell] is restricted to any title of this act and is specific, in the opinion of the Chair.

Therefore the point of order is overruled.

Scholarships to Medical Schools—Requirements for Eligibility

§ 30.11 To a bill providing for scholarships, an amendment relating to requirements for eligibility for such scholarships was held to be germane.[12]

§ 30.12 To a bill making grants to medical schools to be used for student scholarships, an amendment establishing a National Commission on Medical, Dental, and Optometric Scholarships to prepare and evaluate national examinations for purposes of testing qualifications of scholarship applicants was held to be germane.

In the 89th Congress, during consideration of the Health Professions Educational Assistance Act of 1965,[13] an amendment was offered[14] as described above. The amendment prohibited the award of scholarships to those not deemed qualified, and further required as a condition of receiving a scholarship that the recipient serve for one year in designated geographic areas. A point of order was raised against the amendment, as follows:

MR. [OREN] HARRIS [of Arkansas]: . . . The gentleman's amendment sets up an entirely different program, apart from any program that we have, an entirely new national program which is not contemplated and is not a part of this bill. So it goes beyond the purview of this program and of this proposed legislation and imposes additional duties upon the Surgeon General to provide information that would determine the matter of scholarships, which is not a part of this program at all.

The Chairman,[15] observing that the bill related to scholarships and that the amendment related to a method of establishing scholarships, overruled the point of order.[16]

Conditions on Payment of Agricultural Subsidies—Compliance With Specified Provisions of Law

§ 30.13 To that title in an omnibus agriculture bill estab-

12. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965. See § 30.12, infra.
13. H.R. 3141 (Committee on Interstate and Foreign Commerce).
14. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965.
15. Martha W. Griffiths (Mich.).
16. 111 CONG. REC. 22476, 89th Cong. 1st Sess., Sept. 1, 1965.

lishing an annual ceiling on subsidy payments to producers of cotton, wheat, and feed grains, an amendment was held to be not germane which sought to make such payments conditional upon compliance with the minimum wage provisions of another act and with applicable health and safety laws.

In the 91st Congress, during consideration of the Agricultural Act of 1970.[17] The following amendment was offered:[18]

> Amendment offered by Mr. [Abner J.] Mikva [of Illinois]: On page 2, after line 24, added the following new section:
>
> Sec. 102. No person shall be entitled to receive any payments (as defined in section 101) which exceed in the aggregate $5,000 under the programs established by titles III, IV, V, and VI of this Act, unless—
>
> (1) he pays each person employed by him . . . at a rate not less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, and
>
> (2) he is in compliance with all applicable Federal, State, and local laws, ordinances, and regulations pertaining to the health and safety of his employees, and
>
> (3) the Secretary of Labor certifies in writing that the recipient is in compliance with the requirements of paragraphs (1) and (2) of this section.

A point of order was raised against the amendment, as follows:[19]

> MR. [WILLIAM R.] POAGE [of Texas]: . . . [The amendment] is not germane to the fundamental purpose of this legislation, which is to adjust agricultural production to national consumption.
>
> It proposes to amend a statute—section 6(a)(1) of the Fair Labor Standards Act of 1938—which is not in this bill, or for that matter is not even under the jurisdiction of the Committee on Agriculture.

Mr. Mikva stated in response:

> Mr. Chairman, I would say in support of the amendment that this is a limitation on the subsidy payment that can be made. Title I itself is a payment limitation title and this is another limitation on those payments.
>
> The amendment does not amend the Fair Labor Standards Act in any way. No one is required to pay $1.60 an hour. The only requirement is that if he desires to obtain more than $5,000 in subsidies then he must comply with the payment of $1.60 and with all health and safety regulations.

The Chairman pro tempore,[20] in sustaining the point of order, stated:

> The gentleman from Illinois [Mr. Mikva], has offered an amendment as a new section of title I of the bill. The committee amendment just adopted established an annual ceiling on payments to producers of upland cotton, wheat, and feed grains. . . .

17. H.R. 18546 (Committee on Agriculture).

18. 116 CONG. REC. 27471, 27472, 91st Cong. 2d Sess., Aug. 5, 1970.

19. *Id.* at p. 27472.

20. Neal Smith (Iowa).

The Chairman has had an opportunity to examine the gentleman's amendment and would call attention to a decision by Chairman Cox on June 18, 1935—Record, page 9579. In that instance, to a bill providing assistance to farmers through the contractual benefits conferred upon them by the Agricultural Adjustment Act, an amendment prohibiting agreements under provisions of that act unless such contracts established certain minimum wage rates and maximum hours for farm laborers was held not germane.

The Chair feels that this precedent is controlling [and] that the amendment offered by the gentleman from Illinois is not germane. . . .[1]

—Compliance With "Applicable" Laws

§ 30.14 To that title of an omnibus agricultural bill establishing an annual ceiling on subsidy payments to producers of cotton, wheat, and feed grains, an amendment prohibiting any price support payments under the bill unless such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws was held to be germane.

In the 91st Congress, during consideration of the Agricultural Act of 1970,[2] the following amendment was offered:[3]

Amendment offered by Mr. [Abner J.] Mikva [of Illinois]: On page 2, after line 24, add the following new section:

Sec. 102. No person shall be entitled to receive any payments (as defined in sec. 101) under the programs established by titles III, IV, V, and VI of this Act, unless—

(1) he is in compliance with all applicable Federal, State and local laws, ordinances, and regulations pertaining to the health and safety of his employees, and

(2) the Secretary of Labor certifies in writing that the recipient is in compliance with the requirements of paragraph (1) of this section.

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

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane. It does not go to the purpose of the act and that on the contrary it seeks to impose regulations of another statute without amending the other

1. See § 30.14, infra, for discussion of a similar amendment which omitted the reference to the minimum wage requirements of the Fair Labor Standards Act. The amendment was held to be germane (where "compliance" with "applicable" laws was the only stated condition, and where compliance with a law arguably not "applicable" was no longer a condition. See also § 30.23, infra.)

2. H.R. 18546 (Committee on Agriculture).

3. 116 CONG. REC. 27472, 91st Cong. 2d Sess., Aug. 5, 1970.

statute, that it comes clearly within the same ruling of Chairman Cox.[4]

In defending the amendment, the proponent, Mr. Mikva, stated:

This does not increase the jurisdiction of any agency in terms of present existing laws. It simply says that no one is entitled to receive Federal funds unless they are complying with existing laws.

The Chairman pro tempore,[5] in ruling on the point of order, stated:

The Committee already has before it the committee amendment which imposes an overall payment limitation. The pending amendment would add a complete prohibition on payments if certain conditions are not met.

The Chair feels that in view of the concept already introduced into the bill by the committee amendment, the further amendment offered by the gentleman from Illinois is germane. The Chair overrules the point of order.[6]

4. See the ruling cited in Sec. § 30.13, supra.

5. Neal Smith (Iowa).

6. See § 30.13, supra, for discussion of an amendment, ruled out as not germane, which contained similar provisions and a further provision relating to compliance with minimum wage requirements of the Fair Labor Standards Act (where the latter statute was not cited as being "applicable" to the producers receiving payments, and where a precedent directly in point suggested that result. See also § 30.18, infra, relying upon this ruling).

Soil Bank Act—Reporting Requirement

§ 30.15 To a proposal to permit payments in advance under contracts to participate in the acreage reserve program, an amendment to require that all such payments be reported to the Clerk of the House in the same manner as political expenditures was held to be germane.

In the 84th Congress, during proceedings relating to the Soil Bank Act of 1956,[7] the following amendment was under consideration:[8]

Amendment offered by Mr. [Clifford R.] Hope [of Kansas]: . . . Line 8, after end of section, insert a new subsection as follows:

(b) Notwithstanding any other provision of law, and in order to assist the producer in financing his farming operations, and caring for and improving his farm property, the Secretary may make an advance payment to the producer of not to exceed 50 percent of the compensation which would become due the producer under his contract to participate in the acreage-reserve program; and may in any year make an advance payment to the producer of not to exceed 50 percent of the annual payment for such year which would become due the producer under his contract to participate in the conservation-reserve program.

7. H.R. 10875 (Committee on Agriculture).

8. See 102 Cong. Rec. 7434, 84th Cong. 2d Sess., May 3, 1956.

To such amendment, an amendment was offered[9] to require reports of such payments in the manner described above. Mr. Charles A. Halleck, of Indiana, raised the point of order that the amendment was not germane to the bill or to the pending amendment. The Chairman,[10] in ruling on the point of order, stated:[11]

> It occurs to the Chair that the amendment simply provides that any payments made shall be reported to the Clerk of the House. The amendment to which the amendment is proposed is an amendment providing for and authorizing payments to be made. On the question of germaneness it seems to the Chair that the amendment would be germane and the point of order is overruled.

Issuance of Bonds by Tennessee Valley Authority—Restrictions on Use of Funds

§ 30.16 To a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment placing restrictions on the use of such funds for the purchase of foreign-made equipment was held to be germane.

In the 86th Congress, during consideration of a bill[12] to amend the Tennessee Valley Authority Act of 1933, an amendment was offered[13] as described above. A point of order was raised against the amendment, as follows:

> MR. [FRANK E.] SMITH [of Mississippi]: Mr. Chairman, I make the point of order that the amendment imposes a duty not consistent with the provisions of the bill.

The Chairman,[14] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Pennsylvania is germane to the bill because it deals with the proceeds of the Corporation and the use of the funds. The Chair holds that the amendment is in order.

Conditions Affecting Status of Grain Inspectors as Federal Employees

§ 30.17 To a section of a bill reported from the Committee on Agriculture authorizing the Secretary of Agriculture to employ official grain inspectors without regard to civil service appointment statutes upon his finding of their good moral character

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9. *Id.* at p. 7435.

10. J. Percy Priest (Tenn.).

11. 102 CONG. REC. 7435, 7436, 84th Cong. 2d Sess., May 3, 1956.

12. H.R. 3460 (Committee on Public Works).

13. 105 CONG. REC. 7720, 86th Cong. 1st Sess., May 7, 1959.

14. Ross Bass (Tenn.).

and professional competence, an amendment permitting those employees to credit their prior private service as grain inspectors to their Civil Service retirement was held germane as merely stating a further condition upon their status as federal employees.

On Apr. 2, 1976,[15] during consideration of H.R. 12572[16] in the Committee of the Whole, Chairman Phil M. Landrum, of Georgia, overruled a point of order against an amendment holding that the amendment was germane to the section of the bill to which it was offered:

The Clerk read as follows: . . .

(c) By amending subsection (d) and adding new subsections (e) and (f) to read as follows:

"(d) Persons employed by an official inspection agency (including persons employed by a State agency under a delegation of authority pursuant to section 7(e), persons performing official inspection functions under contract with the Department of Agriculture, and persons employed by a State or local agency or other person conducting functions relating to weighing under section 7A shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, however, That such persons shall be considered in the performance of any official inspection functions or any functions relating to weighing as prescribed by this Act or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, United States Code, to such persons. . . .

"(e) The Secretary of Agriculture may hire (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or weighing functions any individual who, on the date of enactment of this Act, was performing similar functions: *Provided*, That the Secretary of Agriculture determines that such individuals are of good moral character and are technically and professionally qualified for the duties to which they will be assigned.".

MRS. [LINDY] BOGGS [of Louisiana]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mrs. Boggs: Page 19, line 11, insert the following immediately after the first period: "Any individual who is hired by the Secretary pursuant to this subsection shall, for purposes of the annuity computed under section 8339 of title 5, United States Code, be credited (subject to the provisions of sections 8334(c) and 8339(i) of such title) with any service performed by such individual before the date of enactment of this subsection in connection with this Act.". . .

THE CHAIRMAN: Does the gentleman from Illinois (Mr. Michel) insist upon his point of order?

15. 122 CONG. REC. 9240, 9241, 9253, 9254, 94th Cong. 2d Sess.

16. The Grain Standards Act of 1976.

MR. [ROBERT H.] MICHEL [of Illinois]: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MICHEL: Mr. Chairman, I do so because, in my opinion, the amendment is not germane to this bill, which amends the U.S. Grain Standards Act, and says, on page 18:

> The Secretary of Agriculture may hire (without regard to the provisions of title V, United States Code, governing appointments in the competitive service) . . . any individual who is licensed to perform functions on the date of enactment.

Then it is provided further that the individuals be of good moral character and that they be professionally qualified, et cetera.

The amendment of the gentlewoman from Louisiana (Mrs. Boggs), however, seeks to amend title 5, section 8339, 8334(c), and 8339(i).

Mr. Chairman, an amendment to another statute does not make it germane to this bill, and I would cite as my authority on that, the Record of August 17, 1972, page 28913, as follows:

> Under rule 16, to a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price-control authority for all commodities under an Act reported from the Committee on Banking and Currency is not germane. July 19, 1973, etc.

If the amendment of the gentlewoman from Louisiana were in the form of a bill, it would undoubtedly be referred to the Committee on Post Office and Civil Service, because it has to do with the retirement benefits of employees that would be selected by the section. . . .

MRS. BOGGS: . . . The language of section 6(e), I feel, is sufficiently broad and certainly the committee report language is sufficiently broad to insist that the workers who are of good moral character, as the bill says, could be employed without regard to various Civil Service regulations in order to quickly be able to put into effect a service that will be highly necessary for the Government if we indeed are going to take over the work of the private agencies and the State agencies.

Mr. Chairman, the language is sufficiently broad where it goes on to suggest that positions of at least comparable responsibility and rank to those enjoyed in the private and State systems be given to them and that in setting their pay within the appropriate grade, to the extent possible, cognizance should be taken in order to take into consideration these rank and longevity benefits, so that the employees had, under the system where employed, the benefits that they had under longevity. The benefit system under which they were employed certainly included an annuity provision, and I think that this language that this amendment extends to the bill simply points that out.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has read the language on the page of the committee report and section 6(e) of the bill already deals with the status of the Civil Service requirements with respect to appointments of Federal inspectors. The amendment does not directly amend title 5 U.S. Code, and it would further

affect the status of those Federal employees under the Civil Service law by permitting them to credit the prior private service to their Civil Service retirement if they become Federal employees. The amendment imposes a further condition upon their hiring.

Therefore, the Chair rules that as far as germaneness is concerned, the amendment is germane to section 6(e) of the bill, and overrules the point of order.

Eligibility for Agricultural Price Support Programs Conditional on Compliance With Requirements for Protection of Labor

§ 30.18 To an omnibus agricultural bill authorizing a variety of commodity price support and payment programs within the jurisdiction of the Agriculture Committee, but amended to include provisions on subjects within the jurisdiction of other committees, such as ethanol (within the jurisdiction of the Committee on Energy and Commerce) and cargo preference (the Committees on Merchant Marine and Fisheries and Foreign Affairs), an amendment conditioning eligibility in such price support and payment programs upon the furnishing by agricultural employers of specified labor protection (normally within the jurisdiction of the Committee on Education and Labor) was held germane, as the bill had been amended to include matter beyond the exclusive jurisdiction of the Committee on Agriculture.

On Oct. 8, 1985,[17] during consideration of H.R. 2100[18] in the Committee of the Whole, the Chair, in overruling points of order against an amendment, reiterated the principle that committee jurisdiction is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committee's jurisdictions. The proceedings were as follows:

Amendment offered by Mr. Miller of California: At the end of the bill add a new Title XXI.

LIMITATION ON PARTICIPATION IN CERTAIN COMMODITY PRICE SUPPORT AND PAYMENT PROGRAMS

Sec. 21. (a) Any person who violates subsection (b), (c), or (d) shall be ineligible, as to any commodity produced by that person during the crop year which follows the crop year in which such violation occurs, for any type of price support, payment or any other program or activity described in any of paragraphs 1 through 5 of section 1202(a).

(b) Any agricultural employer shall provide the following to agricultural

17. 131 Cong. Rec. 26548–51, 99th Cong. 1st Sess.

18. The Food Security Act of 1985.

employees engaged in hand-labor operations in the field, without cost to such employees:

(1) Potable drinking water. . . .

(2) With respect to toilets and handwashing facilities—

(A) one toilet and one handwashing facility provided for each group of 20 employees, or any fraction thereof;

(B) toilet facilities with doors which can be closed and latched from the inside and constructed to ensure privacy; . . .

MR. [ARLEN] STANGELAND [of Minnesota]: Mr. Chairman, I make the point of order that the Miller amendment is not germane to H.R. 2100. . . .

One underlying rationale for the rule of germaneness is to preclude the consideration of subjects that were not considered by the appropriate committee when the bill was being considered by the Agricultural Committee; this is H.R. 2100. No such hearings were held by the Committee on Agriculture.

The primary jurisdiction over the subject matter of the Miller amendment is with the Committee on Education and Labor. A bill similar to the Miller amendment, H.R. 3295, was cosponsored by my colleague from California on September 12, 1985, and was only referred to the Committee on Education and Labor.

This amendment is an attempt to circumvent the rules of the House in the consideration of legislation by a major committee and to introduce a new subject, labor standards, into the agricultural legislation. . . .

MR. [GEORGE] MILLER of California: . . . Clearly, the amendment is germane, because the amendment provides the conditions upon which the benefits under this program shall be derived by farm owners throughout this country. It is the conditions upon which the agricultural benefits that are put together, the billions of dollars in this program, shall be distributed.

It is also germane because it does not expand the jurisdiction of American labor law, it does not expand any existing law, it is clearly stated and it is a well-ordered point of law that the OSHA Act, under which the Secretary of Labor has the ability to extend the protection for health and safety benefits, is well settled that it already applies to the agricultural field.

There are a number of provisions of OSHA which are already settled in the law as provided to them, and this is one of them. This is one of them. So clearly we have the ability to take already existing law, with no extension of authority, and condition the distribution of agricultural benefits and participations in this program on that already-existing law. . . .

This amendment simply says that those standards, which have already been promulgated, which have already been settled, which have already been published, shall be one of the conditioning of the reasons for which there will be distribution of the benefits of this program. . . .

MR. [RICHARD] ARMEY [of Texas]: Mr. Chairman, the gentleman's amendment imposes field sanitation regulations on certain agricultural employers; mandates that the head of the Federal Department, Secretary of Agriculture, delegate the making of further rules and the investigation of violations to the head of another Federal Department, the Secretary of Labor,

and renders violations of the regulations ineligible for the commodity price support.

First, the amendment does not meet the fundamental purpose of germaneness. The general rule is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The basic purpose of this bill is to reauthorize the commodity and Farm Credit Programs and the Food Stamp Programs. Regarding the commodity price supports, the bill's objective is to bring crop price supports closer to market prices in order to make U.S. crops more competitive in the world market and additionally, as a result, to continue to protect farm income in certain ways.

There is no logical connection between the fundamental purpose of this bill and the basic purpose behind the gentleman's amendment. . . .

In effect, his amendment's real purpose is to establish a new, special occupational health and safety statute applicable to a limited class of agricultural workplaces. His amendment does not seek to further the legislative end of the matter sought to be amended but, rather, he is using the vehicle of the Commodity Price Support Program to simply enact his new agricultural field sanitation law and to create a penalty device to enforce it. . . .

MR. MILLER of California: Mr. Chairman, on the point of order raised, let us talk about whether or not this amendment is fundamental to this legislation that was raised by the gentleman from Texas. The fact of the matter is, this is absolutely fundamental to this legislation. The purposes of this legislation are to determine the conditions and the basis on which the benefits under this program, whether it is an allotment program that we just determined here or whether it is the Commodity Program, whether it is support crisis, crop insurance, loans that are made to the agricultural community, the terms and conditions upon which these benefits will be made. . . .

This bill is riddled with conditions upon which those benefits will be addressed or which those benefits will be distributed. So this adds nothing new in terms of new law. It simply provides an additional benefit. If you read through this legislation, throughout the legislation, there are conditions placed upon the size of the farm, the wealth of the farmers, the kind of land they till, the kind of land they set aside, whether or not they participate, whether or not they ship their crops overseas on American bottoms or not. All of those are conditions because we do not allow billions and billions of dollars to be distributed without some say so. So I suggest to you that is absolutely germane, Mr. Chairman, to have this condition be made a part of this legislation and a condition under the existing programs on which the benefits are distributed. . . .

THE CHAIRMAN:[19] The Chair is prepared to rule on the points of order. . . .

The gentlemen from Minnesota and Texas make a point of order that the amendment offered by the gentleman from California [Mr. Miller] is not germane to the bill. Since the amendment is in the form of a new title to be in-

19. David E. Bonior (Mich.).

serted at the end of the bill, the Chair must consider the relationship of the amendment to the bill as a whole and as modified by the Committee of the Whole. The amendment would condition the availability of price support and payment programs authorized by the bill upon the furnishing by certain agricultural employers of specified labor protections. While it is true that jurisdiction over labor standards for agricultural employees is a matter within the purview of the Committee on Education and Labor and while the bill contains subject matter primarily within the jurisdiction of the Committee on Agriculture, the bill, as amended, also includes provisions within the jurisdiction of other committees including the Committee on Energy and Commerce, on ethanol, the amendment of Mr. Leach, the Committee on Merchant Marine and Fisheries which had the question of cargo preference and also the Committees on Ways and Means and Foreign Affairs. As indicated in Deschler's Procedure, chapter 28, section 4.1, committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions.

The Chair is also aware that regulations have been ordered to be promulgated by the Secretary of Labor pursuant to existing law to accomplish the purpose of the amendment. This situation is similar to the precedent cited in Deschler's chapter 28, section 23.6 [see Sec. 30.14, supra], where, to an omnibus agricultural bill, an amendment prohibiting any price support payments under the bill unless such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws was held to be germane. For these reasons the question that was raised by the gentlemen from Minnesota and Texas on germaneness will not be sustained.

Expenditures for Missile System Made Contingent on Findings by Secretary of Defense as to Impact of Grain Sales

§ 30.19 To a title of a bill authorizing the procurement, research and development of certain military missile systems for one fiscal year, broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests and requiring reports to Congress, an amendment permanently making expenditure of any funds for that missile system contingent upon findings by the Secretary of Defense with respect to the impact of United States grain sales on Soviet military preparedness was held to be not germane, since it was an unrelated contingency involving agricultural exports.

During consideration of H.R. 2969 in the Committee of the

Whole on July 21, 1983,[20] the Chair, in sustaining a point of order against the amendment described above, reaffirmed that it is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. The pending title of the bill[1] and the ensuing proceedings were as follows:

TITLE III—LAND-BASED STRATEGIC BALLISTIC MISSILE MODERNIZATION PROGRAM

PROCUREMENT OF MX MISSILE

Sec. 301. In addition to the amount authorized to be appropriated in section 103 for procurement of missiles for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for procurement of missiles the sum of $2,557,800,000 to be available only for the MX missile program. . . .

Sec. 302. (a) In addition to the amount authorized to be appropriated in section 201 for research, development, test, and evaluation for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for research, development, test, and evaluation for the land-based strategic ballistic missile modernization program—

(1) $1,980,389,000 to be available only for research, development, test, and evaluation for the MX missile program; and. . . .

THE CHAIRMAN PRO TEMPORE:[2] Are there amendments to title III?

Amendment offered by Mr. Price: Page 16, after line 18, insert the following new section:

LIMITATION ON EXPENDITURE OF FUNDS

Sec. 303. (a) None of the funds authorized by clause (2)) of section 302(a) may be obligated or expended for research, development, test, or evaluation for an intercontinental-range mobile ballistic missile that would weigh more than 33,000 pounds or that would carry more than a single warhead.

(b) The Secretary of Defense may not deploy more than 10 MX missiles until—

(1) demonstration of subsystems and testing of components of the small mobile intercontinental ballistic missile system (including missile guidance and propulsion subsystems) have occurred. . . .

(d)(1) Not later than January 15 of each year from 1984 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) on the progress being made with respect to the development and deployment of the MX missile system.

The amendment was agreed to.

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weaver: At the end of title III, add the following new section:

LIMITATION ON MX PROGRAM

Sec. 303. No funds may be expended for the MX missile program during any fiscal year during which United States grain suppliers make sales of grain to the Soviet Union, except that the preceding limitation

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20. 129 CONG. REC. 20184, 20187, 20189, 20190, 98th Cong. 1st Sess.

1. *Id.* at p. 20050, July 20, 1983.

2. Marty Russo (Ill.).

shall not apply during any fiscal year if the Secretary of Defense certifies to Congress that the sale of grain to the Soviet Union by United States grain suppliers during that year will not assist the Soviet Union in preparing, maintaining, or providing for its armed forces. . . .

MR. [MELVIN] PRICE [of Illinois]: . . . I make a point of order that the amendment is not germane to title III. . . .

The Chairman Pro Tempore: The Chair is prepared to rule.

The Chair rules that the amendment is not germane to title III. Although title III was originally a 1-year authorization, it has been amended by the Price amendment to go beyond fiscal year 1984.

The amendment of the gentleman from Oregon (Mr. Weaver) would be a permanent change in the law making the MX program conditional upon an unrelated contingency involving agricultural exports. Under the precedents the amendment is not germane and the Chair sustains the point of order of the gentleman from Illinois (Mr. Price). .

Members' Salary Adjustments Based on Changes in Public Debt

§ 30.20 To a federal employees pay bill providing, in part, a salary increase for Members of Congress, an amendment relating the Members' salary to a certification of the level of the national public debt and requiring a yearly adjustment of such salary to reflect any increase or decrease in the debt, was held to be not germane.

In the 88th Congress, a bill [3] was under consideration relating to salary increases for federal employees. The following amendment was offered to the bill: [4]

Amendment offered by Mr. Brock: On page 41, line 11, amend section 204 by adding a new subsection, Subsection (B) to read as follows: . . .

(A) Such rate of compensation shall be increased at the rate of 1 per centum per annum for each $1,000,000,000 by which the public debt was decreased, as certified by the Secretary of the Treasury.

(B) Such rate of compensation shall be decreased at the rate of 1 per centum per annum for each $1,000,000,000 by which the public debt was increased, as certified by the Secretary of the Treasury.

A point of order was raised against the amendment, as follows: [5]

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to this title or to this bill. The subject matter of the amendment is obviously one within the jurisdiction of the Committee on Ways and Means.

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

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

4. 110 CONG. REC. 5126, 88th Cong. 2d Sess., Mar. 12, 1964.

5. *Id.* at p. 5127.

MR. [WILLIAM E.] BROCK [3d, of Tennessee]: Mr. Chairman, we have in section 204 on page 41 offered an amendment to the Legislative Reorganization Act, United States Code 31. This amendment applies to that particular act and is an addition to that section. It would simply add an additional subsection; therefore, I think it is germane.

The Chairman,[6] in ruling on the point of order, stated:

The amendment of the gentleman from Tennessee clearly sets forth additional tests and duties which are not contemplated in the original act. Therefore, the Chair is constrained to sustain the point of order.

Washington Metropolitan Area Transit Compact—Submission of Certain Proposals to Committees on Judiciary Required

§ 30.21 To a bill granting the consent of Congress for Virginia, Maryland, and the District of Columbia to amend the Washington Metropolitan Area Transit Compact to establish a transit authority for the region, a committee amendment requiring the submission of certain proposals to and approval by the House and Senate Committees on the Judiciary (but not constituting a rules change), thereby adding another condition to those contained in the bill with respect to the establishment of a transit authority, was held germane and in order.

In the 89th Congress, a bill[7] was under consideration to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region. The bill provided in part:

H.J. RES. 1163

Joint resolution to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region and for other purposes and to enact said amendments for the District of Columbia

Whereas Congress heretofore has declared in the National Capital Transportation Act of 1960 (Public Law 86–669, 74 Stat. 537) and in the National Capital Transportation Act of 1965 (Public Law 89–173, 79 Stat. 663) that a coordinated system of rail rapid tran-

6. Chet Holifield (Calif.).

7. H.J. Res. 1163 (Committee on the Judiciary); see 112 CONG. REC. 25668–77, 89th Cong. 2d Sess., Oct. 7, 1966.

sit, bus transportation service, and highways is essential in the National Capital Region for the satisfactory movement of people and goods . . . the comfort and convenience of the residents and visitors to the Region, and the preservation of the beauty and dignity of the Nation's Capital and that such a system should be developed cooperatively by the Federal, State, and local governments of the National Capital Region, with the costs of the necessary facilities financed, as far as possible, by persons using or benefiting from such facilities and the remaining costs shared equitably among the Federal, State, and local governments. . . .

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby consents to, adopts and enacts for the District of Columbia an amendment to the Washington Metropolitan Area Transit Regulation Compact, for which Congress heretofore has granted its consent (Public Law 86–794, 74 Stat. 1031, as amended by Public Law 87–767, 76 Stat. 764) by adding thereto title III, known as the Washington Metropolitan Area Transit Authority Compact (herein referred to as title III), substantially as follows:

"TITLE III

Article I

"Definitions

"1. As used in this Title, the following words and terms shall have the following meanings, unless the context clearly requires a different meaning:

"(a) 'Board' means the Board of Directors of the Washington Metropolitan Area Transit Authority. . . .

"Adoption of mass transit plan

"15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit such proposed plan, alteration, revision or amendment for comment to the following and to such other agencies as the Board shall determine:

"(1) the Commissioners of the District of Columbia, the Northern Virginia Transportation Commission, and the Washington Suburban Transit Commission;

"(2) the governing bodies of the Counties and Cities embraced within the Zone;

"(3) the highway agencies of the Signatories . . .

"(9) the Northern Virginia Regional Planning and Economic Development Commission;

"(10) the Maryland State Planning Department; and

"(11) the private transit companies operating in the Zone and the Labor Unions representing the employees of such companies and employees of contractors providing service under operating contracts. . . .

"Effective date; execution

"86. This Title shall be adopted by the signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with laws of the State in which the filing is made, and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title shall become effective ninety days after the enactment of concurring leg-

islation by or on behalf of the District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or actions have been taken, including the signing and execution of the title by the Governors of Maryland and Virginia and the Commissioners of the District of Columbia. . . .

"Section 6. (a) The right to alter, amend or repeal this Act is hereby expressly reserved.

"(b) The Authority shall submit to Congress and the President copies of all annual and special reports made to the Governors, the Commissioners of the District of Columbia and/or the legislatures of the compacting States.

"(c) The President and the Congress or any committee thereof shall have the right to require the disclosure and furnishing of such information by the Authority as they may deem appropriate. Further, the President and Congress or any of its committees shall have access to all books, records and papers of the Authority as well as the right of inspection of any facility used, owned, leased, regulated or under the control of said Authority."

An amendment was offered to the bill which sought to transfer duties and functions to the specified new transit authority 'whenever the Authority demonstrates to the satisfaction of the Committees on the Judiciary of the United States Senate and House of Representatives a readiness to set into operation a workable financial plan, a physical plan for a regional transit system, and a program for taking over the functions and duties of the Agency." [8] A point of order was raised against the amendment, as follows:

MR. [HOWARD W.] SMITH [of Virginia]: Mr. Chairman, I make the point of order that the amendment is not germane in that the amendment proposes duties on a committee of Congress that are legislative, and should be resolved by the Congress itself, and not left to the future for some committee to make decisions that would change vital functions.

The Chairman,[9] in ruling on the point of order, stated:

. . . The Chair holds that the amendment is germane because it provides a different condition in the matter of agreement to the compact.

As to the question of constitutionality, the Chair holds that the Chair does not pass upon a constitutional question. . . .

Congressional Intent Regarding Award of Construction Contracts

§ 30.22 To that section of a bill stating the congressional intent of proposed legislation, an amendment to insert a further statement of intent was held to be germane.

In the 84th Congress, a bill [10] was under consideration com-

8. *Id.* at p. 25677.
9. Charles M. Price (Ill.).
10. H.R. 10660 (Committee on Public Works).

prising the Federal Highway and Highway Revenue Acts of 1956. The bill contained the following declaration of intent:[11]

> (c) Declaration of intent: Recognizing it to be in the national interest to foster and accelerate the construction of a safe and efficient system of Federal-aid highways in each State, it is hereby declared to be the intent of Congress progressively to increase the annual sums herein authorized . . . by amounts which in each succeeding year shall provide an increase over the total amounts authorized for each immediately preceding year of not less than $25 million. . . .

The following amendment was offered to the bill:[12]

> Amendment offered by Mr. Multer: Page 4, line 14, insert: 'It being in the national interest to preserve and expand full and free competition, it is further declared to be the intent of Congress to realize this goal that the actual and potential capacity of small business be encouraged and developed by permitting this segment of our economy to aid in the construction of such a safe and efficient system of Federal highways and that in order to carry out these policies and the intent of Congress the Government should aid, counsel, assist, and protect, insofar as possible, the interest of small business concerns in order to preserve free competitive enterprise, to assure that a fair proportion of the contracts awarded in the construction of a safe and efficient system of Federal-aid highways, and that a fair proportion of the total contracts and purchases for supplies and services for such Federal-aid highways be placed with small business enterprises to maintain and strengthen the overall economy of the Nation.'

The following exchange concerned a point of order raised against the amendment:

> MR. [GEORGE H.] FALLON [of Maryland]: . . . (M)y point of order is that these contracts are not let by the Federal Government; they are let by State governments and here we are directing the State governments on how they should award contracts. . . .
>
> MR. [ABRAHAM J.] MULTER [of New York]: . . . The bill before the House already has a similar provision affecting what will be done with these highways after they are constructed. . . . In the report under "Free Competition" you will find recognition of the principle in part. This is merely an extension of that same principle, and a further declaration that we should aid small business.
>
> THE CHAIRMAN:[13] In the opinion of the Chair this is not a direction. It is merely an indication of the intention of the Congress. It is not binding on anybody and for that reason the point of order is overruled.

Funds for Procurement Contracts—Availability Conditional on Compliance With Laws Regarding Discrimination .

§ 30.23 An amendment conditioning the availability to

11. See 102 CONG. REC. 7178, 84th Cong. 2d Sess., Apr. 27, 1956.

12. *Id.* at p. 7211.

13. Francis E. Walter (Pa.).

certain recipients of funds in an authorization bill upon their compliance with federal law not otherwise applicable to those recipients and within the jurisdiction of other House committees may be ruled out as not germane; thus, an amendment to the Defense Department authorization bill, prohibiting the use of funds for certain procurement contracts with contractors, including foreign contractors, who do not comply with all domestic United States laws regarding discrimination, was held not germane since requiring compliance with laws which were not otherwise applicable to the recipients of those funds, which were within the jurisdiction of other committees, and which were not related to the bill.

During consideration of H.R. 2969 in the Committee of the Whole on June 16, 1983,[14] the Chair sustained a point of order against the following amendment:

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vento: Page 7, after line 14, insert the following new subsection:

(e) No funds authorized under this title may be used in connection with the European Distribution System Aircraft unless, after preliminary selection of a contractor for production of such Aircraft but before final selection and announcement of the contractor selected, the Inspector General of the Department of Defense certifies to the Secretary of the Air Force that—

(1) the employment practices of the contractor selected meet all applicable United States laws regarding discrimination on the basis of religion or race; and

(2) the selection of that contractor was not determined by prior foreign sales of United States-produced defense equipment. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I make a point of order that the amendment is not germane to the subject matter of the bill.

The amendment deals with the employment practices of foreign contractors not under the jurisdiction of U.S. law and as such the amendment deals with matters not within the jurisdiction of the House Armed Services Committee.

The amendment, Mr. Chairman, also requires a determination as to whether the selection of a foreign contractor was determined by prior foreign sales of U.S.-produced defense equipment.

Foreign military sales issues are also not within the jurisdiction of the Armed Services Committee. . . .

MR. VENTO: . . . Mr. Chairman, the precedents of the House indicate that this amendment is germane and should be ruled in order as a legiti-

14. 129 CONG. REC. 16059, 16060, 98th Cong. 1st Sess.

mate limitation on the authority of the Secretary of the Air Force to procure certain aircraft.

The amendment would require the Department to make certain certifications before selecting a final contractor for an aircraft specifically authorized by this legislation. The amendment on its face does not attempt to expand the applicability of law regarding nondiscrimination in employment to new areas, instead it conditions the use of the authorized funds upon a certification of the employment practices of the selected contractor. Precedence is found for this in Deschler's Procedure, chapter 28, section 23.6 ruling of the Chair, August 5, 1970. In that instance, the Chair ruled that, to a bill providing for an annual ceiling on subsidies for crop producers, an amendment prohibiting those payments unless the Secretary of Labor certified such producers to be in compliance with applicable health and safety laws was germane.

In addition, this amendment limits the authority granted under this legislation. General direction on this can be found in Deschler's Procedure, chapter 28, section 25.1. A ruling of the Chair on July 17, 1978, Deschler's Procedure, chapter 28, section 26.1 relates more specifically to the pending amendment.

> . . . an amendment limiting the exercise of a discretionary power conferred in a bill may be germane even though it incorporates as a term of measurement a qualification or condition applicable to entities beyond the scope of the bill.

Finally, the restriction contained in the amendment relates solely to funds authorizing in this bill and does not apply to another category of funds, or funds authorized in other bills or in previous years. Generally, this is stated in Deschler's Procedure, chapter 28, section 27.1. A ruling of the Chair on July 26, 1979, Deschler's Procedure, chapter 28, section 27.8 more specifically parallels this situation.

For these reasons, Mr. Chairman, I would urge that this amendment is germane and places a legitimate condition and restriction on the use of funds authorized in this bill. . . .

THE CHAIRMAN PRO TEMPORE:[15] The Chair would suggest to the gentleman from Minnesota, the precedents that he read apply to domestic recipients who are already covered by applicable U.S. law rather than foreign recipients to whom U.S. laws are not applicable. The Chair would under the precedents be constrained to sustain the point of order by the gentleman from New York.

Liquidation of Assets of Federal Credit Agencies—Amendment Providing Government Guarantees on Obligations

§ 30.24 To a bill enabling certain federal credit agencies to enter into trust agreements with the Federal National Mortgage Association and permitting that Association to sell participation certificates based on a pool of the credit agencies' loans, an amendment providing that such participation certifi-

15. John P. Murtha (Pa.).

cates be obligations guaranteed as to principal and interest by the United States was held to be germane.

On May 18, 1966, the Committee of the Whole was considering the Participation Sales Act of 1966,[16] which was a bill to promote private financing of credit needs and to provide for an efficient method of liquidating financial assets held by federal credit agencies. An amendment was offered[17] as described above. A point of order was raised against the amendment, as follows:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make the point of order that the gentleman from New Jersey is trying to change the national debt limit. . . .
>
> Mr. Chairman, the law is very plain, I believe, as to what shall be included in the public debt. . . .
>
> . . . [T]his is an attempt to change the law relating to the public debt in a bill that does not contain the subject matter now pending before the House.

The Chairman,[18] in ruling on the point of order, stated:

> In the opinion of the Chair, the language of the pending amendment would be germane to the pending bill and the Chair overrules the point of order.

16. H.R. 14544 (Committee on Banking and Currency).

17. 112 CONG. REC. 10908, 89th Cong. 2d Sess., May 18, 1966.

18. Eugene J. Keogh (N.Y.).

Conditions Attached to Loan Guarantees for Chrysler Corporation

§ 30.25 Where a proposal authorized loan guarantees to the Chrysler Corporation, for purposes of enabling the corporation to remain economically viable and to continue to furnish goods and services, thereby avoiding adverse effects on the economy and domestic employment, but set a variety of conditions on such loan guarantees (such as a prohibition against paying dividends during the term of the loan guarantee), an amendment providing that during that term the corporation shall not purchase or develop manufacturing facilities outside the United States was held germane as a further condition related to the stated purposes of the bill as a whole.

During consideration of H.R. 5860 in the Committee of the Whole on Dec. 18, 1979,[19] the Chair overruled a point of order against the amendment described

19. 125 CONG. REC. 36791–93, 36818, 36819, 96th Cong. 1st Sess.

above. The proceedings were as follows:

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

Sec. 4. (a) The Board, on such terms as it deems appropriate, may make commitments to guarantee either the principal amount of loans to a borrower or the principal amount of, and interest on, loans to a borrower. A commitment may be made only if, at the time the commitment is issued, the Board determines that—

(1) there exists an energy-savings plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrowers;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof . . .

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranteed assistance of at least $1,830,000,000—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale or securities, or otherwise after October 17, 1979 . . .

(6) the Board has received assurances from existing creditors that they will continue to waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4). . . .

TERMS AND CONDITIONS OF LOAN GUARANTEES

Sec. 8. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's prior consent. . . .

(4) The Corporation may not pay any dividends on its common or preferred stock during the period beginning on the date of the enactment of this Act and ending on the date on which loan guarantees issued under this Act are no longer outstanding . . .

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute. . . .

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Stark to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

"(o) During the period in which any loan guarantee is outstanding

> under this Act, the Corporation shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane. . . .

[T]he rules of the House require that the amendment be germane to both the bill and the amendment to which it is offered, as well as to the particular portion of the amendment to which the proposal is offered. This amendment, I think, fails to meet all three of these requirements.

The particular section of the amendment to which this amendment is offered reads as follows: "Authority for Commitments for Loan Guarantees." This section deals with two things: No. 1, that the builder of the automobile to receive the loan guarantee shall have an energy savings plan. That is the first one. It shall have such a plan as a part of both its operating and its financial plan.

The section subsequently goes on and lays down what goes into a satisfactory financing plan. If the Chair will follow this, he will find that the particular section deals with the financing plan clear through the section and deals with the actions of the corporation which will be taken to satisfy a satisfactory financing plan and a plan which will assure the protection of the United States and the interest of the taxpayers in the loan.

The proposal that is offered by the gentleman from California (Mr. Stark) dictates what shall be done by Chrysler, not what will respond to the requirements of this particular section which deal with the financial capability and financial ability of the corporation to repay and as to what constitutes a satisfactory financing plan by the corporation. . . .

Mr. Chairman, I point out that the amendment is not germane because it does not fall in the category of conditions that are met in . . . the bill, the amendment to the bill or the particular section to which it is made.

MR. STARK: Mr. Chairman, if the Chair will bear with me, my amendment, I believe, is to section 40. The gentleman from Michigan is quite correct that that is the authority for commitments under loan guarantees. On page 4 of the committee print of the amendment in the nature of a substitute, on line 14, under the sections which the gentleman from Michigan stated:

> . . . the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof.

Going along further, under the financial plan, which the gentleman said should be submitted, on page 6, paragraph (8):

> . . . the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the corporation.

I certainly presume that domestic economic viability of the corporation relates to expenditures in the United States and not overseas.

So I would submit that my amendment deals directly with assuring that the intent of section (4) will be carried

out by the Board and, therefore, is of the most germane nature and very important to the bill. . . .

THE CHAIRMAN:[20] . . . [T]he Chair is ready to rule.

The Chair feels that the argument made by the gentleman from California (Mr. Stark) is to the point, that both the provisions mentioned are pertinent, and that the amendment is pertinent to the general purposes of the Moorhead amendment in the nature of a substitute, as indicated by related provisions in the section in question and especially by the substitute as a whole.

Therefore, the Chair overrules the point of order.

Credit Terms for Assistance to India—Amendment Providing That Interest Paid Be Available for Certain State Department Expenditures

§ 30.26 To a bill authorizing assistance to India on specified credit terms, an amendment providing that interest payable by India on any debt incurred under the program be deposited in a special account in the Treasury and be made available for certain types of expenditure by the Department of State was held to be not germane.

In the 82d Congress, a bill[1] was under consideration relating to emergency food relief assistance to India. An amendment was offered to the bill by Mr. William G. Bray, of Indiana:[2]

Sec. 4(a) Any sums payable by the Government of India, under the interest terms agreed to between the Government of the United States and the Government of India . . . shall, when paid, be placed in a special deposit account in the Treasury of the United States, notwithstanding any other provisions of law, to remain available until expended. This account shall be available to the Department of State for the following uses:

(1) Allocation, for designated educational, agricultural, experimental, scientific, medical, or philanthropic activities, to American institutions engaged in such activities in India. . . .

A point of order was raised against the amendment, as follows:[3]

MR. [JOHN M.] VORYS [of Ohio]: . . . I submit the gentleman's amendment goes far beyond the scope of the legislation. It introduces a great deal of new matter and provides for an appropriation in a legislative act, and is therefore not in order. . . .

Mr. Jacob K. Javits, of New York, who was among those speaking in defense of the amendment, stated:

. . . We are providing for a loan in the bill . . . and it appears to me the

20. Richard Bolling (Mo.).

1. H.R. 3791 (Committee on Foreign Affairs).

2. 97 CONG. REC. 5837, 82d Cong. 1st Sess., May 24, 1951.

3. *Id.* at p. 5838.

Chair could consistently sustain this amendment on the ground that it is a direction to the negotiators as to what they should write into the terms and conditions of that loan in making their agreement.

The Chairman,[4] in ruling on the point of order, stated:

The gentleman from Indiana offers an amendment, which the Clerk has reported, providing certain conditions relating to the assistance proposed to be granted under the pending bill; in addition it proposes the creation of a fund and makes available those funds for certain specific purposes.

The gentleman from Ohio makes a point of order against the amendment on two grounds: One, that it is not germane; two, that it seeks to make an appropriation.

The Chair would call attention to page 88 of Cannon's Precedents where the following statement is made:

> The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered—

Which is the contention of the gentleman from Indiana—

> does not render it germane. . . .

The Chair . . . sustains the point of order made by the gentleman from Ohio in both respects[5]

4. Albert A. Gore (Tenn.).

5. For discussion of the prohibition against appropriations in legislative bills, see Ch. 25 Sec. 4, supra.

Humanitarian Assistance to Vietnam War Victims—Amendment Prohibiting Specified Uses of Assistance in High Unemployment Areas in United States

§ 30.27 To a substitute dealing with humanitarian and evacuation assistance to war victims of South Vietnam, an amendment prohibiting the use of such assistance to relocate or to create employment opportunities for evacuees in high unemployment areas in the United States was held to raise issues beyond the scope of the bill and was ruled out as not germane.

On Apr. 23, 1975,[6] during consideration of H.R. 6096,[7] in the Committee of the Whole, an amendment was offered to which a point of order was made and sustained. The proceedings were as follows:

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Clay to the amendment offered by Mr.

6. 121 CONG. REC. 11512, 94th Cong. 1st Sess.

7. The Vietnam Humanitarian Assistance and Evacuation Act.

Eckhardt, as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Add a new section to the end of the bill which reads:

"No funds authorized under this act shall be used directly or indirectly to transport Vietnamese refugees to any congressional district or create employment opportunities in any congressional district where the unemployment rate exceeds the national unemployment rate as defined by the Bureau of Labor statistics of the United States Department of Labor.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It goes greatly beyond the scope of the bill and the amendment in the nature of a substitute. Nothing in the bill or in the amendment in the nature of a substitute deals with the national unemployment rate. . . .

MR. CLAY: . . . .The amendment simply imposes a condition that none of the money may be used, or a limitation on the way the money will be spent. I do not know how it goes beyond the scope of this bill or the amendment in the nature of a substitute.

THE CHAIRMAN:[8] The Chair is ready to rule. For the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) and for the fact that the contingency set forth in the gentleman's amendment is not related to the purposes of the bill, the point of order is sustained.

8. Otis G. Pike (N.Y.).

Establishment of Petroleum Reserves—President Given Authority Pursuant to Any Program "Subsequently Authorized" by Congress

§ 30.28 To a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands, including naval petroleum reserves, an amendment in the nature of a substitute containing similar provisions and authorizing the President to place petroleum reserves in strategic storage facilities "pursuant to any program subsequently authorized by Congress" was held germane, since it did not itself establish a strategic storage facility (a matter within the jurisdiction of the Committee on Armed Services) but merely conditioned the President's authority upon separate enactment of such program.

On July 8, 1975,[9] during consideration of H.R. 49, Chairman Neal Smith, of Iowa, overruled a

9. 121 CONG. REC. 21631–33, 94th Cong. 1st Sess.

point of order against the following amendment:

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:
>
> That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States. . . .
>
> Sec. 2. No national petroleum reserve that includes all or part of an existing naval petroleum reserve shall be established without prior consultation with the Secretary of Defense, and when so established, the portion of such naval reserve included shall be deemed to be excluded from the naval petroleum reserve. . . .
>
> (d) Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that not more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities. . . .
>
> (f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided*, That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve. . . .

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, I have a point of order against the amendment on the basis that the amendment offered includes a sentence relating to strategic defense. The original bill, H.R. 49, has no such reference.

THE CHAIRMAN: Will the gentleman specify the language he refers to?

MR. HÉBERT: The language which I read, from section (d):

> Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that no more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities.

I point out, Mr. Chairman, that the original bill, as presented to the Committee on Rules, did not contain any such reference at all. Therefore, it is not germane. . . .

MR. MELCHER: Mr. Chairman, I feel that the section that the gentleman from Louisiana (Mr. Hébert) has referred to is indeed germane to the bill. It involves the discretionary right of the President to designate a portion of the Elk Hills production for strategic storage reserves. It deals with production of Elk Hills oil, and all through the bill we were determining what we could do in the best interest of the Nation. . . .

THE CHAIRMAN: The Chair is prepared to rule on this point of order.

The Chair would note that the language of the Melcher amendment referred to states "pursuant to any program hereafter authorized by the Congress."

The Melcher amendment does not set up a program nor authorize a program for strategic storage of petroleum; it merely refers to a program which may hereafter be authorized. If it did attempt to authorize a program not related to the committee amendment, then the decision on the point of order would be different.

However, since it does not, the point of order is overruled.

Assistance to Community Health Centers—Denial to Health Centers Located in States Which Permit Public Bath Houses

§ 30.29 It is not germane to condition assistance to a particular class of recipient covered by a bill upon an unrelated contingency, such as action or inaction by another class of recipient or agent not covered by the bill; thus, to a bill only relating to federal funding and programs for community and migrant health centers not operated by state governments, an amendment denying assistance under the bill to any health center located in any state which permitted the operation of public bath houses was ruled out as imposing a nongermane contingency to bar the use of funds, since state governments were not recipients of funds in, or otherwise affected by, the provisions of the bill.

During consideration of H.R. 2418 (Health Services Amendments of 1985) in the Committee of the Whole on Mar. 5, 1986,[10] the Chair sustained a point of order against the following amendment:

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 5, after line 23 insert the following:

Sec. 7. Grant Condition.

Effective 6 months after the date of the enactment of this Act, no grant may be made under section 329 of the Public Health Service Act for a migrant health center or under section 330 of such Act for a community health center if such center is located in a State which permits the operation of any public bath which is determined by the State or a local health authority to be hazardous to the public health or used for sexual relations between males. . . .

MR. [HENRY A.] WAXMAN [of California]: Mr. Chairman, I assert my point of order.

10. 132 CONG. REC. 3613, 99th Cong. 2d Sess.

Mr. Chairman, the amendment offered by our colleague, the gentleman from California, is not germane to this bill. This bill provides for the operation of community health centers and migrant health centers. To our knowledge, no community or migrant health centers are operated by State governments. This amendment would delay the operation of the legislation until a contingency not related to the purposes of this bill is carried out by States. This amendment is not germane. . . .

MR. DANNEMEYER: . . . Mr. Chairman, the point of order that is being asserted by my friend from Los Angeles may have some merit if the proscription of the amendment had general applicability to all health care funds. It does not.

It is limited exclusively to any funding that may be available under the two programs. Community Health Centers and Migrant Health Centers. With that limitation, I think it is most appropriate to say in this authorization bill that none of the funds can be used unless, within 6 months, States of the Union who seek to apply for these funds have shut down bathhouses in their jurisdictions. In that narrow area, I believe it should pass muster as having germaneness and applicability.

MR. WAXMAN: Mr. Chairman, if I might be heard further on this amendment. An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. The funds granted under this program are to private entities, not to State governments.

To permit that those funds be cut off to private entities because of the inaction by State government is not germane because it is a contingency that cannot be met by the organization to which the funds would be granted. Chapter 28, section 24, provides that an amendment making the implementation of Federal legislation contingent upon the enactment of unrelated State legislation is not germane.

MR. [BARNEY] FRANK [of Massachusetts]: . . . There is reference in this amendment that would close down these programs if something was "used for sexual relations between males." There is nothing in this bill dealing with that. It introduces an entire new subject and would require the ascertainment of a fact that has nothing to do with the subject matter of this bill and would delay the enactment of the program on that basis. . . .

THE CHAIRMAN:[11] The Chair is prepared to rule.

This bill, H.R. 2418, is a categorical grant program. The money that is authorized under the bill, if appropriated, goes to community and migrant health centers and not to the States. The bill was narrowed earlier in these proceedings to remove from the bill the only paragraph that referred to the States.

This amendment by the gentleman from California, Mr. Dannemeyer, seeks to impose a condition upon a State which must be met by the State government before community health centers that may be in that State or partly in that State can receive the funds. States are not recipients of the funds provided in the bill or otherwise within the purview of the bill.

An earlier ruling of September 25, 1975, which appears in Deschler's Pro-

11. Neal Smith (Iowa).

cedures of the House at page 596, states, "That an amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination."

Therefore, the amendment is not germane and the point of order is sustained.

Grants for Improvement of Law Enforcement—Amendment To Require Establishment of Officers' Grievance System as Prerequisite

§ 30.30 To a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane; thus, to a bill providing a comprehensive grant program for improvement of state and local law enforcement and criminal justice systems, including within its scope the subject of welfare of law enforcement officers, an amendment requiring states to enact a law enforcement officers' grievance system as a prerequisite to receiving grants under the bill was held to come within the general subject of law enforcement improvement covered by the bill and was held germane.

During consideration of H.R. 8152 [12] in the Committee of the Whole on June 18, 1973,[13] the Chair overruled a point of order against the following amendment:

The Clerk read as follows:

Amendments offered by Mr. Biaggi: Page 15, line 8, strike out "and".

Page 15, immediately after line 8, insert the following:

"(13) provide a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government and public agencies. . . .

"PART J—LAW ENFORCEMENT OFFICERS' GRIEVANCE SYSTEM AND BILL OF RIGHTS

"Sec. 701. Beginning one year after the date of enactment of this section, no grant under part B or part C of this title shall be made to any State, unit of general local government or public agency unless such State, unit of general local government, or public agency has established and put into operation a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government, and public agencies operating within the State and has enacted into law a 'law enforce-

12. The Law Enforcement Assistance authorization.

13. 119 CONG. REC. 20099–101, 93d Cong. 1st Sess.

ment officers' bill of rights, which includes in its coverage all law enforcement officers of the State, units of general local government and public agencies operating within the State.

"BILL OF RIGHTS

"The law enforcement officers' bill of rights shall provide law enforcement officers of such State, units of general local government, and public agencies statutory protection for certain rights enjoyed by other citizens. The bill of rights shall provide, but shall not be limited to, the following:

"(a) Political Activity by Law Enforcement Officers.—Except when on duty or when acting in his official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity. . . .

"(i) In addition to any procedures available to law enforcement officers regarding the filing of complaints and grievances as established in this section, any law enforcement officer may institute an action in a civil court to obtain redress of such grievances.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order is based on the nongermaneness of the amendment offered by the gentleman from New York. . . .

On the point of order, Mr. Chairman, on germaneness, this embarks on an entirely new direction. It establishes rights and duties for law enforcement officers and personnel which are not a part of the thrust of the LEAA law. . . .

MR. [MARIO] BIAGGI [of New York]: . . . The fact of the matter is that this is consistent with the proposal being made today, as to establishing guidelines. Guidelines have been established in the past. . . .

This is just an extension. What we are trying to do is to include among all of the people of our country a particular segment that has been eliminated or disregarded.

This is a question of civil rights as much as any other question is, as it relates to anybody else.

So far as germaneness is concerned, I obviously have to disagree with the gentleman. We have many guidelines already established. This will establish another guideline. There is no imposition here on any State or political subdivision. It is a prerogative they can exercise.

If they seek Federal funds they must comply. Right now the same obligation is imposed upon them. If they seek Federal funds they must comply with the civil rights law and all the prohibitions we have imposed upon them. All we are doing is including the law-enforcement officers. . . .

THE CHAIRMAN:[14] The Chair is ready to rule on the point of order raised by the gentleman from Alabama.

As indicated on page 4 of the committee report, a fundamental purpose of H.R. 8152 is to authorize Federal funding of approved State plans for law enforcement and criminal justice improvement programs. The bill attempts to address "all aspects of the criminal justice and law enforcement system—not merely police, and not merely the purchase of police hardware" and requires State plans to develop "a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State."

14. Dan Rostenkowski (Ill.).

The amendment offered by the gentleman from New York would require that State plans submitted for LEAA approval contain, in addition to the 13 requirements spelled out in the committee bill as amended, provisions for a system of receipt, investigation, and determination of grievances submitted by State and local law enforcement officers. The second amendment would insert on page 52 a provision spelling out a "law enforcement officers' bill of rights" which must be enacted into law by any State seeking LEAA grants under that act in order to be eligible for such grants.

The committee bill seeks to establish a comprehensive approach to the financing of programs aimed at improving State and local law enforcement systems. Included in this comprehensive approach is the subject of the welfare of law enforcement officers as it relates to their official duties, including their salaries, equipment, et cetera. The issue of a grievance system for law enforcement officers is within the general subject of the improvement of State and local law enforcement systems, and the amendments are, therefore, germane to the pending bill.

The Chair overrules the point of order.

Indemnification of Operators of Nuclear Energy Facilities—Benefits Conditional Upon Agreement Concerning Safety Regulations

§ 30.31 While a bill providing procedures for determining benefits based upon liability and indemnification does not ordinarily admit as germane amendments which address the issue of regulation of an activity, an amendment which makes receipt of a benefit conditional upon an agreement to be governed by certain safety regulations may be germane, if related to the activity giving rise to the liability.

During consideration of H.R. 1414[15] in the Committee of the Whole on July 29, 1987,[16] the Chair overruled a point of order against the following amendment:

MR. [RON] WYDEN [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wyden: Page 33, insert after line 7 the following new sections (and redesignate the succeeding sections accordingly):

SEC. 16. FINANCIAL ACCOUNTABILITY.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as amended by this Act, is further amended by adding at the end the following new subsection:

"u. Financial Accountability.—(1)(A) The Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by

15. The Price-Anderson Act Amendments of 1987.

16. 133 CONG. REC. 21445–48, 100th Cong. 1st Sess.

the Federal Government under an agreement of indemnification under subsection d. for public liability resulting, in whole or part, from the gross negligence or willful misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor). . . .

Chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 2271–2284) is amended by adding at the end the following new section:

"SEC. 237. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—

"a. In general.—(1) Any person subject to an agreement of indemnification under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), shall, as a condition of such indemnification be subject to the nuclear safety and civil penalties provisions of this section.

"(2)(A) Except as provided in subparagraph (B), the Nuclear Regulatory Commission may impose a civil penalty of an amount not to exceed $100,000, per violation, upon any person who has entered into an agreement of indemnification under section 170 d. who violates—

"(i) any rule, regulation, or order of the Department of Energy relating to nuclear safety; or

"(ii) any term, condition, or limitation relating to nuclear safety of any contract that is the subject of any such agreement. . . .

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Chairman, I make a point of order that the Wyden amendment is nongermane to the amendment in the nature of a substitute that is pending before the Committee of the Whole. It is nongermane because the fundamental purpose of the amendment is different from the fundamental purposes of either the substitute or the underlying Price-Anderson law.

The fundamental purposes of both the pending substitute and the underlying law are:

First, to ensure adequate and prompt compensation of any victim of a serious nuclear accident; and

Second, to indemnify both the operators of commercial nuclear reactors and contractors which operate Department of Energy nuclear facilities against damages which might arise from a nuclear accident. This is intended to encourage participation in nuclear activities.

The fundamental purpose of the Wyden amendment, however, is regulatory in nature. According to the proponents of the amendment, it is intended to ensure the safe operation of contractor-operated DOE nuclear facilities. To achieve this regulatory end, the Wyden amendment would authorize the Attorney General to sue DOE contractors to recover damages paid by the Government as a result of an accident caused by the "gross negligence or willful misconduct" of the contractor and would authorize the Secretary of Energy to assess civil penalties against contractors for violation of DOE safety regulations.

Allowing the Attorney General to sue to recover damages from a contractor would neither affect the payment of compensation to victims nor further the purpose of indemnifying contractors in order to encourage participation in nuclear activities.

Providing for civil penalties for safety violations clearly does not relate to either of the purposes of the substitute and Price-Anderson. The civil penalties are purely regulatory, intended to enforce safe operation of DOE nuclear fa-

cilities. Neither the substitute nor Price-Anderson deals with the issue of safety in nuclear facilities. They deal only with what happens after a nuclear accident occurs. Amendments intended to promote safety at nuclear facilities should be considered in connection with legislation which deals with the operations of such facilities. Allowing the Wyden amendment to be offered to this legislation would be like allowing an amendment to provide penalties for driving faster than 55 miles per hour to legislation establishing a no-fault automobile insurance system.

While both issues concern automobiles, there is a fundamentally different purpose in each case.

Mr. Chairman, I believe that the Wyden amendment is nongermane to this substitute because its fundamental purpose is different from the fundamental purpose of the substitute and the underlying Price-Anderson Act and that my point of order should be sustained. . . .

MR. WYDEN: Mr. Chairman, the amendment before us is germane to the bill. The bill before us deals with procedures for liability and indemnification for nuclear accidents.

Price-Anderson provides for mechanisms under which commercial nuclear powerplants and Government nuclear contractors may be indemnified for liability resulting from a nuclear accident. In providing a scheme for nuclear insurance, it is natural to impose certain conditions upon the granting of indemnification.

For example, private insurers of a building may require as a condition of an insurance policy that the owners of the building have it inspected by appropriate authorities. These conditions are directly related to the insurance policy. By requiring the insured party to conduct himself in a safe manner, the exposure of the insurer is reduced.

In this case, the amendment imposes conditions and limitations upon the contractor covered by indemnification agreements. In the first section of the amendment the contractor would be held financially liable for damages resulting from the contractor's gross negligence or willful misconduct. In the second section, the contractor's indemnification is subject to the qualification that should he break safety rules of DOE or other contract conditions, he will be subject to a civil penalty. These civil penalties, and the threat of civil penalties will raise the safety consciousness of the contractor, thereby reducing the potential Government liability under an indemnity agreement.

I refer the Chairman to chapter 28, section 23 of Deschler/Brown's Precedents. The precedents cited stand for the proposition that amendments providing conditions or qualifications for the grant of various authorities are germane. For example, to a bill making grants to medical schools to be used for student scholarships, an amendment establishing a national commission to prepare and evaluate examinations for purposes of testing qualifications of scholarship applications was held to be germane—section 23.5. Similarly, an amendment to a bill relating to subsidy payments for agricultural goods, an amendment prohibiting support payments unless the producers were in compliance with health and safety laws was held to be germane—section 23.6.

In summary, Mr. Chairman, indemnification of contractors under the bill is a benefit to contractors that can properly be conditioned upon compliance with various regulations. The concept is not novel. Indeed, NRC contractors are subject to civil penalties under other provisions of the act we are amending today. Similarly, we place conditions on utilities indemnified under the act. For example, section 2 of the bill requires licensees to maintain the maximum amount of liability insurance available from private sources. . . .

THE CHAIRMAN PRO TEMPORE:[17] The Chair will rule on the point of order.

The gentleman from South Carolina [Mr. Derrick] makes the point of order that the amendment offered by the gentleman from Oregon (Mr. Wyden) is not germane to the pending amendment in the nature of a substitute. It is agreed that the fundamental purpose of the pending text involves procedures for liability and indemnification for nuclear accidents, and does not go to the regulation of the domestic nuclear industry as a measure to prevent the occurrence of nuclear accidents.

In the opinion of the Chair, the question of subrogation is related to the concept of indemnification by the U.S. Government. The question of the party ultimately liable for the payment of damage costs is germane to the pending bill. The Wyden amendment does not seek to separately impose a civil penalty upon nuclear contractors as a regulatory scheme, but rather seeks to condition the indemnification provided by the bill for such contractors upon their agreement to be subject to certain nuclear safety and civil penalties. The fact that the bill requires licensees to maintain the maximum amount of liability insurance available from private sources as a condition on indemnification is an indication that other conditions on indemnification are already contained in the bill. The precedents cited by the gentleman from Oregon are supportive of the concept that a grant of authority can be made contingent upon agreement to comply with certain related conditions. The Chair holds that the amendment is germane to the pending text and overrules the point of order.

17. Dan Mica (Fla.).

Government Indemnification for Liabilities—Amendment Requiring Subrogation of Rights

§ 30.32 To a proposition providing for government indemnification of liabilities, an amendment requiring subrogation of corresponding rights is germane as relating to the question of ultimate liability for payment of damages.

The proceedings of July 29, 1987, relating to H.R. 1414, the Price-Anderson Act Amendments of 1987, are discussed in § 30.31, supra.

Registration of Foreign Agents—Modification of Definition of Terms

§ 30.33 To a bill relating to registration of foreign agents, an amendment was held to be germane which qualified the definitions of terms in the bill by adding the names of specific groups to be included within the definition of one of such terms.

In the 77th Congress, a bill[18] was under consideration relating to registration of foreign agents. The bill stated in part:[19]

DEFINITIONS

Section 1. As used in and for the purposes of this act—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party. . . .

The following amendment was offered to the bill:[20]

Amendment offered by Mr. [Martin] Dies [Jr., of Texas]: Page 2, line 17, after the word "individuals", strike out the semicolon, insert a comma and the following: "including but not limited to the Communist Party of the United States, the German-American Bund, and the Kyffhauser-bund."

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

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. I submit that the section of the bill dealing with definitions is limited to persons who are to constitute the foreign principals.

The Chairman,[1] in ruling on the point of order, stated:

The section deals with definitions. This being so, it would be appropriate and in order to add another definition.

The Chair overrules the point of order.

Juvenile Delinquency Prevention and Control Act—Modification of Definition of Terms

§ 30.34 To a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane; thus, to a bill authorizing funds for the control and prevention of juvenile delinquency, an amendment to

18. H.R. 6269 (Committee on the Judiciary).

19. See 87 CONG. REC. 10058, 77th Cong. 1st Sess., Dec. 19, 1941.

20. *Id.* at p. 10061.

1. Orville Zimmerman (Mo.).

that portion of the bill containing definitions, which modified one of the definitions and added another was held to be germane.

In the 90th Congress, the Juvenile Delinquency Prevention and Control Act of 1967,[2] was under consideration, which stated in one portion as follows:[3]

DEFINITIONS

Sec. 404. For purposes of this Act—

(1) The term "Secretary" means the Secretary of Health, Education, and Welfare. . . .

(4) The term "private nonprofit agency" means any accredited institution of higher education, and any other agency or institution which is owned and operated by one or more nonprofit corporations or organizations. . . .

The following proceedings related to amendments offered by Mr. Joe D. Waggonner, Jr., of Louisiana:

MR. WAGGONNER: Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc. . . .

Amendments offered by Mr. Waggonner: After the words "under this Act" on line 21 of page 15 add the following:

The term "private nonprofit agency" shall not be construed to include the Office of Economic Opportunity or any . . . agency . . . created by . . . or in any part funded by or contracted with the Office of Economic Opportunity in accomplishing the purposes of this act. . . .

After line 6 on page 16 add a new subsection numbered (7):

(7) The term "public agency" means a duly elected political body of a subdivision thereof and shall not be construed to include the Office of Economic Opportunity or any . . . other agency or program created by . . . or in any part funded by or contracted with the Office of Economic Opportunity.

MR. WAGGONNER: Mr. Chairman, these two amendments——

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, a point of order. . . .

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The gentleman from Louisiana had started his discussion of the amendment, and there was no previous point of order made prior to the discussion.

MR. PERKINS: Mr. Chairman, I was on my feet seeking recognition at the time the gentleman commenced to address the Chair.

THE CHAIRMAN:[4] Was the gentleman from Kentucky on his feet seeking recognition?

MR. PERKINS: I was, Mr. Chairman.

THE CHAIRMAN: The Chair then overrules the point of order made by the gentleman from Michigan, and the Chair will hear the gentleman from Kentucky on his point of order. . . .

2. H.R. 12120 (Committee on Education and Labor).

3. See 113 CONG. REC. 26878, 90th Cong. 1st Sess., Sept. 26, 1967.

4. Charles E. Bennett (Fla.).

MR. PERKINS: Mr. Chairman, I make the point of order that the amendment is not germane because the gentleman, by his amendment, is seeking to exclude some other agency created by the Economic Opportunities Act from participation. . . .

MR. WAGGONNER: . . . The point of order is totally without merit. Section 404 of this proposal, H.R. 12120, is entitled "Definitions." The first amendment is a further extension of the definition of what a private nonprofit agency actually is. . . .

Reference is continually made to private nonprofit agencies and public agencies on page after page of this bill. If we are to say that an amendment is not germane which defines a public agency, when a definition does not exist . . . if we are to preclude the possibility of clarifying a definition of a private nonprofit agency, then what is germane? . . .

THE CHAIRMAN: . . . The Chair will state that this section of the bill relates to definitions of these various terms—public agency and private nonprofit agencies or groups—and goes into a particularization of each; therefore, the Chair thinks the amendments are germane and overrules the point of order.

Definition of Terms as Providing Exception to Limitation on Authority

§ 30.35 To a section containing "definitions" of two terms referred to in a bill, an amendment adding a further definition of other terms contained in the bill was held germane, although its effect was to provide an exemption from a limitation on authority contained in another section of the bill.

On Mar. 7, 1974,[5] during consideration of H.R. 11793[6] in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [GILLIS W.] LONG of Louisiana: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares."

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I should like to make a point of order against this amendment. . . .

[T]his matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentle-

5. 120 CONG. REC. 5640, 5641, 93d Cong. 2d Sess.

6. The Federal Energy Administration Act.

man's concern, but these words included are probably included in statutes. It seems to me what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

MR. LONG of Louisiana: Mr. Chairman, the gentleman from New York (Mr. Horton) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and specific place for an amendment of this type to be introduced.

THE CHAIRMAN:[7] The Chair is prepared to rule.

The gentleman from Louisiana (Mr. Long) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. Long).

The Chair will state that subsection (1) of section 11 reads as follows:

Any reference to "function" or "functions" shall be deemed to include—

and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. Long) starts as follows:

Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

And so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Incidental Conditions or Exceptions Related to Fundamental Purpose of Bill

§ 30.36 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute which was more detailed in its provisions but which sought to achieve the same result was held germane, where the additional provisions not contained in the original bill were construed

7. John J. Flynt, Jr. (Ga.).

to be merely incidental conditions or exceptions that were related to the fundamental purpose of the bill.

On Aug. 2, 1973,[8] the Committee of the Whole had under consideration H.R. 9130, a bill authorizing the construction of a trans-Alaska oil and gas pipeline under the authority of the Secretary of the Interior, and pursuant to procedural safeguards promulgated by the Secretary. The bill included a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted. A committee amendment in the nature of a substitute was reported as an original bill for purposes of amendment. The committee amendment contained procedures and safeguards similar to those in the bill, and included an exception from the prohibition against judicial review, to provide a mechanism for expediting other types of actions challenging pipeline permits. The amendment also included the condition that all persons participating in construction or use of the pipeline be assured rights against discrimination as set forth in the Civil Rights Act. Points of order were raised against the amendment on the grounds that its provisions were not germane:

> THE CHAIRMAN:[9] Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.
>
> MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I wish to reserve a point of order to the committee amendment.
>
> The Clerk read as follows: . . .
>
> TITLE I
>
> Section 1. Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), is further amended by striking out the following: ", to the extent of the ground occupied by the said pipeline and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon,' and by inserting in lieu thereof the following ": *Provided,* That—
>
> "(a) the width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary finds, and records the reasons for his finding, that in limited areas a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. . . .
>
> Sec. 4. (a) Pipelines on public lands subject to this Act are subject to the provisions of the Gas Pipeline Safety Act of 1968. . . .
>
> (c) The Secretary of the Interior shall report annually to the President, the Congress, the Secretary of Transportation and the Interstate

8. 119 CONG. REC. 27673–5, 93d Cong. 1st Sess.

9. William H. Natcher (Ky.).

> Commerce Commission any potential dangers of or actual explosions or potential or actual spillage on public lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

MR. DINGELL: Mr. Chairman, I rise to make a point of order against the committee amendment just read.

THE CHAIRMAN: The Chair will hear the gentleman on his point of order.

MR. DINGELL: Mr. Chairman, I note first that the rule did not waive points of order.

Mr. Chairman, I cite now rule XVI, clause 7, and I note particularly section 794 relating to germaneness which reads as follows:

> And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

I note as follows, Mr. Chairman, that the committee amendment provides for the establishment of a three-judge court and establishes certain conditions with regard to review which are not found in the original bill.

I note for the assistance of the Chair, that that language is not only not found in the bill, but that language, in my view, at least under the Rules of the House of Representatives, had it been introduced as a separate piece of legislation, would have been referred to the Committee on the Judiciary.

I note further, Mr. Chairman, that the committee amendment as presented to us today provides also language relating to conditions of employment and civil rights of persons, and the duty of the pipeline company to hire without discrimination as to race or creed or color.

I note, Mr. Chairman, that legislation relating to that matter, were it introduced as separate legislation, would have properly under the Rules of the House of Representatives have been referred to the Committee on the Judiciary.

I make the further comment with regard to the point of order just raised, Mr. Chairman, citing now Cannon's Precedents, page 203 2(b), and I quote:

A specific subject may not be amended by a general provision even when of the same class.

Section 203 of the bill addresses itself to the relationship of NEPA to the bill and judicial review of the Secretary of the Interior's actions for compliance with NEPA. Specifically 203(d) of the bill limits judicial review on the basis of NEPA noncompliance.

Section 203(f) which was added by amendment, referred to earlier, is far broader in scope than section 203 as contained in the original bill.

Section 203(f) sets forth a unique procedure for judicial review of non-NEPA-related challenges.

Keeping in mind the fact that section 203(d) is itself part of an amendment and section 203(f) is a new provision as part of the same amendment it becomes clear that judicial review dealt with by section 203 of the original bill was limited to judicial review on the basis of NEPA.

The amendment, by incorporating the provisions found in section 203(f), deals with all forms of judicial review. Thus NEPA-related review is handled by the specific provision of section 203(d) and all other judicial review by section 203(f).

Therefore, the amendment is a general provision; that is, it deals with all

forms of judicial review and is not germane to the specific provision found in the original bill which deals solely with judicial review on the basis of the National Environmental Policy Act.

I cite again Cannon's Precedents at page 203. I cite further with regard to the germaneness, now referring to page 202 in Cannon's Precedents that—

> One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The individual proposition in the original bill was that the Secretary of the Interior's actions were exempted from judicial review under NEPA.

The individual proposition contained in the amendment goes on to add that any other challenge to the right-of-way to which the United States is a party must be brought, according to subsection (f), to a three-judge district court referred to in the amendment.

These propositions are of the same class because both relate to judicial review.

The first proposition may be viewed as a negative proposition in that it exempts certain action from judicial review on the basis of NEPA.

The second is a positive proposition; it establishes a special tribunal and special procedures for non-NEPA-based court challenges.

I again refer the Chair to Cannon's Precedents on page 202.

I cite further, Mr. Chairman—

> If a portion of an amendment is out of order because not germane, then all must be ruled out.

I would cite Cannon's Precedents at page 201. I would point out that—

> The burden of proof as to the germaneness of a proposition has been held to rest upon its proponents. . . .

MR. [JOHN] MELCHER [of Montana]: . . . The gentleman from Michigan is raising a point of order on the basis of the germaneness of . . . the entire committee amendment, but he refers to specific sections and his point of order should be limited to his reference to those sections. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Michigan (Mr. Dingell) makes the point of order the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill is not germane to the original bill on several grounds, one of which is that 203(f) of the committee amendment provides a procedure for expediting litigation of right-of-way, permit, or other authorization disputes in Federal courts which is not contained in the original bill.

The Chair has had an opportunity to examine the original bill and the committee amendment in the nature of a substitute, and notes that the original bill and the committee amendment both provide comprehensive schemes for the construction of the Alaska pipeline under the authority of the Secretary of the Interior. Both the bill and the committee amendment provide a series of safeguards to be followed by the Secretary in the issuance of permits and grants of rights-of-way. Included in the original bill—in section 203, is the prohibition against judicial review of any authorization granted by any Federal agency with respect to rights-of-way, construction, public land

use, or highway or airfield construction on the basis of the National Environmental Policy Act of 1969.

This restriction against judicial review on the basis of environmental impact is also contained in section 203(d) of the committee amendment in a more limited form. Section 203(f) of the committee amendment then provides, in litigation not barred by section 203(d), a mechanism for expediting other actions challenging pipeline permits or authorizations.

On March 8, 1932, Chairman O'Connor ruled that to a bill restricting Federal court jurisdiction in certain cases, an amendment providing an exception from that prohibition was germane—Cannon's volume VIII, section 3024.

The Chair has also examined the decision of the present occupant of the Chair on October 20, 1971 (Congressional Record, page H37079) on the Alaska Native land claims bill, where, to a committee amendment seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

For these reasons, and because committee jurisdiction is not the exclusive or absolute test of germaneness, the Chair is of the opinion that the provision in the committee amendment relating to the expediting of litigation involving the pipeline permits or authorizations is merely incidental to the purpose of the original bill and is indeed directly related to the concept of judicial review contained in the bill. With respect to the other provisions of the committee amendment to which the gentleman from Michigan has made reference, the Chair is of the opinion that they, too, are incidental to the overall purpose of the bill. The Chair holds that the committee amendment is germane and overrules the point of order.

MR. DINGELL: Mr. Chairman, I rise to a further point of order.

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

MR. DINGELL: Mr. Chairman, citing again the language used by myself with regard to the earlier point of order, I would point now to the specific language of the committee amendment at page 15, line 23(e), and all that follows through page 16, line 11, at the conclusion of the words "the Civil Rights Act of 1964."

Mr. Chairman, I would point out again the same arguments are available to me with regard to the first jurisdiction of committees. Second, with regard to the other matters cited by me earlier under the rules of germaneness as embodied in the rules and the precedents of this body, I would point out, Mr. Chairman, that where the language referred to in the amendment is part of a separate piece of legislation, it would have been referred again to the Judiciary Committee and not to the Committee on Interior.

I would point out further, Mr. Chairman, that this language is not found in the original bill, although it is found in the amendment. I would point out that again the failure of the committee to have that language in both the original bill and in the committee amendment renders the committee amendment subject to a point of order.

I would call particular attention of the Chair to the fact that the rule of

germaneness was established by the wise men of this body throughout the years, that all Members of this body might have full notice of matters coming to the floor of the House and would not be surprised by matters which might be irrelevant to the jurisdiction of the committee which authored the legislation.

The rule of germaneness applies, Mr. Chairman, with equal validity to proceedings on the floor as well as to proceedings within the committee.

I again reiterate my point of order on the basis not only of matters cited by me now but cited by me in connection with the earlier point of order made by me. . . .

MR. MELCHER: . . . The title and section of the committee's amendment which the gentleman from Michigan refers to deals with construction of the Alaskan pipeline. Employment of people for that purpose is, indeed, part and parcel of the construction of the pipeline. The incidental feature of our committee handling and including such language in our amendment is only incidental to the bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has just ruled that the committee amendment is germane, and the ruling that was given by the Chair is broad enough to now cover the point of order just made by the gentleman from Michigan.

Therefore, the Chair for the reasons previously stated overrules the point of order.

Authorization for Program—Amendment Proposing, as Alternative, Study of Feasibility of Program

§ 30.37 To an amendment authorizing a program to be undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane; thus, to an amendment authorizing Department of Defense personnel to assist federal law enforcement officials including the Coast Guard under existing law, in drug interdiction operations outside the continental United States, a substitute amendment directing the Secretary of Defense to study the effectiveness of assigning military personnel to assist those federal law enforcement officials was held germane as a more limited approach involving the same officials.

On June 26, 1985,[10] during proceedings relating to the defense authorization for fiscal 1986,[11] the Committee of the Whole had under consideration the following amendment and substitute therefor:

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bennett. At the end of the bill, add the following new section:

10. 131 CONG. REC. 17453, 17458, 17460, 99th Cong. 1st Sess.

11. H.R. 1872.

SEC. —DRUG/INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS.

(a) In General—Section 374 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary's jurisdiction to assist drug enforcement officials of such agency in drug searches, seizures, or arrests outside the land area of the United States (or of any territory or possession of the United States) if—

"(1) that assistance will not adversely affect the military preparedness of the United States. . . .

MR. [GLENN LEE] ENGLISH [Jr., of Oklahoma]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. English as a substitute for the amendment offered by Mr. Bennett: Page 200, after line 4, insert the following new section:

SEC. 1050. STUDY ON DRUG-INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT PERSONNEL.

(a) Study.—The Secretary of Defense shall conduct a study comparing—

(1) the potential effectiveness of assigning members of the armed forces under the Secretary's jurisdiction, with

(2) the potential effectiveness of increasing the number of tactical law enforcement teams on naval vessels, for the purpose of determining ways to assist civilian law enforcement personnel in the interdiction of the illegal importation of narcotics into the United States. The Secretary shall submit the results of the study to the Congress not more than sixty days after the date of the enactment of this Act.

Mr. Bennett having reserved a point of order against the substitute amendment, the following proceedings took place:

THE CHAIRMAN PRO TEMPORE:[12] Does the gentleman from Florida [Mr. Bennett] insist on his point of order?

MR. BENNETT: I do. Mr. Chairman, I would like to say why I believe that it is not germane and it is not proper.

The thrust of the amendment, particularly as explained by the gentleman on the floor, is a Coast Guard amendment. This bill does not deal with the Coast Guard. He wants the Secretary to come with increasing the number of tactical law enforcement teams from the Coast Guard.

If I thought that was a possibility of being achieved by anything he is doing, I would be glad to do it. But he has already said they are cutting the Coast Guard personnel; they are not raising the Coast Guard personnel, they are cutting.

These people are not in existence.

So my point of order against it is the fact that it is really a Coast Guard amendment; it is not germane to this bill. . . .

MR. ENGLISH: Mr. Chairman, first of all I would point out that the amendment does not have the words "Coast

12. Marty Russo (Ill.).

Guard" in it. I think we all recognize and understand what is meant by the amendment, but the words "Coast Guard" are not here. It directs the Secretary of Defense to conduct the study, and no one else.

The second point is that this was a recommendation by the administration that these people be cut.

As the gentleman aptly pointed out, the Congress has control over whether or not those cuts are going to take place; the Congress has the decision as to what those people will be used for, and the Congress can certainly designate 500 of these people to be used in tactical positions on Navy ships. . . .

THE CHAIRMAN PRO TEMPORE: . . . The Chair is ready to rule.

In reviewing both the Bennett amendment and the substitute by Mr. English to the Bennett amendment, the Chair finds that the original amendment is a comprehensive authority, using Department of Defense personnel to assist Coast Guard and other law enforcement personnel for the purposes stated.

The English substitute however, does narrow the scope of the Bennett amendment by only calling for a study on the same subject matter.

On page 2 of the Bennett amendment the language on lines 1 and 2 does refer to Federal drug enforcement officials, maintaining ultimate control, which does include the role not only of DEA but also the Coast Guard.

Therefore, the point of order is overruled. The substitute amendment by Mr. English is germane.

Parliamentarian's Note: The above ruling effectively overrules that found at 8 Cannon's Precedents Sec. 2989, wherein the Chair held that, to a river and harbor authorization, a substitute providing for a commission to consider and report on that subject was not germane. Under current practice, where it is proposed to undertake a given program, an alternative proposal to study the feasibility of undertaking that program should be held to be germane.

§ 31.—Amendment Postponing Effectiveness of Legislation Pending Contingency

The precedents indicate that an authorization may be made contingent on a future event; but the event must be related to the subject matter before the House.[13] Therefore, it is frequently stated that an amendment that delays the effectiveness of proposed legislation pending an unrelated contingency is not germane. As an example, it has been held that, to a bill authorizing an appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane.[14] And an amendment making the implementation

13. See, for example, Sec. 31.32, infra.

14. See Sec. 35.8, infra.

of federal legislation contingent upon the enactment of state legislation is not germane.[15]

Where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.[16] Accordingly, an amendment that conditions the obligation or expenditure of funds authorized in the bill by adopting as a measure of their availability the expenditure during the fiscal year of a comparable percentage of funds authorized by other acts is germane as long as the amendment does not directly affect the use of other funds.[17] And an amendment to an authorization bill that conditions the expenditure of funds covered by the bill by restricting their availability during months in which there is an increase in the public debt may be germane as long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress.[18]

An amendment imposing on the availability of funds to carry out a certain activity a conditional restriction that merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the pending funding of that activity, may be germane as a related contingency.[19] But it is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill.[20]

Licensing of Nuclear Waste Storage Facility

§ 31.1 An amendment making the effectiveness of a bill contingent upon actions of agencies not involved in the administration of the affected program, and expanding the scope of the bill to include grants of authority beyond those contained therein, is not germane; thus, to a bill granting authority to the Administrator of the Bonneville Power Administration relating to the use and con-

15. See Sec. 31.5, infra.

16. See Sec. 31.16, infra.

17. See Sec. 31.17, infra. See also, generally, Sec. 34 (restrictions on use or availability of funds), infra.

18. See Sec. 34.1, infra.

19. See Sec. 31.15, infra.

20. See Sec. 31.27, infra.

servation of electric power, including the acquisition of power, an amendment prohibiting the Administrator from acquiring any resource derived from a new nuclear generating facility until the Nuclear Regulatory Commission has licensed the operation of a permanent nuclear waste storage facility was held not germane, because it imposed an unrelated contingency involving nuclear licensing authority for all government and privately owned storage facilities on a national basis, and was not solely related to the purchase and transmission of power in the Northwest region.

On Nov. 14, 1980,[1] during consideration of the Pacific Electric Power Planning and Conservation Act of 1980[2] in the Committee of the Whole, a point of order was sustained against the following amendment:

MR. [LES] AUCOIN [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AuCoin: On page 69, after line 17, insert:

(n)(1)) The Administrator may not acquire any resource derived from a new nuclear generating facility until such time as the Nuclear Regulatory Commission has licensed the operation of a permanent storage facility for high level nuclear waste and spent fuel from commercial nuclear generating facilities.

(2) For purposes of this subsection, the term "new nuclear generating facility" shall not include any nuclear generating facility for which a construction permit was issued by the Nuclear Regulatory Commission before the date of enactment of this Act. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the bill before us establishes a planning council. It provides for a planning council. It provides for a program for conservation and for a fish and wildlife program. It provides for the sale of power. It provides for the establishing of rates, and it provides for the acquisition of resources to produce power.

Nowhere in the bill does the bill deal with atomic energy as such or with the storage of either spent nuclear fuels or nuclear wastes. The amendment would add a condition to the bill prohibiting the BPA from acquiring any resource derived from nuclear generation until the Nuclear Regulatory Commission licenses operation of a permanent storage facility for nuclear wastes and spent fuel.

That I believe would be the addition of a national program for dealing with spent nuclear fuel and nuclear waste to be added to a regional program to be administered by the BPA. This would impose burdens on an agency entirely different from those which are either set up in the bill, which be your State and regional planning councils, or the

1. 126 CONG. REC. 29615–17, 96th Cong. 2d Sess.

2. S. 885.

Bonneville Power Authority. In other words, the agency which would do this, under law, would be the Nuclear Regulatory Commission which is an agency not anywhere mentioned in the bill.

Essentially, the proposal is an attempt, indirectly, to amend the Atomic Energy Act and to deal with the question of spent fuel and nuclear waste on a nation-wide basis as opposed to simply dealing with the question of power management as is provided in the bill; and I call to the attention of the Chair that the bill is regional in character; the amendment is national in character; the bill deals with power management. The amendment deals with nuclear waste, its storage and the establishment of a nationwide program for the storage and so forth of nuclear waste.

I would point out the language of the amendment says:

> The Administrator may not acquire any resource derived from a new nuclear fuel generating facility—

This is not a nuclear fuel generating facility which would be present within the Bonneville Power Authority service area, but it is sufficiently general to cover any nuclear generating facility in the United States.

Then it goes on and it says:

> Until such time as the Nuclear Regulatory Commission—

Which is not mentioned in the legislation—

> has licensed the operation of a permanent storage facility for high-level nuclear waste and spent fuel from commercial nuclear generating facilities.

These nuclear generating facilities are not within the Bonneville Power market area but are anywhere in the United States. And it could include those in the Northeast, the Southeast, the Southwest, in Alaska, or in Hawaii—none of them within the area served. The amendment is much more broad than the bill and deals with quite different matters.

MR. [CLARENCE J.] BROWN [of Ohio]: Mr. Chairman, will the gentleman yield?

THE CHAIRMAN PRO TEMPORE: The Chair controls the time. Does the gentleman from Ohio wish to be heard on the point of order? . . .

MR. BROWN of Ohio: Mr. Chairman, I would be happy to speak on the point of order, to reinforce the position of the gentleman from Michigan.

There is an electrical power generation in-tie between the Southwestern part of the United States, that is, California, Utah, and Arizona, and that area, and the Northwestern part of the United States. This bill has an impact on the Northwest. Some of the power generated in that Southwestern in-tie is of a nuclear sort, and so the impact of this attempted amendment would be to impact, as the gentleman from Michigan points to, the generation of power in other parts of the United States and, therefore, I think is inappropriate from the standpoint of its germaneness, for that reason. . . .

MR. AUCOIN: . . . [N]o one can rationally argue that the whole cycle of activities that is involved in nuclear power operation and construction can be separated out and considered alone. The storage of radioactive waste from the nuclear plants is just as much a part, an intrinsic part, of the whole process as the construction of the

plant. It is a part of the same procedure, the whole life cycle of the plants, and, therefore, cannot be excluded and separated out, and it cannot be held that, somehow, that is not germane to the construction of plants, because the construction produces the result, that result, being waste. That waste has to be dealt with. . . .

. . . [T]he amendment poses no contingency upon the House because existing law gives the Nuclear Regulatory Commission licensing and regulatory authority pursuant to chapters 6, 7, 8, and 10 of the Atomic Energy Act of 1954. Among those powers are the licensing and regulatory authorities to operate facilities used primarily for the receipt and storage of high-level radioactive waste resulting from activities licensed under the Atomic Energy Act of 1954.

So no additional act of Congress is necessary, nor does this amendment require any additional act of Congress, because of the authorities already granted to the NRC. And my amendment simply says that, until that authority is used, either on the agency's own part or by further direction from the Congress, no additional nuclear powerplants will be constructed in the Pacific Northwest. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, I rise in support of the point of order and to say that, under the terms of the amendment, there is additional responsibility placed on the NRC and the agencies within the province of this bill. By his own words, the author of the amendment has said that NRC has that authority, but under his amendment they will cease to have the authority to license and regulate. They will be told, "You cannot license any nuclear powerplant unless you have got a permanent storage for the waste." And, therefore, I submit that it does provide for additional duties and, therefore, would be nongermane to the bill. . . .

MR. AUCOIN: Mr. Chairman, my friend from Texas, the subcommittee chairman, for whom I have a great deal of respect, has, I think, confused, momentarily, the difference between an amendment that would force the Nuclear Regulatory Commission to take an action as opposed to imposing on the Nuclear Regulatory Commission a new responsibility.

There is no new responsibility being imposed on the agency by this amendment. It does require action by the agency under the authority already granted to it by the Atomic Energy Act of 1954.

I would state to the Chair and to my friend, the gentleman from Texas, that the authority already existing exists under Public Law 93–438, title II. And for that reason I do not believe his argument stands.

THE CHAIRMAN:[3] The Chair is prepared to rule.

In the opinion of the Chair, the amendment offered by the gentleman from Oregon would impose a contingency which is not solely related to the issue of purchase and transmission of power in the Northwest region and which addresses potentially new NRC licensing authority for all Government and privately owned storage facilities on a national basis.

The Chair would cite, specifically, chapter 28 of Deschler's Procedure, section 24.15:

3. Matthew F. McHugh (N.Y.).

An amendment delaying the effectiveness of a bill pending the enactment of other legislation and requiring actions by committees and agencies not involved in the administration of the program affected by the bill was ruled out as not germane.

On that basis, the Chair is constrained to sustain the point of order.

Restitution by President Nixon to United States Government

§ 31.2 While it may be in order on a general appropriation bill to delay the availability of certain funds therein until a nonfederal recipient meets certain qualifications so long as the contingency does not impose new duties on federal officials or directly change existing law, the contingency must be related to the funds being withheld and cannot affect other funds in the bill which are not related to that factual situation; thus, to a general appropriation bill containing funds not only for certain allowances for former President Nixon, but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until Nixon has made restitution of a designated amount to the United States government was held to be not germane where that contingency was not related to the availability of other funds in the bill.

In the proceedings of Oct. 2, 1974,[4] relating to supplemental appropriations for fiscal 1975,[5] the points of order made against the amendment in question were largely based on the contention that the amendment constituted legislation on an appropriation bill. Most points of order against amendments delaying the availability of funds pending an unrelated contingency are based on the issue of germaneness, and in the Chair's ruling it appeared that the defect in the amendment was that its scope was so broad as to affect funds in the bill other than those to which the limitation was directly related—in other words, that the amendment was not germane.

Mr. James V. Stanton [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. James V. Stanton: On page 14, line 5 after the period insert:

"Sec. 203. No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution to the United States Government in the amount of $92,298.03 as previously determined

4. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess.

5. H.R. 16900.

by the Joint Committee on Internal Revenue Taxation on page 201 of its report dated April 3, 1974.". . .

MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

This amendment would impose some duty upon an agency of Government in this bill. The Internal Revenue Service is the only agency that can collect taxes. This obviously would require duties not now required by law. It is obviously legislation in an appropriation bill, and therefore it is subject to a point of order. . . .

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

The Chair has examined the amendment. . . . It merely delays the availability of certain funds here appropriated until a certain state of facts exist.

It does not impose any duty upon a Federal official, in the opinion of the Chair. The only duty it imposes by its terms, would be upon President Nixon, who is no longer a Federal official. . . .

Under the precedents and under the rules that the Chair has been able to examine, the Chair is of the opinion that this amendment might be in order.

If the gentleman from Texas (Mr. Eckhardt) wants to be heard on the point of order, the Chair will withhold his final ruling. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . The Chair is undoubtedly correct, that this does not impose additional duties under the standards set out in various cases. However, the objection of the gentleman from Texas (Mr. Mahon), as I understand it, is that this does not impose additional duties but creates substantive law. It establishes a liability in effect on the President of the United States, which liability does not exist by any judicial determination unless this action is taken by this body.

Mr. Chairman, what we are in effect doing is passing a special bill with respect to liability of the President of the United States for an amount of money that has only been determined by a committee of this House and not by a court. If we pass this, we are in effect saying that until he pays a certain amount of money, which we say he owes by virtue of passing a law today, he will not receive money that he would otherwise receive.

I find this a very, very extensive legislative determination, one which I would have doubts about on constitutional grounds, even if it were brought up as a separate piece of legislation.

I understand that the question of constitutionality is not before the Chair with respect to a point of order, but I merely point that out in emphasizing the great substantive effect of this amendment. . . .

MR. [CHARLES S.] GUBSER [of California]: . . . [T]he word "restitution," if I understand the English language correctly . . . would imply that the funds were held by Richard Nixon illegally. Therefore if we . . . allow this amendment to stand, we are clearly creating what should be a judicial decision, and we are giving it legislative sanction, and it is therefore legislation on an appropriation bill. Therefore I think the point of order should be sustained. . . .

6. James C. Wright, Jr. (Tex.).

MR. STEED: Mr. Chairman, this amendment says "no funds in this act", and that means if this amendment is adopted unless former President Nixon paid this amount of money the whole bill is dead. If that does not constitute legislation on an appropriation bill I do not know what does.

THE CHAIRMAN: The Chair must observe that the Chair is not in a position to rule as suggested by the gentleman from Texas (Mr. Eckhardt) on a question of constitutionality. The gentleman's point may quite well be valid, but the Chair is not in a position to rule on constitutionality, nor is the Chair in a position to rule upon the validity of the commentary offered as to whether or not the Joint Committee on Internal Revenue Taxation may or may not have established this precise figure as being owed. . . .

The Chair is . . . impressed by the most recent comment made by the gentleman from Oklahoma (Mr. Steed) wherein the gentleman from Oklahoma points out that by the terms of the amendment itself funds under the entire act and not just funds for the former President, would be inhibited. Let the Chair read the amendment.

> No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution.

The Chair is persuaded that the availability of some of the funds in the act for other purposes will be based upon an unrelated contingency, and the Chair is prepared to state on the basis of the additional argument made since his preliminary determination that he has changed his opinion regarding the scope and effect of the amendment and sustains the point of order.

Approval of Foreign Assistance in National Referendum

§ 31.3 To a bill amending the Foreign Assistance Act of 1961, providing new authorizations and policy declarations, an amendment to prohibit use of any funds available until further assistance under the act had been approved in a national referendum was held to be not germane.

The proceedings of Aug. 22, 1963,[7] were as follows:

MR. [ROBERT J.] DOLE [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dole: Page 19, after line 16, insert the following:
>
> "Sec. 310. The Foreign Assistance Act of 1961, is amended by adding at the end thereof the following new section:
>
> "'Sec. 648. Notwithstanding any other provision of this or any other Act, none of the funds available to carry out the provisions of this Act, shall be expended until the following question be submitted to qualified electors in a National Referendum.

7. See 109 CONG. REC. 15608, 88th Cong. 1st Sess. (ruling by Chairman Wilbur D. Mills [Ark.] as to amendment offered by Mr. Dole to H.R. 7885 [Committee on Foreign Affairs], the Foreign Assistance Act of 1963).

"'Shall the United States continue the Foreign Assistance Act of 1961, or any amendments thereto, subsequent to June 30, 1964?

"'A majority of eligible voters voting affirmatively shall be necessary before the Foreign Assistance Act of 1961, and any amendments thereto, shall be operative. The cost of said referendum shall be paid by proceeds from the sale of surplus property under control of the Agency for International Development.'"

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

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

MR. MORGAN: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the foreign aid bill.

MR. DOLE: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman from Kansas will state the parliamentary inquiry.

MR. DOLE: Mr. Chairman, is it not true that all points of order have been waived on this bill?

THE CHAIRMAN: Under the rule, all points of order are waived as to the text of the bill, as reported by the committee. Points of order are not waived as to amendments that might be offered to the bill. . . .

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

The gentleman from Kansas [Mr. Dole] offers an amendment to the bill which the Chair has had an opportunity to read and analyze. The gentleman from Pennsylvania [Mr. Morgan] makes the point of order against the amendment on the ground that it is not germane to the bill before the Committee. The Chair is of the opinion that the amendment is not germane to the bill.

The point of order is sustained.

Approval of Construction of Naval Vessels in National Referendum

§ 31.4 To a bill authorizing the construction of certain naval vessels, an amendment providing that the act not become effective until confirmed in a nationwide referendum conducted according to rules prescribed by the Secretary of State was held not germane.

In the 75th Congress, during proceedings related to a naval authorization bill,[8] an amendment as described above was offered by Mr. Harry Sauthoff, of Wisconsin.[9]

Mr. Carl Vinson, of Georgia, made a point of order against the amendment as not being germane to the bill under consideration. The Chairman,[10] in ruling on the point of order, stated:

The gentleman from Wisconsin offers an amendment at the end of the bill providing that before this measure

8. H.R. 9218 (Committee on Naval Affairs).
9. See 83 CONG. REC. 3704, 75th Cong. 3d Sess., Mar. 18, 1938.
10. John J. O'Connor (N.Y.).

shall become effective a Nation-wide referendum shall be held, and then the amendment proceeds to set forth how such referendum shall be held and states that it shall be subject to such rules and regulations as the Secretary of State shall prescribe as necessary or appropriate in providing for such referendum.

In the first place, such a proposal may not be within the jurisdiction of the Committee on Naval Affairs. Nowhere in the bill is the Secretary of State or the Department of State referred to in any way, nor does any provision of the bill relate to that Department or its head.

A mere postponement of the effective date of an act for one reason or another might be germane, if nothing further was required to be done affirmatively. See Hinds Precedents, section 3030. But particularly because of the part of this amendment which refers to the Secretary of State, the Chair rules that the amendment is not germane and therefore sustains the point of order.

Enactment of State or Federal Legislation

§ 31.5 To a bill authorizing funds for construction of atomic energy facilities in various parts of the nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was held to be not germane.

In the 90th Congress, during consideration of a bill[11] authorizing appropriations for the Atomic Energy Commission, the following amendment was offered:[12]

> Amendment offered by Mr. Ryan: On page 4, after line 18, add a new subsection (d), as follows:
>
> (d) The Commission is authorized to start the projects set forth in subsection 101(b) contingent upon the enactment of Federal or State fair housing measures which insure that employees of said facilities not be denied equal housing on grounds of religion or race.

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

> MR. [CRAIG] HOSMER [of California]: [The amendment] is not germane. It attempts to legislate restrictions on an authorization bill not provided by the rules of the House. It has already been voted upon.

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

> MR. [WILLIAM F.] RYAN [of New York]: Mr. Chairman, the amendment is similar in nature to the limitation set forth in section 102 of the bill. There it is provided that—
>
> The Commission is authorized to start any project set forth in subsections 101(b) (1), (2), (3), and (4) only if the currently estimated cost

11. H.R. 10918 (Committee on Atomic Energy).
12. 113 CONG. REC. 17921, 90th Cong. 1st Sess., June 29, 1967.

of that project does not exceed by more than 25 per centum the estimated cost set forth for that project. . . .

. . . [The amendment] parallels the limitations the bill itself sets forth on other aspects of the project.

The Chairman,[13] in ruling on the point of order, stated:

In the opinion of the Chair, the amendment goes beyond the legislation, which is Federal legislation, and would require State legislation. Therefore, the point of order is well taken.

The Chair sustains the point of order.

Subsequent Specific Authorization for Testing of Antisatellite Weapon

§ 31.6 To a provision authorizing funds for one fiscal year, an amendment restricting the availability of funds appropriated pursuant thereto contingent upon enactment of subsequent specific authorization is germane; thus, to a bill authorizing funds for Air Force research and development, an amendment prohibiting use of those funds for certain tests until subsequent law authorizing such tests is enacted was held to be a germane condition.

During consideration of the Department of Defense Authorization for fiscal 1984[14] in the Committee of the Whole on July 21, 1983,[15] the Chair overruled a point of order against the following amendment:

THE CHAIRMAN PRO TEMPORE:[16] The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Seiberling: Page 14, after line 10, insert the following new subsection:

(c) None of the amount appropriated pursuant to the authorization in section 201 for the Air Force may be used for flight testing of an antisatellite weapon until such testing is specifically authorized by law enacted after the date of enactment of this Act.

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I raise a point of order on the amendment as being nongermane, as I understand it.

This amendment refers to a prior-year authorization on the matter under consideration in terms of the title II authorization for fiscal year 1984. At least I have been so instructed. . . .

MR. [JOHN F.] SEIBERLING [of Ohio]: . . . Mr. Chairman, this amendment only deals with the authorization in section 201. It does not deal with authorizations in prior years.

MR. BENNETT: Mr. Chairman, perhaps this is not the amendment the gentleman had coming up the last time just prior to the recess. Is that correct? . . .

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13. James A. Burke (Mass.).

14. H.R. 2969.

15. 129 CONG. REC. 20198, 98th Cong. 1st Sess.

16. Marty Russo (Ill.).

MR. SEIBERLING: Mr. Chairman, I had originally put in an amendment on June 8 which did what the gentleman says, but this one was corrected so as to avoid that problem. . . .

THE CHAIRMAN PRO TEMPORE: . . . The amendment . . . does apply to this year only and to the authorization in the bill, and the point of order does not lie.

Parliamentarian's Note: The Seiberling amendment had originally included restrictions on funds authorized in prior years but was redrafted to apply only to the funds in the bill, so that it was germane.

Enactment of Legislation; Action by Committees and Agencies Other Than Those Involved in Administration of Program Affected by Bill

§ 31.7 An amendment delaying the effectiveness of a bill pending the enactment of other legislation and requiring actions by committees and agencies not involved in the administration of the program affected by the bill was ruled out as not germane.

On Feb. 7, 1973,[17] a bill[18] was under consideration which had been reported from the Committee on Agriculture directing the Secretary of Agriculture to expend all sums appropriated for the Rural Environmental Assistance Program. An amendment was offered seeking to delay the effectiveness of the bill until (1) Congress enacts legislation increasing the statutory ceiling on the public debt limit or legislation raising revenue by the amount of spending in the bill; or (2) the Comptroller General reports that such expenditures, together with all other outlays during that fiscal year, will not exceed revenue and debt limit totals. The amendment was held to be not germane.

Enactment of Oil Windfall Profit Tax

§ 31.8 An amendment delaying the availability of an appropriation pending an unrelated contingency is not germane to an appropriation bill; thus, to a joint resolution appropriating funds to the Community Services Administration for emergency fuel assistance, an amendment prohibiting any of such funds from being obligated before the date of enactment of any law imposing an oil windfall profit tax was held to be not germane.

17. See 119 CONG. REC. 3708, 3709, 93d Cong. 1st Sess., discussed in § 31.14, infra.

18. H.R. 2107.

On Oct. 25, 1979,[19] during consideration of House Joint Resolution 430 in the House, the Speaker Pro Tempore[20] sustained a point of order against the following amendment:

> MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "None of the funds appropriated by this Act may be obligated before the date of the enactment of any Federal law imposing a windfall profit tax on producers of domestic crude oil.". . .
>
> MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, the amendment before us violates the rules of the House, inasmuch as it is not germane under clause 7, rule XVI.
>
> The amendment clearly goes beyond the bill and, in fact, addresses an entirely separate piece of legislation that is not referred to in any manner in House Joint Resolution 430.
>
> I urge the point of order be sustained.
>
> We have ample precedents, Mr. Speaker, of similar situations which clearly show that an amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. I cite Deschler's Procedure 28.4, Mr. Speaker. . . .
>
> MR. GIAIMO: . . . The amendment which I am offering here addresses itself to this legislation. It is simply a limitation and says none of the funds appropriated can be obligated before the date of enactment of any Federal law imposing a windfall profit tax.
>
> That is a simple limitation, which I think is not subject to a point of order. . . .
>
> THE SPEAKER PRO TEMPORE: The Chair is ready to rule.
>
> The Chair has examined several precedents and would like to point to chapter 28, section 4.11 of Deschler's [Procedure]:
>
> > To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane.
>
> The Chair sustains the point of order of the gentleman from Kentucky (Mr. Natcher).

Passage of Tax Measures

§ 31.9 To a bill to provide for a National Security Training Corps, an amendment was held to be not germane which provided that, "This act shall be effective on the same day that a tax bill becomes effective" imposing a specified tax on corporations engaged in manufacturing war materials.

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19. 125 CONG. REC. 29639, 29640, 96th Cong. 1st Sess.

20. Dan Rostenkowski (Ill.).

The Chairman,[1] in making the above ruling, summarized the parliamentary situation as follows:[2]

> The gentleman from Montana[3] has offered an amendment which has been reported. The gentleman from Georgia[4] makes a point of order against the amendment on the ground it is not germane to the pending amendment or the bill.
>
> The Chair has examined the amendment with some degree of care and invites attention to the fact that it provides:
>
> > This act shall be effective on the same day that a tax bill becomes effective, which will tax all corporations 100 percent of all profits and earnings of such corporations engaged in the manufacture of war materials or any other service connected with the defense effort and/or the National Security Training Corps Act of 1952.
>
> The Chair invites attention to the fact that this amendment provides for the effective date of the pending bill to be contingent upon an entirely unrelated subject, a subject which would not be under the jurisdiction of the committee that reported the pending bill, but would be under the jurisdiction of another standing committee of the House.
>
> The Chair is of the opinion that the amendment is clearly not germane to the pending amendment or the bill and, therefore, sustains the point of order.

1. Jere Cooper (Tenn.).
2. 98 Cong. Rec. 1839, 82d Cong. 2d Sess., Mar. 4, 1952. The proceedings related to the National Security Training Corps Act, H.R. 5904 (Committee on Armed Services).
3. Mr. Mike Mansfield.
4. Mr. Carl Vinson.

Enactment of Legislation Raising Revenue

§ 31.10 To that section of a joint resolution subjecting all Reserve and retired personnel who are ordered into active military service to those laws and regulations applicable to personnel ordered into service generally, an amendment providing that provisions of the joint resolution shall remain inoperative, "until Congress shall have provided revenue by taxation and shall have authorized and made appropriations therefor," was held not germane.

In the 76th Congress, a joint resolution[5] was under consideration which authorized the President to order Reserve and retired personnel of the Army into active military service and which stated in part:[6]

> Sec. 2. All National Guard, Reserve, and retired personnel ordered into the active military service of the United States under the foregoing special au-

5. S.J. Res. 286 (Committee on Military Affairs).
6. See 86 Cong. Rec. 10436, 76th Cong. 3d Sess., Aug. 15, 1940.

thority, shall . . . be subject to the respective laws and regulations relating to enlistments, reenlistments . . . rights . . . and discharge of such personnel in such service to the same extent in all particulars as if they had been ordered into such service under existing general statutory authorizations.

The following amendment was offered:[7]

Amendment offered by Mr. [Frederick C.] Smith [of Ohio]: On page 2, line 16, after "authorization", strike out the period, insert a comma, and the following: "*Provided*, That unless and until Congress shall have provided revenue by taxation and shall have authorized and made appropriations therefor the provisions of this section and of this joint resolution shall remain inoperative."

Mr. Andrew J. May, of Kentucky, having made a point of order against the amendment, the Chairman[8] ruled as follows:[9]

. . . [T]he amendment undertakes to bring in unrelated matters and makes the effectiveness of the joint resolution determine upon the happening of unrelated contingencies. The amendment would therefore be subject to the point of order, and the Chair sustains the point of order.

§ 31.11 To a bill extending and amending laws relating to the improvement of housing and urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until the enactment of legislation raising additional revenue, was held to be not germane.

During consideration of the Housing Act of 1959,[10] the following amendment was offered:[11]

Amendment offered by Mr. [Ellis Y.] Berry [of South Dakota]: On page 175, following line 21, add a new section 515 as follows:

No amounts may be appropriated, or withdrawn from the Treasury of the United States, pursuant to the authority contained in this Act, or any of the amendments made by it, until legislation has been enacted providing sufficient revenue to equal, or exceed, the amounts by which the total of such appropriations, and the amounts authorized to be withdrawn from the Treasury, exceed the amounts requested for such purposes in the budget submitted to the Congress by the President on January 19, 1959.

The following exchange[12] concerned a point of order raised against the amendment:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, in connection with the

7. *Id.* at p. 10437.

8. Clifton A. Woodrum (Va.).

9. 86 CONG. REC. 10438, 76th Cong. 3d Sess., Aug. 15, 1940.

10. S. 57 (Committee on Banking and Currency).

11. 105 CONG. REC. 8840, 86th Cong. 1st Sess., May 21, 1959.

12. *Id.* at p. 8841.

point of order which I raised to this amendment, I point out that the amendment is not germane to the bill because it seeks to make the bill a revenue raising bill rather than a strictly housing bill.

THE CHAIRMAN:[13] . . . The Chair is constrained to feel that this amendment is not germane because it requires the enactment of other legislation in order to make the action taken here effective. This requires action not only by another committee of the Congress but also by the executive branch of the Government.

For the reasons stated, the Chair sustains the point of order.

Certification by President or Congress as to Enactment of Tax Legislation

§ 31.12 Where the effectiveness of a pending amendment, relating to the decontrol of oil prices, was made contingent upon a presidential certification that certain tax legislation had been enacted, an amendment to such amendment which substituted congressional certification (by concurrent resolution not constituting a change in the rules) for presidential certification as to enactment of the tax legislation, was held to be germane.

On July 18, 1975,[14] during consideration of the Energy Conservation and Oil Policy Act of 1975[15] in the Committee of the Whole, Mr. Robert Krueger, of Texas, offered an amendment as follows:

The Clerk read as follows:

Amendment offered by Mr. Krueger: Strike out all from beginning of line four, page 214 to end of line 3, page 223 (section 301 of the Committee substitute) and insert in lieu thereof the following:

CRUDE OIL PRICE REGULATION

Sec. 301. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"Sec. 8. (a) For the purposes of this section:

"(1) The term 'crude oil' means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. . . .

"(b) Except as provided in subsections (e) and (d), no price ceiling shall apply to any first sale by a producer of domestic crude oil from a property. . . .

"(d)(1) The provisions of subsections (b) and (c) of section 8 shall not take effect unless the President finds that there is in effect (A) an inflation minimization tax consonant with the purposes of this section applicable to sales from a property, from which domestic crude oil was produced and sold in one or more of the months of May through Decem-

13. Francis E. Walter (Pa.).

14. 121 CONG. REC. 23525, 23526, 94th Cong. 1st Sess.

15. H.R. 7014.

ber 1972, in volume amounts greater than the production volume subject to a ceiling price under subsection (c), but less than the base period control volume, and (B) a production maximization tax consonant with the purposes of this section applicable to sales of domestic crude oil from any stripper well lease or from a property from which domestic crude oil was not produced and sold in one or more of the months of May through December 1972, or with respect to amounts produced and sold in any month in excess of the base period control volume (in the case of a property from which domestic oil was produced and sold in one or more of the months of May through December 1972). . . ."

On July 22, 1975,[16] when the Committee of the Whole resumed consideration of the bill, Mr. James C. Wright, Jr., of Texas, offered the following amendment to the amendment and the proceedings ensued as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Wright to the amendment offered by Mr. Krueger: Strike Subsection (d) of the new Section 8 added to the Emergency Petroleum Act of 1973 and insert in lieu thereof a new Subsection (d) as follows: "The provisions of (b) and (c) shall not take effect unless the Congress finds and so declares by concurrent resolution that there is in effect a tax which couples a redistribution of tax receipts mechanism to substantially mitigate the effect of increased energy costs on consumers with an excise tax or other tax applicable to sales of crude oil from a property: *Provided* that such tax shall provide an incentive for the production of new domestic crude oil.". . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I press my point of order at this time.

THE CHAIRMAN:[17] The gentleman will state his point of order.

MR. ECKHARDT: Mr. Chairman, my point of order is that, No. 1, this amendment is not germane to the Krueger amendment; and No. 2, that this amendment, if added to the Krueger amendment, creates an extensively and fundamentally different principle not covered by the exception to the rules.

Mr. Chairman, I cite primarily from page 415 of Deschler's Procedure, section 36.9, which reads:

> The fact that a resolution providing for the consideration of a bill specifically waives points of order against a particular amendment is not determinative of the issue of the germaneness of other, similar amendments.

There is reference to 106 Congressional Record 5655, 86th Congress, 2d session, March 14, 1960.

I should like to point out to the Chair how widely divergent this amendment is from the original Krueger amendment. The original Krueger amendment had some appeal to the committee because it did a very specific thing: It said that in providing that there is what the gentleman from Texas (Mr. Krueger) always called a specific recycling process with respect to the taxes collected under the windfall profits tax, that specific recycling

16. 121 CONG. REC. 23995–97, 94th Cong. 1st Sess.

17. Richard Bolling (Mo.).

process constituted the sending of the application, as I recall, of half the receipts to low- and middle-income brackets and the rest to a division of cities and others, the exact details of which I do not recall.

Then if this contingency occurred and it was a contingency based on a clearly and specifically defined action to become law, then and then only would the windfall profits tax provisions be in effect. Otherwise the bill would fall back to essentially the provisions of an extension of the existing Allocation Act. . . .

The effect of this amendment is something extremely different, and it is something that I feel sure we members of the Committee on Interstate and Foreign Commerce would have appeared before the Committee on Rules and strenuously objected to, because the amendment would simply say that we will put this pricing mechanism into effect and we will leave open to the absolute unrestrained determination of another committee what the tax structure would be.

In effect the result of that would be a complete reneging by the committee setting the price and a movement from a specific contingency to a complete delegation of authority to define that contingency to another committee. . . .

MR. [CHARLES A.] VANIK [of Ohio]: . . . I would just like to say that the resolution under which the committee considers this proposal today, House Resolution 599, on page 2, line 10, sets forth as follows:

> It shall be in order to consider, without the intervention of any point of order, the text of an amendment which is identical to the text of Section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record of Monday, July 14, 1975, by Representative Robert Krueger.

I think that the rule specifically indicates what would be in order would be the Krueger amendment and not amendments to the Krueger amendment.

For example, I do not believe that it would have been in order, under this rule, for the Committee on Ways and Means windfall profits section to have been introduced as an amendment to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, the amendment has within it the two factors which are also contained in the basic Krueger amendment: first, a modification, as any amendment would, of the finding or the method by which a finding can be made of what an appropriate tax is; and second, a description of what an appropriate tax is that can be found, so that the basic provisions of the Krueger amendment can be put into effect; that is, the decontrol process.

The Committee on Rules properly, I think, made in order the Krueger amendment for decontrol, and . . . hinged that decontrol on a suitable tax and the finding of a suitable tax.

The amendment offered by the gentleman from Texas (Mr. Wright) merely modifies that process.

The question of the jurisdiction of the Committee on Interstate and Foreign Commerce to write this into its legislation was raised by the gentleman from Texas (Mr. Eckhardt) in his comments on the point of order.

It seems to me that it is the prerogative of the Committee on Rules to com-

bine legislation, to see that legislation is brought to the floor in tandem, so that it might be combined on the floor by the committee, in its wisdom, and in this case, specifically made in order by rule.

The prospect was that the job of the Committee on Interstate and Foreign Commerce, the jurisdictional job, decontrol, would proceed on the basis of a finding of a suitable tax and it left the establishment or the enactment of that tax to the Committee on Ways and Means.

Nothing in the amendment of the gentleman from Texas (Mr. Wright) changes the basic thrust of the rule granted by the Committee on Rules in that regard, and it occurs to me that the amendment of the gentleman from Texas (Mr. Wright) is perfectly appropriate and germane. It does, in fact, as any amendment would, modify the situation; but it leaves to the full committee, the Committee of the Whole, the job of making that modification, in its wisdom. . . .

THE CHAIRMAN: The Chair is ready to rule.

Although a great many matters have been discussed in connection with the point of order, the Chair proposes to rule only very narrowly.

The question is whether the amendment offered by the gentleman from Texas (Mr. Wright) offered to the amendment offered by the gentleman from Texas (Mr. Krueger) is germane as within the limitations of the precedents with regard to its scope.

The Chair finds, basically on the arguments made by the gentleman from Ohio (Mr. Brown) that it is germane, and within the scope of the type of "windfall profits tax" defined by the Krueger amendment, although the description of the tax is somewhat less precise than the definition in the Krueger amendment. The fact that Congress, in the Wright amendment, rather than the President, as in the Krueger amendment must make the finding of enactment of the tax does not render the amendment not germane. Therefore the Chair overrules the various points of order and finds the amendment in order.

Tax on Corporations Engaged in Manufacturing War Materials

§ 31.13 To an amendment providing that no person shall be inducted prior to 90 days after the date of enactment of the Selective Service Act, an amendment proposing that the act be effective on the same day that a certain tax on corporations engaged in manufacturing war materials becomes effective was held not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[18] the following amendment was offered:[19]

Amendment offered by Mr. Mansfield to the amendment offered by Mr.

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

19. 94 CONG. REC. 8503, 80th Cong. 2d Sess., June 16, 1948.

Andrews of New York: Strike out all of section 23 and insert: "This act shall be effective on the same day that a tax bill becomes effective which will tax all corporations 100 percent of all profits and earnings in excess of the average annual profits and earnings of such corporations engaged in the manufacture of war materials or any other service connected with the war effort and/or the Selective Service Act of 1948."

Mr. Walter G. Andrews, of New York, having raised the point of order that the amendment was not germane to the bill, Mr. Mike Mansfield, of Montana, responded:

Mr. Chairman, I submit that this amendment is germane to this particular proposal because like the Andrews amendment it sets a beginning date as to the time when this law should go into operation.

The Chairman,[20] in ruling on the point of order, stated:

The Chair calls attention to the fact that the amendment as presented would strike out all of section 23. This section is not now under consideration and for that reason a motion to strike it out would not be in order at this time.

The Chair may also say, however, as to the point raised by the gentleman from New York that the amendment proposes to make the effectiveness of this act contingent upon an unrelated matter and therefore would not be germane to the pending amendment.

The Chair sustains the point of order.

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

Enactment of Legislation Increasing Debt Limit or Raising Revenue

§ 31.14 To a bill reported from the Committee on Agriculture directing the Secretary of Agriculture to expend all sums appropriated for the Rural Environmental Assistance Program, an amendment delaying the effectiveness of the bill until (1) Congress enacts legislation increasing the statutory ceiling on the public debt limit or legislation raising revenue by the amount of spending in the bill; or (2) the Comptroller General reports that such expenditures, together with all other outlays during that fiscal year, will not exceed revenue and debt limit totals was held not germane.

In the Committee of the Whole on Feb. 7, 1973,[1] during consideration of a bill[2] as described above, the following amendment was offered:

MR. [PAUL] FINDLEY [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Findley: After line 11, add the following:

1. 119 CONG. REC. 3708, 3709, 93d Cong. 1st Sess.
2. H.R. 2107.

"Sec. 2. This Act shall not take effect until such time as one of the following events occur: (1) the enactment of legislation increasing the statutory ceiling on the public debt by an amount at least equal to the amount of outlay mandated herein; (2) the enactment of legislation which will produce a first-year increase in revenue at least equal to the amount of spending; or (3) the Comptroller General of the United States makes a determination and so reports to the Speaker of the House and the President of the Senate, that the expenditure of funds provided herein, together with all other outlays expected to occur during fiscal 1973, will not exceed the total of revenue and authorized public debt for fiscal 1973."

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make a point of order on the amendment. . . . [I]t is not germane to H.R. 2107.

H.R. 2107 amends Section 8(b) of the Soil Conservation and Domestic Allotment Act, and the amendment in no manner deals with the fundamental purpose of this legislation which simply requires the expenditure of funds lawfully appropriated by the Congress. In addition, Mr. Chairman, the amendment would require action by a number of other agencies of the U.S. Government which are not considered and not included in the bill before us, and, therefore, it is not germane to the bill before us. . . .

MR. FINDLEY: . . . As I understood the argument of the chairman of the House Committee on Agriculture, the gentleman from Texas (Mr. Poage), it was that this involved unrelated actions. I think in substance that was his argument in support of his point that the amendment is not germane. I would like to argue to the contrary, that the bill before us is so far-reaching in its scope that the items which are in my amendment are indeed closely related. They can hardly be considered as isolated and separate propositions.

First of all, the bill does not involve just the REAP program. It involves the U.S. Treasury. It mandates spending. Therefore the Treasury balance of money is vitally important and closely related to this question.

It involves the appropriation of money. It would seek to mandate the spending of money which had been authorized by an act of appropriation of the Congress. In that connection it may well be that some of the Members of this body have not examined the wording which is in an appropriation bill preamble, and I would like to read that at this point. I cite this typical language from the Appropriation Act of the 92d Congress:

> That the following sums are appropriated out of any money in the Treasury not otherwise appropriated . . .

That is any money in the Treasury. Well, what does money in the Treasury consist of? It consists of revenue from taxes. It consists of revenue from borrowings. Therefore revenue as well as the public debt ceiling have to be considered an integral part of the legislation we are considering this afternoon. . . .

This is not the first time that the Chair has ruled favorably on an amendment of the same nature that is now before the Chair. On January 8, 1964, I offered an amendment to an authorization bill—and I point out that

it was an authorization bill. This language appears in the Congressional Record, volume 110, part 1, page 144, 88th Congress, second session.[3] The language of the amendment that I offered at that time read as follows:

> The authorization for an appropriation contained in this Act shall not be effective until such time as the receipts of the Government for the preceding fiscal year have exceeded the expenditures of the Government for such year, as determined by the Director of the Bureau of the Budget.

So, if there is an unrelated section or item involved in the issue before the Chair at this time, there certainly was on that occasion also.

On that occasion, when I offered the amendment and the Clerk had finished his reading, Mr. Jones of Alabama stated:

> Mr. Chairman, I make a point of order against the amendment, because it would restrict the appropriation to be made available under the terms of Section 8, starting on line 22, page 3.

The Chairman responded:

> In the interest of being expeditious, the Chair rules that the point of order is not well taken, because the amendment involves a limitation on an appropriation.

That bill, like the bill before us, was an authorization bill, not an appropriation bill, when the Chair saw fit to rule in favor of my amendment, citing that it did amount to a limitation of appropriation. In effect, the amendment now before the Chair is a limitation on appropriations.

Based on that ruling, as well as the general argument I made on the constitutional basis, I do ask the Chair to overrule the point of order.

MR. POAGE: Mr. Chairman, the gentleman makes his presentation upon the assumption that his amendment somehow is a limitation on an appropriation. The bill before us has nothing to do with an appropriation. It does not involve an appropriation. It simply says what the Secretary is to do with the money that has already been appropriated and how he shall carry out the program. . . .

THE CHAIRMAN:[4] The Chair has had occasion to study this problem, and is ready to rule.

The gentleman from Texas makes the point of order that the amendment offered by the gentleman from Illinois (Mr. Findley) is not germane to the bill H.R. 2107. The amendment would delay the effectiveness of the bill until Congress enacts legislation increasing the statutory ceiling on the public debt limit—or legislation raising revenue by the amount of spending in the bill—or until the Comptroller General determines and reports to the Congress that the expenditure of funds in the bill, together with all other outlays during fiscal 1973, will not exceed the total of revenue and authorized public debt for fiscal 1973.

To a bill authorizing an expenditure of certain funds, an amendment postponing the effectiveness of that authorization pending the enactment of legislation raising revenue has been held not germane.

The statement made by the Chairman of the Committee of the Whole on

3. See Sec. 31.16, infra.

4. Robert N. Giaimo (Conn.).

the occasion of that earlier ruling is applicable here. Chairman Walter of Pennsylvania then said:

> This amendment is not germane because it requires the enactment of other legislation in order to make the action taken here effective. This requires action not only by another committee of the Congress but also by the executive branch of government.

The amendment offered by the gentleman from Illinois would certainly require the ascertainment of facts and the exercise of duties by government officials and committees and agencies not included within the present bill.

The Chair has also examined several precedents in Cannon's Precedents of the House of Representatives, including those found in sections 3035 and 3037 of volume VIII. In both of those decisions, amendments delaying the operation of proposed legislation pending the completion of other legislative action was ruled out as not germane.

The Chair further distinguishes this from the situation that the gentleman from Illinois referred to in the earlier case involving House Joint Resolution 871 and the ruling by Chairman Rains, of Alabama, in the 88th Congress. There the amendment did involve a limitation but required nothing further to be done by another committee of this body.

The Chair holds that the pending amendment is not germane to the bill and sustains the point of order.

Determination as to Soviet Union's Limitation of Weapons Systems

§ 31.15 While an amendment may not be germane which conditions the availability of an authorization upon an unrelated contingency involving issues and agencies beyond the jurisdiction of the reporting committee, a contingency may be related if merely requiring observation of the conduct of another country, where such conduct is already contemplated as a factor affecting the policy basis for the authorization; thus, to an amendment to a military procurement authorization bill reducing a line-item amount for Air Force missiles and prohibiting use of funds in that title for the MX missile program, an amendment reducing instead the same line-item authorization by a different amount and also stating a policy with respect to the use of those funds for the unilateral cancellation of the MX system, authorizing the funds at a subsequent time during the fiscal year if the President determines that the Soviet Union is not controlling and limiting similar weapons systems, was held germane as an alternative limitation imposing a conditional restriction which was

not based upon an unrelated contingency.

On May 16, 1984,[5] during consideration of H.R. 5167[6] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

Sec. 103. (a)(1) Funds are hereby authorized to be appropriated for fiscal year 1985 for procurement for the Air Force as follows: . . .

For missiles, $8,664,600,000. . . .

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bennett: Page 10, line 19, strike out "$8,664,600,000" and insert in lieu thereof "$5,942,700,000".

At the end of title I (page 15, after line 5), add the following new section:

MX MISSILE PROCUREMENT

Sec. 110. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for the MX missile program. . . .

Mr. [Melvin] Price [of Illinois]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Price to the amendment offered by Mr. Bennett: Strike out the amount proposed by the amendment to be inserted on page 10, line 19, and insert in lieu thereof "$7,756,600,000".

Strike out the section proposed by the amendment to be inserted at the end of title I and insert in lieu thereof the following:

POLICY CONCERNING ACQUISITION OF ADDITIONAL MX MISSILES

Sec. . (a) It is the policy of Congress not to take any action that would reward the Soviet Union through the unilateral cancellation by the United States of the MX strategic nuclear missile weapon system for which funds are authorized in this title while the Soviet Union continues to act in a manner indicating that it is unwilling to take actions to further the control and limitation of similar types of strategic nuclear missile weapon systems.

(b)(1) Subject to paragraph (3), funds appropriated pursuant to the authorization of appropriations in section 103(a) for procurement of missiles for the Air Force may be used to acquire not more than 15 additional MX missiles, but no funds may be obligated for the acquisition of such missiles until April 1, 1985.

(2) Immediately after April 1, 1985, the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of strategic nuclear missile weapon systems similar to the MX strategic missile weapons system authorized for the Air Force by this title and shall immediately transmit written notification of that determination to Congress.

(3)(A) If the President's determination under paragraph (2) is that the Soviet Union is not acting in such a

5. 130 CONG. REC. 12504–06, 12509–11, 98th Cong. 2d Sess.

6. The Military Procurement Authorization for fiscal 1985.

manner, the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated, but only if the President also determines, and includes in the written notification to Congress under paragraph (2), that—

(i) the obligation of such funds is in the national interest; and

(ii) as of April 1, 1985, the United States is willing to act to further the control and limitation on the MX strategic nuclear missile weapon system authorized for the Air Force by this title.

(B) If the President's determination under paragraph (2) is that the Soviet Union is acting in such a manner, none of the amount appropriated pursuant to the authorization of appropriations in section 103(a) for the acquisition of 15 additional MX missiles may be obligated. . . .

MR. [LES] AUCOIN [of Oregon]: Mr. Chairman, I make a point of order against the Price amendment on the grounds that its scope is broader than that of the primary amendment, title 1, and therefore is not germane to the primary amendment.

The Price amendment would condition MX missile procurement authorization on a Presidential determination. The exact nature and notification of this action is not specified in the amendment; it is open to various interpretations. A number of those interpretations have been brought out on the floor in the colloquy which just preceded my point of order stated by the gentleman from Washington State.

That interpretation is that the MX procurement authorization would be contingent upon a Presidential report or certification regarding arms control negotiations. This, is in fact the interpretation, as I have indicated it, Members who support the amendment have built into the legislative history just set forth.

Since arms control negotiations involve agencies not charged with procurement of the MX missile, nor with procurement of any weapons, the Price amendment is not germane to the primary amendment according to Deschler's Precedents, chapter 28, section 24, point 23, based on a ruling made February 22, 1978.

The amendment is also inconsistent with rulings made in similar cases on July 8, 1981, and July 9, 1981. . . .

MR. [LES] ASPIN [of Wisconsin]: Mr. Chairman, the language of the amendment says that the President shall determine whether the Soviet Union is acting, as of April 1, 1985, in a manner indicating that it is willing to take actions to further the control and limitation of types of strategic nuclear missile weapons systems. It does not mention negotiations. The amendment itself is in line with other types of amendments that we have had, and it is a general finding by the President, and I believe it is within the rules of the House. . . .

MR. [MIKE] LOWRY of Washington: Mr. Chairman, in the colloquy I just had with the gentleman from the State of Washington, he answered the question that this amendment is contingent upon arms control negotiations. I ask that specifically because on July 8, 1981, I presented an amendment to the floor on Pershing II's that was ruled out of order as stated and that amendment on Pershing II's held the dollars for the expenditure for the de-

ployment until the President has certified that Congress of the United States has forwarded to the Soviet Union initial proposals for arms control negotiations. Essentially the same thing.

That amendment was ruled out of order, the amendment made by this gentleman, was ruled out of order, and part of the reason that it was ruled out of order as stated was the Chair would further point out that the arms control negotiations fall within the jurisdiction of the Committee on Foreign Affairs, and not within the jurisdiction of the committee reporting this bill, and thereby out of order. . . .

MR. ASPIN: The difference is of course that the gentleman from Washington's amendment that he referred to, did mention arms control negotiations in his amendment. The amendment which the chairman of the committee, Mr. Price, has put forward does not mention arms control negotiations in his amendment. . . .

MR. AUCOIN: Mr. Chairman, I am looking at page 2, and on page 2, lines 5 and 6, it states, lines 4, 5, and 6, it states, ". . . acting in a manner indicating that it is willing to take actions to further the control and limitations of types of strategic missile weapons systems similar to the MX."

Mr. Chairman, my point is this: One cannot define a missile system that is similar to the MX. The amendment does not define it. As this debate has already brought out, it is subject to a great difference of opinion on the floor of the House. I make the point, Mr. Chairman, my point of order is, therefore, that the amendment is broader in scope than that of the MX because it necessarily brings into play questions of missile systems beyond the MX. It is only the MX that is in dispute and subject to debate at this point. So I renew my point of order. . . .

MR. [WILLIAM B.] DICKINSON [of Alabama]: Mr. Chairman, the amendment is clearly germane and does not exceed the scope of the original bill. It does not introduce a new and different subject than that in the amendment offered by the gentleman from Florida (Mr. Bennett). Both amendments deal with the procurement of MX missiles. The amendment differs only in degree. The amendment offered by the gentleman from Illinois (Mr. Price), does place additional conditions on the release of funds for the procurement of MX missiles, but does not introduce any new or additional subject, and is therefore clearly germane.

The amendment offered by the gentleman from Florida contains a provision providing, "None of the funds in this title" may be used for the MX missile program.

It should be noted that there are other provisions in title I of this bill regarding international treaty obligations. Section 105, for instance, deals with our international obligations with NATO countries. Section 107 of this bill also contains provisions extending certain authorities to the President under the Arms Export Control Act.

So I think neither in enlarging the scope nor on the question of germaneness would a point of order lie. . . .

MR. [BARNEY] FRANK [of Massachusetts]: . . . Obviously the intention of this is that the President would assess the Soviet behavior in negotiations. As a matter of fact, although the magic

word "negotiations" is not mentioned, that really makes it an issue on all fours with the point of the gentleman from Wisconsin and the gentleman from Washington.

Simply not mentioning negotiations when you describe a process that can only be assessed through negotiations clearly seems to make it the case. If the gentleman is really saying that the President should assess this important decision without regard to negotiations from the Soviet Union, then the amendment makes even less sense than I thought it did. . . .

THE CHAIRMAN:[7] The Chair is ready to rule.

The Chair feels the arguments made, to sustain the point of order, are much broader than the Chair would interpret the amendment. The amendment offered by the gentleman from Florida reduces the line-item authorization for Air Force missiles and also adds a section at the end of title I prohibiting the use of any funds authorized in title I for fiscal year 1985 for the procurement of the MX missile.

The amendment offered by the gentleman from Illinois, in lieu of a prohibition on the use of the authorized funds in fiscal year 1985 for the procurement of any MX missiles, would instead reduce the same line-item authorizations for Air Force missiles by a lesser amount and would add a different section at the end of title I stating a policy with respect to the use of fiscal year 1985 authorized funds in title I for the unilateral cancellation of the MX system, while the Soviet Union continues to be unwilling to take actions to control and limit similar strategic missile weapons systems.

In effect, the amendment would authorize fiscal year 1985 funds for the procurement of not more than 15 MX missiles after April 1, 1985, if the President determines that the Soviet Union is not acting in a manner to control similar systems.

In the opinion of the Chair, the issue of the availability of any funds in fiscal year 1985 for MX procurement presented by the original amendment permits as an alternative approach a conditional restriction on the availability of those same funds dependent upon Presidential determination of procurement of similar systems by the Soviet Union.

It is certainly a related issue to condition of the availability of the funds in the bill upon observed conduct on the part of the Soviet Union with respect to a similar weapons system, and the Chair overrules the point of order.

Government Receipts in Excess of Expenditures

§ 31.16 Where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.

In the 88th Congress, a proposition was under consideration[8]

7. Dan Rostenkowski (Ill.).

8. See H.J. Res. 871 (Committee on Public Works).

to rename the National Cultural Center as the John F. Kennedy Center for the Performing Arts and to authorize an appropriation for such center. An amendment providing that the authorization not be effective until the receipts of the government exceed its expenditures was held to be germane:[9]

> Amendment offered by Mr. [Paul] Findley [of Illinois]: Page 4, line 4, add a new paragraph to read as follows: "The authorization for an appropriation contained in this Act shall not be effective until such time as the receipts of the Government for the preceding fiscal year have exceeded the expenditures of the Government for such year, as determined by the Director of the Bureau of the Budget."

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

> MR. [ROBERT E.] JONES of Alabama: Mr. Chairman, I make a point of order against the amendment, because it would restrict the appropriation to be made available under the terms of section 8, starting on line 22, page 3.
>
> The Chairman,[10] in ruling on the point of order, stated:
>
> In the interest of being expeditious, the Chair rules that the point of order is not well taken, because the amendment involves a limitation on an appropriation.

9. 110 CONG. REC. 144, 88th Cong. 2d Sess., Jan. 8, 1964.

10. Albert Rains (Ala.).

Determination as to Expenditures Under Other Acts

§ 31.17 An amendment to an authorization bill which conditions the obligation or expenditure of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other Acts is germane so long as the amendment does not directly affect the use of other funds; thus, to a bill authorizing foreign economic and military assistance, an amendment providing that the percentage of funds obligated or expended pursuant to that Act at any time during fiscal 1974 shall not be more than 10% greater than percentages expended under certain other programs authorized by Congress was held to impose a germane limitation on the availability of funds authorized in the bill which did not directly affect the operation of other government programs.

During consideration of the Mutual Development and Cooperation Act of 1973[11] in the Committee of the Whole on July 26,

11. H.R. 9360.

1973,[12] the Chair overruled a point of order against the following amendment:

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Danielson: On page 53, after line 23, insert the following new section:

EQUITABLE EXPENDITURE OF FUNDS

Sec. 30. (a) Unless the Congress shall provide otherwise in language expressly made applicable to this section, at any time during the fiscal year 1974, the amount obligated or expended pursuant to this Act for any program or activity authorized by this Act, expressed as a percentage of the amount appropriated by law for purposes of such program or activity, shall not be more than 10 percentage points greater than the amount obligated or expended at that time for any other program or activity authorized by Act of Congress, expressed as a percentage of the amount appropriated by law for purposes of such other program or activity for the fiscal year 1974.

(b) For purposes of this section, the term "other program or activity" shall include any program or activity administered by or under the direction of the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Department of Transportation, the Environmental Protection Agency, and the Veterans' Administration. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I insist on a point of order. . . .

(T)his bill deals solely with authorizations for appropriations for foreign aid. The amendment of the gentleman covers many programs of agencies: The Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Veteran's Administration. It goes far afield from the present legislation, and therefore I insist on my point of order.

THE CHAIRMAN:[13] The Chair is ready to rule.

The Chair has examined the amendment, and observes that the amendment does not directly affect the obligation or expenditure of funds under other Government programs. Rather, the percentages obligated or expended under other programs merely serve as a measure or limit of percentages which can be obligated or expended under programs in the pending bill. For this reason, the Chair feels that the amendment is a germane restriction on the availability of funds authorized in the pending bill, and the Chair overrules the point of order.

Determination as to Balance of Trade in Automotive Products

§ 31.18 An amendment delaying operation of a proposed enactment pending an ascer-

12. 119 CONG. REC. 26210, 26211, 93d Cong. 1st Sess.

13. Melvin Price (Ill.).

tainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill; thus, to a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, and imposing an import restriction for automobiles on any person violating that requirement, an amendment waiving the requirement for the products of one country if the balance of trade with such country in automotive products bears a certain relationship with the overall trade deficit with that country, was held germane, as a contingency relating to the same subject matter as the bill.

During consideration of the Fair Practices in Automotive Products Act[14] in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. he proceedings of Dec. 15, 1982,[15] were as follows:

The Clerk read as follows:

Amendment offered by Mr. Schumer: Page 11, line 5, strike out "It" and insert in lieu thereof: "Except as provided in paragraph (5), it".

Page 13, between lines 2 and 3, insert the following:

(5) Paragraph (1) shall not apply with respect to any vehicle manufacturer of Japan with respect to any model year if the United States deficit in the balance of trade in automotive products with Japan for the four calendar quarters most closely corresponding to model year 1982 is not greater as a percentage of the deficit in goods and services with Japan (as calculated on the basis of the Balance of Goods and Services published by the Department of Commerce) for the four calendar quarters most closely corresponding to such model year than [certain specified percentages].

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York (Mr. Schumer) on the ground that it goes beyond the purposes of H.R. 5133 and is thus not germane.

The gentleman's amendment attempts to address trade matters that are not addressed by the bill before us. The bill that is before us seeks to address domestic car content requirements.

Specifically, Mr. Chairman, the gentleman's amendment would make the enforcement provisions of the bill contingent upon a determination of the balance of trade in automotive products versus the relative balance of payments of other goods and services, and when we bring in the other goods and services, I maintain that that goes far beyond the scope of the legislation.

It also places additional responsibilities on the Secretary of Transportation on trade issues which are not within his authority.

In previous rulings, the Chairman of the Committee of the Whole House on

14. H.R. 5133.

15. 128 CONG. REC. 30958–60, 97th Cong. 2d Sess.

the State of the Union has . . . ruled that an amendment changing the statement of policy contained in a bill is not in order if its effect is to fundamentally change the purpose of the bill. That is found in Deschler's Precedents, chapter 28, section 4.16.

So, Mr. Chairman, I insist upon my point of order that the amendment goes beyond the purposes of H.R. 5133, that it is not germane and, therefore, is out of order. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I support the point of order that has been claimed by the gentleman from North Carolina (Mr. Broyhill).

It is quite clear that the amendment has been redrawn in an attempt to fit our rule XVI, clause 7. That is the rule of germaneness. It is also quite clear, as demonstrated by the gentleman from North Carolina, that it does not succeed.

The bill that is before us, H.R. 5133, is a bill that refers only to domestic manufacture within the United States. The amendment offered by the gentleman from New York (Mr. Schumer) seeks to impose a regimen against exports based on a measure of automotive imports which is beyond all normal competence of the Secretary of Commerce, who is the only individual noted in H.R. 5133.

In addition, there would have to be a determination of the total scope of our balance of trade with the country of Japan. The denominator of the gentleman's fraction is the total balance of trade between our country and Japan. . . . [The amendment] goes far beyond the intent of the original bill, which deals with domestic manufacture, and gets into the whole field of trade, which is beyond the jurisdiction of the committee that is bringing us this bill. . . .

MR. [CHARLES E.] SCHUMER [of New York]: If I might respond to the point of order, Mr. Chairman, the amendment was drawn to relate to the narrow area of automobiles and automobile content as well as automobile trade. The bill before us deals with automobile trade.

Just to look at one point, page 4 deals with vehicles manufactured by a vehicle manufacturer in the United States and exported from the United States. That is clause 1.

Clause 2 also deals with vehicles manufactured in the United States and exported from the United States.

Furthermore, what we were told in terms of germaneness was that what we had to deal with was automobiles and the fraction that we used deals with automobiles making it clearly germane.

The gentleman form North Carolina, the gentleman from Minnesota, and the gentleman from Pennsylvania might have an argument if, if this bill dealt with or this amendment specifically related to general trade. But it does not. It relates to automobile trade.

Furthermore, I might say the gentlemen in objection to this have said this amendment has an effect on trade. So does the bill.

What is the debate we have been listening to for the last 2 hours? Authority for the issue of germaneness is not the effect that the amendment would have but specifically are the words of the amendment germane to the bill.

The bill deals with automobiles and automobile manufacturing. The amendment deals with automobiles and automobile manufacturing, but here in this country and for export and, therefore, I would argue that the amendment is indeed germane. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the germaneness rule is the purpose and the basis of the point of order.

First of all, the amendment must be germane to the bill. I would observe that there are a number of tests.

The first which has been referred to is the question of committee jurisdiction. Here we have an amendment which relates to trade, balance of trade, figures relative to trade, and a question relative to suspension of imports.

Clearly that kind of an amendment would have compelled this legislation to have been referred to the Committee on Ways and Means.

The bill was referred to the Committee on Energy and Commerce because it deals with Interstate Commerce.

The amendment must also be germane to the committee substitute. It fails again on the basis of this test.

The question then is: Does the amendment meet any of the other tests and I submit to the Chair that it does not.

The amendment does not relate as required under section 3 of title XXVIII of Deschler's, does not relate to the subject under consideration.

The subject under consideration relates to interstate commerce.

The amendment relates to international commerce. Clearly the subject matter is different and the amendment again fails.

There is yet another test and that is the fundamental purpose of the amendment test under section 5. Obviously again the fundamental purpose of the amendment must relate to the fundamental purpose of the proposition to which it is offered.

The fundamental purpose of the committee substitute is to establish standards for the trade in interstate commerce of automobiles and automobile parts. Here it is clear that the amendment again relates to international trade and it requires a series of findings which are nowhere found wherein a series of calculations dependent on international trade and deficits, none of which are mentioned anywhere in the legislation.

Last of all, the amendment fails the requirements of section 6 of Deschler's wherein the test is does it accomplish the result of the basic legislation by the same or similar means. Here it is very clear that under the bill the evil to be dealt with is the difficulty with regard to jobs and it is dealt with through the interstate commerce powers of the Constitution and of the Congress.

The amendment would deal with the problem of international trade by relating automobile sales to international trade deficits of the United States, two very distinct and different matters. . . .

MR. SCHUMER: . . . [A]s I understand it . . . it is the words of the bill, not its effect or anything else that relates to germaneness.

Let me keep reading words of the bill to show that the bill deals not just

with interstate commerce but with international commerce. . . .

Throughout the bill . . . are arguments, words, discussions that relate not just to automobiles domestically within the United States but automobiles exported.

Furthermore, the bill is explicit. It sets different classifications for automobile parts that are manufactured within the United States as opposed to automobile parts that are manufactured outside of the United States.

To say that the bill only deals with what happens within the United States is incorrect. The bill deals with what happens within and without. Albeit related to automobiles, the amendment deals with what happens within and without but related to autos as well. . . .

THE CHAIRMAN:[16] The Chair is prepared to rule.

Under the general rule of germaneness, the test of an amendment is whether there is a relationship to the subject matter of the bill.

This bill requires a certain percentage of domestic content in the automobiles that are sold in this country.

The amendment provides that that requirement is not applicable during periods when the balance of trade in automotive products bears a certain relationship to overall trade; therefore, the amendment is confined to the subject of trade in automotive products and is not an unrelated contingency involving the overall balance of trade.

In Cannon (VIII, 3029) an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when that fact to be ascertained relates solely to the subject matter of the bill.

In the opinion of the Chair, the amendment conditions the implementation of the domestic content requirement upon a certain test, a certain factual situation.

It relates to the general subject matter of the bill, imposes a germane condition, and, therefore, the point of order is overruled.

Determination and Report by President on Ownership of Gold in Vietnam

§ 31.19 An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane; thus, an amendment to a substitute postponing the effective date of the granting of humanitarian and evacuation assistance to South Vietnam refugees until the President determines and reports to Congress on the ownership of gold sought to be removed from Cambodia and South Vietnam was held to be not germane.

On Apr. 23, 1975,[17] during consideration of H.R. 6096 (the Vietnam Humanitarian and Evacuation Assistance Act) in the Committee of the Whole, Chairman

16. Leon E. Panetta (Calif.).

17. 121 CONG. REC. 11511, 11512, 94th Cong. 1st Sess.

Otis G. Pike, of New York, sustained a point of order against the following amendment:

MR. [JOHN L.] BURTON [of California]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: At the end add a new section:

"This Act shall become effective when the President determines and reports to Congress whether the 16 tons of gold that Lon Nol and former President Thieu tried to send to Switzerland was American property or their own personal gold.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I raise a point of order that the amendment is not germane to the amendment in the nature of a substitute. . . .

MR. JOHN L. BURTON: . . . It is an amendment that sets an active triggering date for the legislation. It is no more different than saying that it shall take effect on a certain date. We are just saying in this amendment that we are setting this date for the determination whether or not that 16 tons of gold with American money is just a limitation on the executive power of the bill.

THE CHAIRMAN: The Chair is ready to rule. A similar situation arose in the 93d Congress on a bill authorizing military assistance to Israel and funds to be used in an emergency force when an amendment was offered postponing the availability of those funds until the President certified the existence of a designated level of energy supplies. (Deschler's, chapter 28, section 24.18).

The amendment in question is not germane to the purposes of the substitute and the point of order is sustained.

Certification That Bill Will Have Positive Effect on Employment Levels

§ 31.20 To a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, imposing an import restriction on any person violating that requirement, and separately requiring a study of the impact of implementation of the bill on the automobile industry and on the exportation of other goods and services from the United States, an amendment delaying the effectiveness of the entire bill contingent upon a certification that the bill will have a net positive effect on the total domestic employment levels was held to be nongermane as a condition referring to the entire range of employment in the economy and therefore encompassing factors beyond the scope of the bill.

During consideration of the Fair Practices and Procedures in Auto-

motive Products Act of 1983[18] in the Committee of the Whole on Nov. 2 and 3, 1983,[19] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

> SEC. 8. GENERAL EFFECTIVENESS AND IMPACT STUDY.
>
> (a) Continuing Study.—Beginning not later than one year after enactment of this Act, the Secretary and the Federal Trade Commission, in consultation with the heads of other interested Federal agencies and with the Advisory Council, shall conduct a continuing study of the adequacy of the actions taken to implement and enforce the provisions of sections 5, 6, and 7, and the extent to which such provisions and their implementation and enforcement—
>
> (1) are achieving, or will achieve, the purpose of this Act; and
>
> (2) are affecting in any way—
>
> (A) retail prices to consumers in the United States of new motor vehicles sold and distributed in interstate commerce. . . .
>
> (D) the United States balance of trade in automotive products.
>
> (E) employment at ports in the United States where automotive products are regularly entered into the United States for sale and distribution in interstate commerce . . . and
>
> (G) the exportation of agricultural commodities and products from the United States, and the exportation of goods, industrial and other products, and services from the United States.
>
> In order to ensure that the continuing study required by this section is balanced and comprehensive, the Secretary and the Federal Trade Commission shall identify and consider all other factors that are relevant to an understanding of, or have an effect on, the matters required to be studied under this subsection, including, but not limited to, governmental policies and practices affecting such matters. . . .

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

The Clerk read as follows:

> Amendment offered by Mr. Walker: At the end of the bill add the following new section:
>
> Sec. 11. (a) Notwithstanding any provision of this Act, none of the provisions of this Act shall take effect until the Department of Labor, in consultation with the Department of Commerce and other appropriate federal agencies, prepares an affirmative employment impact statement and certifies that the net effect of implementation of this Act will have a positive impact on total domestic employment levels.
>
> (b) Such statement shall include an analysis of:
>
> (1) The immediate impact on levels of total private employment
>
> (2) The long term economic effects of enactment of the bill; and
>
> (3) The extent and nature of any new employment opportunities created by the implementation of this Act. . . .

MR. [DENNIS E.] ECKART [of Ohio]: Mr. Chairman, H.R. 1234, as introduced and reported, relates to the sales in interstate commerce of vehicles and parts and the distribution in commerce of those parts. Its purpose is to encourage production of automotive products and parts in the United States for sale, and regulates and deals with the

18. H.R. 1234.

19. 129 CONG. REC. 30527, 30775–77, 98th Cong. 1st Sess.

movement within interstate commerce in the United States of those parts.

In order for an amendment to this bill to be in order it must meet the fundamental purposes test and thus meet the germaneness test. It must not only have the same end as the matter that is sought to be amended, but it must also contemplate a method of achieving that end that is closely related and allied to the method encompassed in the bill or the substitute.

The amendment offered by the gentleman from Pennsylvania is not consistent with the fundamental purpose test and I would cite for the purposes of the record that an amendment to accomplish a similar purpose by an unrelated method not contemplated by the bill is not germane.

I would reference the Chair to the 113th Congressional Record, page 21849 of the 90th Congress, 1st session; 116th Congressional Record, page 28165 of the 91st Congress, 2d session; 121st Congressional Record, page 18695 of the 94th Congress, 1st session.

The first purpose of this amendment, I would point out to the Chair, is not intended to limit the content of the autos sold in interstate commerce in the United States. That is the fundamental purpose of this legislation.

The amendment proffered by the gentleman from Pennsylvania deviates dramatically from the fundamental purpose; therefore, fails the precedents under the precedents and history of the House. Therefore, the amendment is not germane and should be ruled out of order. . . .

MR. WALKER: Mr. Chairman, the bill we have before us has in section 8 a "general effectiveness and impact study."

In section 8 of that bill it is a macroeconomic study which is mandated by the legislation itself. It is a macroeconomic study that not only goes to the automobile industry but as section (G) under part (2) of that section says, it related to "the exportation of agricultural commodities and products from the United States, and the exportation of goods, industrial and other products, and services from the United States."

In other words, the bill in mandating that study mandates a macroeconomic study.

In the case of my amendment, my amendment is also a study. It asks for a study preimplementation. It is a study which also is a macroeconomic study not unlike that which would be an ongoing part of the legislation.

So, therefore, my amendment is entirely germane to the sections of the bill and to the general nature of the bill in question.

In addition, I would say that this is a bill, which the purpose of the act is to prevent or remedy serious injury to domestic manufacturers and workers. My amendment is simply a study to assure that that kind of a mandate would be met by the legislation in question. So therefore, since the reservation against my amendment has been raised on the point of germaneness, I would submit that the amendment that I have offered is entirely germane, given the language contained already in the bill in section 8. . . .

MR. ECKART: . . . I would point out to the Chair that in reading the gentleman's amendment it prohibits the legislation from going into effect under

the gentleman's amendment. The section that he references in the legislation is of an advisory, consultory nature only and therefore the fundamental purpose of section 8 which he quotes is to provide advice to the Congress and to the administration, is not related to the fundamental purpose of this amendment which seeks to abrogate the legislation and in which it states clearly, shall not take effect until and after these conditions precedent have taken place.

It fails the fundamental purpose and therefore is not germane. . . .

MR. [RICHARD L.] OTTINGER [OF NEW YORK]: . . . Mr. Chairman, I want to emphasize a point that my friend from Ohio (Mr. Eckart) made that there is a contingency in this amendment, the whole act does not take effect until a nongermane condition is met and, therefore, the amendment is not germane and the point of order should be sustained.

THE CHAIRMAN:[20] Are there further arguments on the point of order? If not, the Chair is prepared to rule on the point of order.

The basic subject matter of the bill before the House, as stated in the findings of the bill on page 14, relates to domestic workers producing automotive products, referring to automobile products, and therefore limits it to that category of domestic employment.

The amendment in question refers to the entire range of employment in the U.S. economy and therefore conditions the bill in a manner far beyond the basic subject matter of the bill.

The amendment would make it conditional, that the bill would not be implemented until there was a study relating to the overall impact within the entire economy.

Were it limited simply to a study, that the Chair feels would be germane. But having expanded it beyond that, making it a condition precedent as well as relating to a study of the employment in the entire U.S. economy, it is the Chair's view that it is not germane as an unrelated contingency and, therefore, the Chair sustains the point of order.

Proclamation Concerning Foreign Nation's Trade Policy

§ 31.21 To a bill requiring that a certain percentage of automobiles sold in the United States be manufactured domestically, and imposing an import restriction for automobiles on any person violating that requirement, an amendment waiving the applicability of domestic content ratios with respect to a foreign nation where the President has issued a proclamation stating that that nation is not imposing unfair restrictions against the entry of any United States product into its domestic market was held nongermane as an unrelated contingency affecting trade issues beyond those issues addressed in the bill.

During consideration of the Fair Practices and Procedures in Auto-

20. Leon E. Panetta (Calif.).

mobile Products Act of 1983[1] in the Committee of the Whole on Nov. 2, 1983,[2] the Chair sustained a point of order against the amendment described above, demonstrating that an amendment making the effectiveness of a bill contingent on an unrelated event or determination is not germane. The proceedings were as follows:

The text of the remainder of the bill, H.R. 1234, is as follows:

SEC. 2. CONGRESSIONAL FINDINGS, PURPOSE, AND DISCLAIMERS.

(a) Findings.—The Congress hereby finds that automotive products are being imported into the United States for sale and distribution in interstate commerce in such increased quantities and under such conditions as to cause, or threaten to cause, serious injury to the domestic manufacturers of like or directly competitive automotive products sold and distributed in interstate commerce, and to the domestic workers producing such products.

(b) Purpose.—The purpose of this Act is to prevent or remedy the serious injury described in subsection (a) to such domestic manufacturers and workers for such time, as determined by subsequent Act of Congress, as may be necessary by encouraging the production in the United States of automotive products which are sold and distributed in interstate commerce.

(c) Congressional Disclaimers.—It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to automotive products entered for sale and distribution in interstate commerce and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed (1) to confer jurisdiction upon any court of the Unied States to consider and resolve such conflicts, or (2) to alter or amend any law existing on the date of enactment of this Act which may confer such jurisdiction in such courts. . . .

SEC. 5. DOMESTIC CONTENT RATIOS FOR MODEL YEAR 1985 AND THEREAFTER.

(a) Ratios.—In order to carry out the purpose of this Act, for each model year beginning after January 1, 1984, the minimum domestic content ratio for a vehicle manufacturer shall not be less than the higher of—

(1) the domestic content ratio achieved by the vehicle manufacturer in model year 1984 reduce by 10 per centum; or

(2) the applicable minimum content ratio specified in the following table: . . .

MR. [DAN] GLICKMAN [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Glickman: On page 27, after line 10, insert the following new subsection:

"(c) INAPPLICABILITY OF RATIOS IN THE CASE OF PRESIDENTIAL PROCLAMATION.—Ratios determined under this section shall have no effect with regard to a nation in the event that the President issues a proclamation not less than ninety days before the first day of the model year stating that that nation is not imposing unfair restrictions against the entry of

1. H.R. 1234.

2. 129 Cong. Rec. 30525–27, 30541, 30542, 98th Cong. 1st Sess.

United States products into its domestic market.". . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, this amendment makes ineffective the content provisions of H.R. 1234 with regard to a nation if the President issues a proclamation that such nation is not imposing unfair restrictions of any kind against entry of U.S. products, not just automobiles, into the domestic market. The amendment to be in order must be germane to the committee substitute. The substitute relates to an injury suffered by the domestic auto industry and its workers due to auto imports sold in interstate commerce in the United States and establishes a content level for the sale of autos in such commerce.

It is not a general trade bill. It does not relate to other U.S. products, such as beef, citrus, baseball bats, high technology products—which in fact Japan does exclude.

The purpose of the substitute is to remedy the injury with respect to automobiles.

The amendment's purpose is to halt the content level on a nation by nation basis, contingent on the President finding that each nation is not imposing unfair restrictions on any kind of other product, be it citrus, beef, or whatever.

To be germane, the amendment must meet the fundamental purpose test. This amendment does not.

Also, it must not contain an unrelated contingency, as noted by the chairman on December 15, 1982, at page H 9879, concerning H.R. 5133. This amendment does contain such a contingency.

The amendment is not confined to trade in autos. It covers a broad range of products. It does not relate to the general subject matter of the substitute.

And, therefore, I urge the point of order be sustained.

MR. GLICKMAN: Mr. Chairman, I will do my best to try to argue with that extraordinarily good defense of the gentleman's point of order.

Mr. Chairman, I think, one, the bill might make reference to things in a generic concept outside of automobiles, but the ramification of this bill would definitely affect other sectors of the economy. And, therefore, I think that the amendment is germane on that ground.

The bill was referred to the Ways and Means Trade Subcommittee because of trade implications. Hence, changes to address those issues should be allowed on the floor as well.

The amendment would not alter any other statutes and it merely adds flexibility in implementing quotas. I would add that under the committee bill the President has significant responsibilities in that bill. And this amendment merely adds some additional responsibilities to the President. . . .

Mr. Chairman, while it is true that on its face the purpose of this bill is to remedy automobile ratios and quotas, I think that the intent of the bill, judging from all of its proponents, is to slap some of our trading partners with respect to all products that are involved in trade and, therefore, I think that the intent of the amendment is germane.

THE CHAIRMAN:[3] The Chair is prepared to rule.

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3. Leon E. Panetta (Calif.).

The bill that is before the Committee deals with domestic content with regard to automobiles. It does not deal with broader trade issues that affect all other products.

The amendment that the gentleman from Kansas has introduced in its language provides:

> Ratios determined under this section shall have no effect with regard to a nation in the event that the President issues a proclamation not less than 90 days before the first day of the model year stating that that nation is not imposing unfair restrictions against the entry of U.S. products into its domestic market.

It is the position of the Chair that that opens it up to all products and, therefore, extends it beyond the subject matter that is contained within the bill.

In addition to that, the Chair would cite the precedent of the House that an amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination.

It is for those reasons that the Chair sustains the point of order.

Assistance to Israel—Presidential Certification as to Availability of Energy Supplies

§ 31.22 An amendment making the effectiveness of a bill contingent upon an unrelated event or determination is not germane; thus, to a bill authorizing military assistance to Israel and funds for the United Nations Emergency Force in the Middle East, an amendment postponing the availability of funds to Israel until the President certifies the existence of a designated level of energy supplies for the United States is not germane.

During consideration of H.R. 11088[4] in the Committee of the Whole on Dec. 11, 1973,[5] a point of order was raised and sustained against the following amendment:

> MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gross: Page 4, after line 10, add the following:
>
> "Sec. 7. Notwithstanding any other provision of this Act, none of the funds authorized to be appropriated under section 2 of this Act shall be available for use as provided in this Act until the President determines and certifies to the Congress, in writing, that current energy supplies available for use to meet current energy needs of the United States have been restored to the level of such supplies so available on October 5, 1973.". . .
>
> MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, I make a point of order against the amendment in that it deals with a subject

4. A bill providing for emergency military assistance to Israel and Cambodia.

5. 119 CONG. REC. 40837, 93d Cong. 1st Sess.

that is not germane to the bill. As a matter of fact, it deals with an energy crisis in an emergency situation. . . .

THE CHAIRMAN:[6] The Chair sustains the point of order because the amendment would make the authority contained in the bill dependent on an unrelated contingency.

Determination as to Lifting by Soviet Union of Restrictions on Emigration

§ 31.23 An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane; accordingly, to a bill amending the United Nations Participation Act by making inapplicable thereto the provisions of a section of the Strategic and Critical Materials Stock Piling Act, thereby reimposing the United Nations embargo on the importation of Rhodesian chrome, an amendment permitting the continued importation of such chrome so long as chrome is imported from the Soviet Union unless the President determines that the Soviet Union has lifted the restrictions against the emigration of its citizens, thus delaying the operation of the proposed legislation pending an unrelated contingency, was held to be not germane.

During consideration of H.R. 1287 in the Committee of the Whole on Sept. 25, 1975,[7] the Chair sustained a point of order in the circumstances described above. The pending language of the bill and the amendment offered thereto were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(a)) is amended by adding at the end thereof the following new sentence: "section 10 of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596; 50 U.S.C. 98–98h) shall not apply to prohibitions or regulations established under the authority of this section.". . . .

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

The Clerk read as follows:

Amendment offered by Mr. Derwinski: Page 2, line 2, immediately after "section" and before the first period insert the following: "; except that this section shall not apply with respect to the importation into the United States of chromium of Southern Rhodesian origin so long as chromium is imported into the United States from the Union of Soviet Socialist Republics, unless the President determines that the gov-

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

7. 121 CONG. REC. 30226, 30227, 94th Cong. 1st Sess.

ernment of the Union of Soviet Socialist Republics—

"(1) grants its citizens the right or opportunity to emigrate;

"(2) does not impose more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; and

"(3) does not impose more than a nominal tax, levy, fine, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice."

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, this amendment as offere Illinois, in my judgment, is not germane under rule XVI, clause 7. It is introducing a subject which is different from the one dealt with in the bill and would change the scope of the bill considerably.

The bill itself simply allows the President to promulgate prohibition and regulations under United Nations Participation Act to give effect to its decisions. This introduces wholly extraneous matter that has nothing to do with the United Nations Participation Act or acts of the United Nations Security Council or the subject of the bill. . . .

MR. DERWINSKI: . . . May I point out to the Chairman that section 2 of the bill was added in the subcommittee, and that in and of itself, section 2 addresses itself to subject matter considerably beyond the scope of the original bill.

It in effect introduces substantial technical requirements that go far beyond the issue of the United Nations Participation Act.

Mr. Chairman, there are numerous precedents in the House, whereby once an amendment has been accepted that substantially enlarges the scope of the bill, further amendments so doing are in order.

Section 2, obviously, has been ruled germane, has been judged germane. It substantially expands the scope of the measure before us, goes far beyond the mere amendments to the United Nations Participation Act and, therefore, Mr. Chairman, logically, I believe, my amendment would be in order. . . .

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, I would further point out in support of the argument of the gentleman from Illinois (Mr. Derwinski) that this is in effect an amendment to section 10 of the Stockpile Act.

The amendment offered by the gentleman from Illinois (Mr. Derwinski) only goes to that basis, so undoubtedly his amendment would be in order. . . .

MR. FRASER: Mr. Chairman, I just want to respond to the argument of the gentleman from Illinois.

Section 2 deals with the United Nations Participation Act and so does section 1. Neither are in any sense related to the subject matter which the gentleman has sought to introduce in his amendment. The gentleman is introducing a whole new subject which has no relevance or germaneness to the basic thrust of the bill.

THE CHAIRMAN:[8] The Chairman is prepared to rule on the point of order.

With regard to the argument made by the gentleman from Minnesota (Mr.

8. J. Edward Roush (Ind.).

Fraser) when he last stood, the Chair would also point out that while it was necessary to obtain from the Committee on Rules a rule waiving points of order on that particular committee amendment which would indicate that it might not be germane in the first instance, and in any event, the committee amendment has not been adopted and is not part of the bill.

The Chair would also point out that the amendment offered by the gentleman from Illinois (Mr. Derwinski) has this effect: The effectiveness of the bill itself, the working of the bill itself, is contingent upon certain things happening. And in the case of the amendment offered by the gentleman from Illinois (Mr. Derwinski), those contingencies in the amendment are wholly unrelated to the substance of the bill.

As authority, the Chair would point to Deschler's Procedure in the U.S. House of Representatives, chapter 28, section 24, on page 395, the section being entitled "Amendment Postponing Effectiveness of Legislation Pending Contingency."

In section 24.10, in the instance of an amendment "To a bill authorizing appropriations for the Arms Control and Disarmament Agency, an amendment delaying the effectiveness of the authorization until the Soviet Union 'ceases to supply military articles to our enemy in Vietnam,' was ruled out as not germane."

Also, in section 24.11, an amendment "To a bill authorizing funds for foreign assistance, an amendment making such aid to any nation in Latin America contingent upon the enactment of tax reform measures by that nation was ruled out as not germane."

In view of this, the Chair sustains the point of order.

Certification as to Impact of Grain Sales on Soviet Preparedness

§ 31.24 To a title of a bill authorizing the procurement, research and development of certain military missile systems for one fiscl year, broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests and reports to Congress, an amendment permanently making expenditure of any funds for that missile system contingent upon certification made by the Secretary of Defense with respect to the impact of United States grain sales on Soviet military preparedness was held to be not germane being an unrelated contingency involving agricultural exports.

During consideration of the Department of Defense Authorization for fiscal 1984 [9] in the Committee of the Whole on July 21, 1983,[10] the Chair, in sustaining a point of order against the amendment described above, reiterated

9. H.R. 2969.

10. 129 CONG. REC. 20050, 20184, 20189, 20190, 98th Cong. 1st Sess.

the principle that it is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. The proceedings were as follows:

> Sec. 301. In addition to the amount authorized to be appropriated in section 103 for procurement of missiles for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for procurement of missiles the sum of $2,557,800,000 to be available only for the MX missile program.
>
> RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR MX MISSILE AND SMALL MOBILE MISSILE SYSTEMS
>
> Sec. 302 (a) In addition to the amount authorized to be appropriated in section 201 for research, development, test, and evaluation for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for research, development, test, and evaluation for the land-based strategic ballistic missile modernization program—
>
> (1) $1,980,389,000 to be available only for research, development, test, and evaluation for the MX missile program . . .

THE CHAIRMAN PRO TEMPORE:[11] Are there amendments to title III?

Amendment offered by Mr. Price: Page 16, after line 18, insert the following new section:

> LIMITATION ON EXPENDITURE OF FUNDS
>
> Sec. 303. (a) None of the funds authorized by clause (2) of section 302(a) may be obligated or expended for research, development, test, or evaluation for an intercontinental-range mobile ballistic missile that would weigh more than 33,000 pounds or that would carry more than a single warhead.
>
> (b) The Secretary of Defense may not deploy more than 10 MX missiles until—
>
> (1) demonstration of subsystems and testing of components of the small mobile intercontinental ballistic missile system (including missile guidance and propulsion subsystems) have occurred . . .
>
> (c) The Secretary of Defense may not deploy more than 40 MX missiles until—
>
> (1) the major elements (including the guidance and control subsystems) of a mobile missile weighing less than 33,000 pounds as a part of an intercontinental ballistic missile system have been flight tested. . . .
>
> (d)(1) Not later than January 15 of each year from 1984 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—
>
> (A) on the progress being made with respect to the development and deployment of the MX missile system.

The amendment offered by Mr. Price was agreed to.[12]

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Weaver: At the end of title III, add the following new section:

11. Marty Russo (Ill.).

12. 129 CONG. REC. 20187, 98th Cong. 1st Sess.

LIMITATION ON MX PROGRAM

Sec. 303. No funds may be expended for the MX missile program during any fiscal year during which United States grain suppliers make sales of grain to the Soviet Union, except that the preceding limitation shall not apply during any fiscal year if the Secretary of Defense certifies to Congress that the sale of grain to the Soviet Union by United States grain suppliers during that year will not assist the Soviet Union in preparing, maintaining, or providing for its armed forces. . . .

MR. [MELVIN] PRICE [of Illinois]: . . . I make a point of order that the amendment is not germane to title III . . .

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

The Chair rules that the amendment is not germane to—title III. Although title III was originally a 1-year authorization, it has been amended by the Price amendment to go beyond fiscal year 1984.

The amendment of the gentleman from Oregon (Mr. Weaver) would be a permanent change in the law making the MX program conditional upon an unrelated contingency involving agricultural exports. Under the precedents the amendment is not germane and the Chair sustains the point of order of the gentleman from Illinois (Mr. Price).

Report to Congress on Costs of Program

§ 31.25 To a section of a bill reported from the Committee on International Relations authorizing appropriations for humanitarian and evacuation assistance to war refugees in South Vietnam, an amendment making that authorization contingent upon a report to Congress on the costs of a portion of the evacuation program, but not requiring the implementation of any new program within the jurisdiction of another committee was held germane as a related contingency.

During consideration of H.R. 6096 in the Committee of the Whole, a point of order was raised against an amendment offered by Mr. Glenn M. Anderson, of California. The proceedings of Apr. 23, 1975,[13] were as follows:

Amendment offered by Mr. Anderson of California: On page 1, line 5, after "Sec. 2." insert the following:

Upon the conclusion of a report prepared by the Secretary of State, after consultation with the Secretary of Health, Education, and Welfare and the Attorney General, and submitted to Congress within forty-eight hours of enactment of this Act, estimating the costs for the relocation, housing, feeding and medical care of those persons eligible for evacuation under Sec. 4(d) of this Act over a five-year period . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his bill before us is for evacuation only. It does not deal with relocation of

13. 121 CONG. REC. 11529, 94th Cong. 1st Sess.

any people to be evacuated. The amendment goes far beyond the limits of the bill, and is certainly not germane. . . .

MR. ANDERSON of California: . . . Mr. Chairman, my amendment does not deal with relocation either. It is merely an extension of the present bill. It has nothing new except for some facts which we ought to have before voting on this bill. It says that upon conclusion of the report prepared by the Secretary of State within 48 hours estimating the cost, this act will be acted upon.

It does nothing new. It just says that within 48 hours the Congress and the people of the United States should know how much it is going to cost them; how many of these people are going to be brought in. It adds no additional responsibilities.

MR. [JOHN H.] ROUSSELOT [of California]: . . . Mr. Chairman, in the purpose of the bill it says that it is to authorize funds for humanitarian assistance and evacuation programs. The reason the gentleman from California is concerned is because the County of Los Angeles has been notified that they must receive these people coming from Vietnam. They are not just American citizens, but South Vietnamese people.

They do not have the funds to take care of the medical care, the feeding and all the rest. Of course, this is part of the bill.

Mr. Chairman, I appeal to the Chair that this bill is for the evacuation programs of Vietnam, and it will be a problem for Hawaii, California and all parts on the west coast.

THE CHAIRMAN:[14] The Chair is prepared to rule.

The amendment offered by the gentleman from California does not create any new program. It does not establish any unrelated contingency, nor does it disrupt any program called for in the basic bill. It simply is a request for a report on the costs of a part of the evacuation program in the opinion of the Chair, and is germane to the pending section.

The Chair overrules the point of order.

Treaty Initiatives Toward Arms Control

§ 31.26 It is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving agencies and the jurisdiction of committees not within the purview of the authorization bill; thus, to a title of a bill authorizing appropriations for procurement of military weapons, an amendment prohibiting the use of those funds for procurement of a certain weapon until the President certifies to Congress that he has taken certain treaty initiatives toward arms control was held to be not germane.

On July 8, 1981,[15] during consideration of the Department of

14. Otis G. Pike (N.Y.).

15. 127 CONG. REC. 15008, 15010, 97th Cong. 1st Sess.

Defense Authorization Act for fiscal year 1982 (16) in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 101. Funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons in amounts as follows: . . .

MISSILES

For missiles: for the Army, $2,745,800,000; for the Navy $2,484,800,000; for the Marine Corps, $223,024,000; for the Air Force, $4,593,246,000. . . .

MR. [MIKE] LOWRY of Washington: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lowry of Washington: At the end of title I (page 5, after line 23), add the following new section:

LIMITATION ON PROCUREMENT OF PERSHING II MISSILES AND GROUND-LAUNCHED CRUISE MISSILES

Sec. 104. None of the funds appropriated pursuant to the authorization of appropriations in section 101 for missiles for the Army may be obligated or expended for procurement of Pershing II missiles, and none of the funds appropriated pursuant to the authorization of appropriations in such section for missiles for the Air Force may be obligated or expended for procurement of ground-launched cruise missiles, until the President has certified to the Congress that the United States has forwarded to the Soviet Union initial proposals for limitations on theater nuclear force (TNF) weapons in Europe within the framework of strategic arms limitation talks (SALT).

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I make a point of order against the amendment as being a violation of rule 16 regarding germaneness. That rule requires that instructions, qualifications, and limitations must be germane to the provisions of the bill.

It is my contention that the condition here stated in the pending amendment is totally unrelated to the provisions of the bill and in fact lies within the jurisdiction of another committee, namely, whether the United States has or has not forwarded to the Soviet Union initial proposals for limitation on theater nuclear force weapons in Europe within the framework of the strategic arms limitation talks. That has no bearing whatsoever on the authority or the responsibility of the Armed Services Committee or this pending legislation. . . .

MR. LOWRY of Washington: . . . Mr. Chairman, I believe this amendment is in order. To say that there is not a process on this House floor in which we can hold contingent this Nation's commitments to arms limitations, contingent upon expenditure that we are making for armament allows us no place on which to make the statement that is very necessary in this world as to our position commitment to arms limitations talks contingent as a dual process as agreed in 1979 with NATO for the modernization of our nuclear forces there.

16. H.R. 3519.

So I would ask that this amendment be held in order, Mr. Chairman.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The gentleman from New York makes a point of order against the amendment offered by the gentleman from Washington on the grounds it is not germane to title I of the bill.

The amendment would condition the use of funds authorized in section 101 for the Pershing missile on a certification by the President that certain U.S. proposals have been made in the SALT negotiations relative to weapons in Europe.

It is not germane to make the effectiveness of a bill or authorization contingent upon an unrelated event or determination. As stated in Deschler's Procedure, chapter 28, section 24.25, to a provision rescinding funds for the B-1 bomber, an amendment to delay the effectiveness of the rescission until ratification of a SALT II Treaty was held not germane on February 22, 1978. Since the condition involved actions by agencies and authorities not charged with administration of the B–1 bomber program, and since the SALT II negotiations involved a broad range of arms control issues not necessarily related to the B–1 program.

The Chair would further point out that arms control negotiations fall within the jurisdiction of the Committee on Foreign Affairs, and not within the jurisdiction of the committee reporting this bill, and that nothing in title I addresses such negotiations.

For the reasons stated, the Chair sustains the point of order.

17. Paul Simon (Ill.).

§ 31.27 It is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill; thus, to a title of a bill authorizing appropriations for research on and development of military weapons, an amendment prohibiting the use of those funds for development of a certain weapon until the President resumes treaty initiatives toward arms control was held to be not germane.

During consideration of the Department of Defense Authorization for fiscal year 1982[18] in the Committee of the Whole on July 9, 1981,[19] the Chair sustained a point of order against the following amendment:

Amendment offered by Mr. Bedell: After section 203 insert the following new section:

LIMITATION ON FUNDS FOR MX MISSILE

Sec. 204. None of the funds authorized to be appropriated by section 201 may be obligated or expended for the full-scale development

18. H.R. 3519.

19. 127 CONG. REC. 15218, 97th Cong. 1st Sess.

of an operational basing mode for the MX missile until the President—

(1) has completed his review of previous strategic arms limitation (SALT) negotiations;

(2) is prepared to resume strategic arms limitation negotiations with the Soviet Union, one of the principal aims of such negotiations being to establish a limit on the number of intercontinental ballistic missile launchers and deployable warheads available to both sides; and

(3) formally transmitted to the Soviet Union his desire to resume such negotiations.

MR. [MELVIN] PRICE [of Illinois]: Madam Chairman, I make a point of order against the amendment. . . .

It is a violation of House rule 16 regarding germaneness. That rule requires instructions, qualifications, and limitations to be germane to the provisions of the bill.

It is my contention that the condition here is totally unrelated to the provisions of the bill and in fact lies within the jurisdiction of another committee. . . .

MR. [BERKLEY] BEDELL [of Iowa]: . . . Madam Chairman, I am not a specialist on rules, but it would appear to me very clearly that for us to say that we are not going to spend money on a system which would not be of value unless something else happens is perfectly germane and perfectly proper for us to do.

We do it in our small business disaster loans when we say small business disaster loans will not be made unless the Governor of the State declares there has been a disaster therein.

We do the same thing in regard to disaster payments for agriculture when we say that the people will not be eligible unless Federal crop insurance is there.

It appears to me that we have clearly pointed out in the debate that we have had that without SALT II it is at least questionable as to whether MX makes any sense at all, and if we do have rules in the House which say that we cannot have amendments which say that we will not spend money on something that is going to be valueless unless something occurs, if we have amendments that say that we cannot make the spending contingent upon that action which would be necessary to make the expenditure of any value, then I submit that we had better look at the rules of the House. . . .

THE CHAIRMAN PRO TEMPORE:[20] . . . [T]he Chair is prepared to rule on the point of order.

The amendment makes use of funds for the MX missile dependent upon certain actions by the President relative to the SALT negotiations. Since arms control issues are within the jurisdiction of the Foreign Affairs Committee and not the Armed Services Committee, and for same reasons stated by the Chair yesterday, in sustaining a point of order against the amendment offered by the gentleman from Washington, the Chair sustains the point of order of the gentleman from Illinois.

Ratification of Salt II Treaty

§ 31.28 To a Senate amendment to a general appropriation bill rescinding funds for

20. Marilyn Lloyd Bouquard (Tenn.).

continued construction and development of the B–1 bomber program, an amendment proposed in a motion to concur therein with an amendment, to delay the effectiveness of the rescission until after either House of Congress so approves and until after ratification by the Senate of a Salt II treaty, was ruled out as an unrelated contingency, since it was not germane in that the condition involved actions by agencies and authorities not charged with administration of the B–1 bomber program, and the Salt II negotiations involved a broad range of arms control issues not necessarily related to the B–1 bomber program.

The proceedings of Feb. 22, 1978, relating to consideration of the conference report on H.R. 9375 (supplemental appropriations for fiscal year 1978) are discussed in § 27.29, supra.

Compliance With Treaties

§ 31.29 To a bill providing for foreign economic assistance and relating in a general way to agreements between this nation and other nations, an amendment intended to enforce compliance with provisions of treaties was held germane.

In the 81st Congress, during consideration of a bill [1] to provide foreign economic assistance, the following amendment was offered: [2]

> Amendment offered by Mr. [Frank B.] Keefe [of Wisconsin]: Page 11 . . . after line 18 insert the following:
>
> (k)(1) Treaties between the United States and nations assisted hereunder . . . shall remain in full force unless renegotiated. . . .
>
> (2) None of the local currencies required by section 115(b)(6) of the Economic Cooperation Act of 1948, as amended, to be deposited in local currency accounts, shall be made available for expenditure by any recipient country so long as any dependent area of such a country fails to comply with any treaty between the United States and the said dependent area.
>
> (3) After July 1950, no assistance herein contemplated shall be used to promote recovery in the French protectorate of Morocco except during such time as the Secretary of State shall certify to the Administrator that the protectorate is complying with its treaties with the United States. . . .

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

> MR. [JOHN] KEE [of West Virginia]: . . . (The amendment) deals with matters entirely foreign to this bill and is not germane either to the bill before us or the title to which it is offered.

1. H.R. 7797 (Committee on Foreign Affairs).
2. 96 CONG. REC. 4427, 81st Cong. 2d Sess., Mar. 30, 1950.

The Chairman,[3] in ruling on the point of order, stated:

The bill itself is very broad, relating to bilateral and multilateral agreements between this Nation and other nations. The amendment offered by the gentleman from Wisconsin, therefore, dealing with a subject matter thereunder is, in the opinion of the Chair, germane to the bill.

Settlement of Hostilities in Vietnam

§ 31.30 To a bill authorizing funds for foreign assistance, an amendment holding in abeyance, "until 90 days after the final settlement of hostilities . . . in Vietnam," all foreign assistance under the Foreign Assistance Act, was held to be not germane.

In the 90th Congress, the Foreign Assistance Act of 1967[4] was under consideration which stated in part:[5]

PART V—ELIGIBILITY OF CERTAIN PARTICIPANTS IN FUTURE FOREIGN AID PROGRAMS

Sec. 502. Notwithstanding any other provision of law, whenever any individual, firm, or entity . . . participating in any aid transaction financed with funds made available under the Foreign Assistance Act of 1961, as amended, has been found by the Inspector General, Foreign Assistance, to have . . . engaged in bribery or other illegal or fraudulent payments or credits in connection with such transaction, such individual, firm, or entity shall not be permitted to participate in any program or operation financed under such Act.

The following proceedings related to an amendment offered by Mr. Joe D. Waggonner, Jr., of Louisiana:

The Clerk read as follows:

Amendment offered by Mr. Waggonner:

On page 46, line 5, add a new section numbered 503 to read:

"Sec. 503. Notwithstanding any other provision of law, all funds except for those countries in this hemisphere, and those who render us assistance in Vietnam, authorized or appropriated under the Foreign Assistance Act of 1961, as amended, shall be held in abeyance until 90 days after the final settlement of hostilities and the fighting in Vietnam."

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I reserve a point of order against the amendment.

MR. WAGGONNER: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:[6] The gentleman will state it.

MR. WAGGONNER: The chairman of the full committee having reserved a point of order, it leaves to me the right to speak to the merits of this amend-

3. Oren Harris (Ark.).
4. H.R. 12048 (Committee on Foreign Affairs).
5. 113 CONG. REC. 24002, 90th Cong. 1st Sess., Aug. 24, 1967.
6. Charles M. Price (Ill.).

ment and later to speak to the point of order, does it not?

THE CHAIRMAN: That is correct. . . .

MR. WAGGONNER: . . . I do not believe that the Chair can justly say that this is not germane because, Mr. Chairman, this bill already restricts the eligibility requirements for certain participants and this amendment makes exception of those who are in this hemisphere and those who are going to help us in Vietnam. . . . This Congress can place any limitation on assistance they choose. We have done it already on several occasions tonight.

THE CHAIRMAN: . . . The amendment offered by the gentleman from Louisiana would delay the operation of this proposed legislation for an unrelated contingency.

The Chair would like to refer to section 3037 of Cannon's Precedents of the House of Representatives, volume 8, to the effect:

> An amendment delaying operation of proposed legislation pending an unrelated contingency was held not to be germane. . . .

The Chair . . . sustains the point of order.

Consent of Congress Required for Evacuation of Persons to Any State

§ 31.31 To a bill dealing with the evacuation of certain individuals, an amendment prohibiting their evacuation to any of the states of the United States without the consent of Congress, was held to relate to the evacuation process, not to immigration policy, and was therefore germane.

During consideration of the Vietnam Humanitarian and Evacuation Assistance Act[7] in the Committee of the Whole on Apr. 23, 1975,[8] the Chair overruled a point of order against the following amendment.

MR. [BOB] CASEY [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Casey: Page 3, after line 3, insert (e) none of the "other foreign nationals" referred to in paragraph (d) shall be evacuated to any of the States of the United States, without the express consent of Congress. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment in that the amendment is not germane. It deals with the immigration policy, and would change the standards on immigration. . . .

MR. CASEY: . . . Mr. Chairman, this amendment would change no standards on immigration except that the classified people under paragraph (d) of section 4 which says that—

> . . . none of the other foreign nationals referred to in paragraph (d) shall be evacuated to any of the States of the United States without the express consent of the Congress.

It is certainly germane, because it has to do with the evacuation of these people under section (d) of section 4.

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7. H.R. 6096.

8. 121 CONG. REC. 11546, 94th Cong. 1st Sess.

THE CHAIRMAN:[9] The Chair is ready to rule.

The language of the amendment does not limit the operation of the bill. It pertains strictly to the evacuation process. It does not mention immigration policy. It simply says that persons in a certain category of evacuees contained in the bill cannot be evacuated to any of the States of the United States without the consent of the Congress. Therefore the amendment is germane, and the point of order is not sustained.

Cessation of Soviet Aid to Vietnam

§ 31.32 To a bill authorizing appropriations for the Arms Control and Disarmament Agency, an amendment delaying the effectiveness of the authorization until the Soviet Union "ceases to supply military articles to our enemy in Vietnam," was held to be not germane.

In the 90th Congress, during consideration of a bill[10] amending the Arms Control and Disarmament Act,[11] the following amendment was offered:[12]

Amendment offered by Mr. Findley: On the first page, line 7, strike out the period and insert in lieu thereof the following: "and at the end of such second sentence strike out the period and insert in lieu thereof the following: ': *Provided*, That the authorization for appropriations contained in this Act shall not be effective until such time as the Soviet Union, which is the United States' co-sponsor of the draft treaty on non-proliferation (negotiated for the United States by the Arms Control and Disarmament Agency), ceases to supply military articles to our enemy in Vietnam, as determined by the President of the United States.'"

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

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It is not germane and contains matter not covered by the present act under discussion.

Mr. Paul Findley, of Illinois, stated in response:

I call the attention of the Chair to the Congressional Record, volume 110, part 1, page 144. On that date the House was considering an authorization bill. In connection with that authorization I offered an amendment which read as follows:

> The authorization for an appropriation contained in this Act shall not be effective until such time as the receipts of the Government for the preceding fiscal year have exceeded the expenditures of the Government for such year, as determined by the Director of the Bureau of the Budget.

On that occasion the gentleman from Alabama (Mr. Jones) made a point of

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9. Otis G. Pike (N.Y.).

10. H.R. 14940 (Committee on Foreign Affairs).

11. See 114 CONG. REC. 5414, 90th Cong. 2d Sess., Mar. 6, 1968.

12. *Id.* at p. 5426.

order against the amendment, and the Chair ruled that the point of order was not well taken.

The Chairman,[13] in ruling on the point of order, stated:

The purpose of this legislation today is it authorizes an appropriation of $33 million to finance the operation of the Arms Control and Disarmament Agency for a 3-year period. The purpose of the amendment offered by the gentleman from Illinois would delay the use of any appropriated funds pending an unrelated contingency. Therefore, the Chair sustains the point of order.

The following exchange ensued:

MR. FINDLEY: Will the Chair hear me further on that point?

THE CHAIRMAN: The Chair has already ruled.

Parliamentarian's Note: The precedent cited by Mr. Findley, discussed at § 31.16, supra, supported the view that where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane. Thus, for example, although it is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill,[14] it has been held that an amendment imposing on the availability of funds to carry out a certain activity a conditional restriction that merely requires observation of similar activities of another country, which similar conduct already constitutes the policy basis for the pending funding of that activity, may be germane as a related contingency.[15]

Security Assistance to South Korea—Testimony by Korean Ambassador as to Gifts to House Members

§ 31.33 To a foreign aid security assistance bill authorizing the transfer of defense articles to South Korea, and amended to impose foreign policy conditions on the furnishing of security assistance to other designated nations, an amendment prohibiting the use of authorities in the bill to furnish defense articles to South Korea until its former ambassador testifies before a House committee investigating whether Members or employees have been influenced in their legislative duties by receiving gifts

13. Richard H. Fulton (Tenn.).

14. See Sec. 31.27, supra.

15. See Sec. 31.15, supra.

from that nation, was held germane as a contingency that was related to authorities and other contingencies contained in the bill.

On Aug. 2, 1978,[16] during consideration of H.R. 12514 in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> MR. [ANDREW] JACOBS [Jr., of Indiana]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Jacobs: Page 19, immediately after line 22, insert the following new section:
>
> TESTIMONY OF KIM DONG JO
>
> Sec. 24. Until such time as the Committee on Standards of Official Conduct of the House of Representatives announces that Kim Dong Jo, the former Ambassador of the Republic of Korea to the United States, has given testimony to that Committee in the investigation it is conducting pursuant to H. Res. 252 of the Ninety-fifth Congress—
>
> (1) no funds authorized to be appropriated by this Act may be used to provide assistance for the Republic of Korea; and
>
> (2) the authority granted by section 19 of this Act may not be exercised. . . .
>
> MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Chairman, I say the amendment is out of order under clause 7, rule XVI, as being nongermane to the bill and outside of the scope of the bill. It is outside the scope of the bill, because the bill relates to military assistance.
>
> Further, Mr. Chairman, I would like to quote clause 28, section 24.9 from Deschler's Procedure:
>
> To a bill authorizing funds for foreign assistance, an amendment holding in abeyance, "until 90 days after the final settlement of hostilities . . . in Vietnam," all foreign assistance under the Foreign Assistance Act, was ruled out as not germane.
>
> Further, in that same clause, section 24.11:
>
> To a bill authorizing funds for foreign assistance, an amendment making such aid to any nation in Latin America contingent upon the enactment of tax reform measures by that nation was ruled out as not germane.
>
> I submit, Mr. Chairman, that to time the sanctions of this amendment to such a time as Kim Dong Jo testifies is similar to and right on all fours with the sections I have just read. . . .
>
> MR. JACOBS: Mr. Chairman, the language of the amendment deals with nothing more by its own terms than the contents of the instant legislation, No. 1 and No. 2, the amendment clearly is a related contingency with respect to and on all four corners with the funds authorized by this legislation.
>
> THE CHAIRMAN:[17] The Chair is prepared to rule.
>
> The gentleman from California (Mr. Lagomarsino) makes a point of order against the amendment offered by the gentleman from Indiana (Mr. Jacobs) on the point that it is beyond the scope of the committee bill. The Chair would

16. 124 CONG. REC. 23932, 23933, 95th Cong. 2d Sess.

17. Don Fuqua (Fla.).

like to point out that the committee bill does relate to military assistance, which this amendment directs itself to. Had the amendment been offered earlier in the reading, before the funds for South Korea were before the committee and prior to the adoption of the various amendments in the Committee of the Whole, including the amendment offered by the gentleman from Iowa (Mr. Harkin) which placed a condition upon funds being authorized under this act, then the point of order might have been viewed differently. However, the contingency expressed in the amendment does relate to the relationship between this country and the South Korean Government and specifically to the point of information relating to future furnishing of U.S. military assistance to that nation, so that the Chair is constrained to overrule the point of order.

Measures by Foreign Governments To Control Drug Traffic

§ 31.34 To that section in a military procurement bill limiting funds available to United States Armed Forces for the support of Vietnamese forces and local forces in Laos and Thailand, an amendment was held to be not germane which prohibited the use of funds "if the President determines that [the respective governments have] failed to take appropriate steps to prevent narcotic drugs" produced in those countries from entering the United States, and which authorized the President to utilize federal agencies and facilities to assist those governments in such efforts.

In the 92d Congress, during consideration of a bill[18] comprising a military procurement authorization for fiscal 1972, an amendment was offered[19] as described above. A point of order was raised against the amendment, as follows:

> MR. [F. EDWARD] HEBERT [of Louisiana]: Mr. Chairman, I make a point of order against the proposed language as not germane to the bill. It refers to a subject not included in the bill, the matter of narcotic drugs, which is under the jurisdiction of another committee.

The Chairman,[20] in ruling on the point of order, stated:[1]

> The subject of narcotic drugs is not elsewhere introduced in the pending bill, and the Chair notes that the amendment would bring into contemplation agencies and departments of the Government other than those in-

18. H.R. 8687 (Committee on Armed Services).
19. 117 CONG. REC. 20589, 92d Cong. 1st Sess., June 17, 1971.
20. Daniel D. Rostenkowski (Ill.).
1. 117 CONG. REC. 20590, 92d Cong. 1st Sess., June 17, 1971.

volved in the normal administration of the funds authorized by this bill. It would give the President authority and responsibilities which he does not have under existing law.

The Chair has examined a precedent of the 90th Congress, rendered when an amendment was offered to the foreign assistance authorization bill for fiscal 1967. That amendment provided that assistance to certain nations should be curtailed until the President determined and reported to the Congress that those countries have established tax reform measures.

The Chairman of the Committee of the Whole on that occasion, Mr. Price of Illinois, ruled that the amendment was not germane. Record, page 23977, August 24, 1967.

The Chair holds that the amendment introduces agencies and concepts not appearing otherwise in the pending bill, rendering the amendment not germane.

Use of Inactive Gold Fund

§ 31.35 To a bill extending certain excise taxes levied under two specific statutes, an amendment providing that the bill shall be inoperative "until the inactive gold fund of the United States Treasury is used to defray expenditures" was held to be not germane.

In the 75th Congress, a bill[2] was under consideration providing for extension of certain excise taxes. An amendment was offered[3] by Mr. Martin Dies, Jr., of Texas, who stated,[4] by way of explaining the amendment and responding to a point of order:[5]

> Mr. Chairman, the proposed act seeks to extend the tax provisions for a period of 2 years. All this proposed amendment seeks to do is say that the act shall not be operative until certain conditions occur. The amendment does not seek to force the Treasury to utilize gold but is simply the exercise of an undoubted prerogative on the part of Congress to say that until certain conditions happen the act shall not be operative. . . .

The Chairman,[6] sustaining the point of order, cited the principle that, "An amendment delaying operation of proposed legislation pending an unrelated contingency is not germane," and, further, that, "A different subject from that under consideration may not be proposed under the guise of a limitation." The following amendment was then offered:

> Amendment offered by Mr. [Wright] Patman [of Texas]: Page 1, line 12, after the period, insert "*Provided how-*

2. H.J. Res. 375 (Committee on Ways and Means).

3. 81 CONG. REC. 5620, 75th Cong. 1st Sess., June 11, 1937.

4. *Id.* at p. 5621.

5. The point of order that the amendment was not germane to the bill had been raised by Mr. Jere Cooper (Tenn.).

6. Fritz G. Lanham (Tex.).

ever, That the taxes herein imposed shall not be levied or collected until the Secretary of the Treasury has utilized for currency purposes all the inactive, unpledged, and unallocated gold owned and held by the United States Treasury."

Mr. Cooper having again raised a point of order against the amendment, the Chairman ruled as follows:

In addition to the authorities cited by the Chair in the former ruling, the Chair calls attention to sections 3033 and 3034 of volume 8 of Cannon's Precedents, the first holding that an amendment is not necessarily germane because presented in the form of a limitation, and the second holding that it is not in order to propose by way of limitation propositions on subjects different from that under consideration.

The pending resolution has to do with providing revenue, whereas the amendment has to do with the use of gold for currency purposes.

The Chair sustains the point of order.

Contributions to International Monetary Fund Contingent on Change in Monetary Policy

§ 31.36 To a bill authorizing federal financial contributions to international lending institutions, an amendment making that contribution contingent upon enactment of a change in federal monetary policy having domestic implications and involving agencies beyond the scope of the bill is not germane; thus, to a bill authorizing United States contributions to international financial institutions and dealing with United States monetary policy as it relates to international lending, amendments directing the Secretary of the Treasury to establish a par value for the dollar in gold, and making United States contributions to the International Monetary Fund contingent upon that change in monetary policy was held to be not germane, because affecting domestic monetary policy issues beyond the scope of the bill.

During consideration of the International Recovery and Financial Stability Act[7] in the Committee of the Whole on Aug. 3, 1983,[8] the Chair sustained points of order in the circumstances described above. The proceedings were as follows:

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

7. H.R. 2957.

8. 129 CONG. REC. 22663, 22664, 98th Cong. 1st Sess.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 19, line 16, insert "(a)" after "Sec. 40."

Page 19, after line 20, insert the following:

"(b)(1) Not later than eighteen months after the date of the enactment of this section, the Secretary of the Treasury shall establish a par value for the dollar in gold and thereafter shall redeem in gold at such price all Federal Reserve notes which are presented to the Secretary for redemption.

"(2) Subsection (a) shall not take effect until the date on which the Secretary of the Treasury transmits a notice to both Houses of the Congress specifying that the Secretary has complied with the provisions of paragraph (1).". . . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Chairman, I raise a point of order against the amendment on the ground that it affects matters beyond the scope of the legislation and is therefore not germane.

The bill directs the Secretary of the Treasury to take certain actions regarding the IMF international lending institutions, and affects lending by U.S. banks.

The amendment requires the Secretary of the Treasury to redeem gold for Federal Reserve notes. This, in return, would require the Federal Reserve to manage the money supply with an eye toward keeping the market and dollar-convertible gold prices equal. Such a policy would be an abrupt shift from managing the money supply to maximize U.S. employment and price stability, as is now required by the Federal Reserve Act. Neither of these topics—the Secretary's responsibilities with respect to the value of gold, nor the monetary policy duties of the Federal Reserve—are covered by the legislation.

Thus, the amendment would require the Secretary of the Treasury and the Federal Reserve to take actions beyond the scope of the bill and far different in character than those required in the bill. I ask the Chair to rule the amendment out of order.

THE CHAIRMAN:[9] Does the gentleman from California (Mr. Dannemeyer) seek to be heard on the point of order?

MR. DANNEMEYER: Yes; I do, Mr. Chairman.

1. Deschler's Procedure, Chapter 28 § 14.4: "The rule on germaneness does not require that an amendment offered as a separate section be germane to the preceding section of the bill, but it is sufficient that it is germane to the subject matter of the bill as a whole."

2. Chapter 28 § 14.14: (Parliamentarian's Note) "The general rule that an amendment must be germane to the portion of the bill to which offered is limited by the proposition that an amendment in the form of a new section or paragraph need not necessarily be germane to the section or paragraph immediately preceding it." (8 Cannon's Precedents §§ 2932, 2935).

3. Chapter 28 § 14.10: "An amendment in the form of a new section need not necessarily be germane to the preceding section of the bill, it being sufficient, where the bill contains diverse subjects, that the amendment relate to the bill as a whole."

And the final point:

4. Deschler's Procedure, Chapter 27 § 27.14: "To a bill continuing au-

9. Donald J. Pease (Ohio).

thority under existing law to make contributions to an international financial organization and authorizing appropriations for those contributions, an amendment adding a further restriction on the use of U.S. contributions to those already contained in that law is germane."

For these reasons, Mr. Chairman, I would submit that the point of order is not well taken.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair agrees with the gentleman from Rhode Island that the matter covered by this amendment goes well beyond the scope of this bill and deals with the responsibilities of the Secretary of the Treasury in managing monetary policy of this country and also goes to the question of the powers of the Federal Reserve Board.

For that reason, the point of order is sustained. The amendment is not in order.

Mr. Dannemeyer then offered another amendment, as follows:

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 19, line 16, insert "(a)" after "Sec. 40."

Page 19, after line 20, insert the following:

"(b)(1) Not later than eighteen months after the date of the enactment of this section, the Secretary of the Treasury shall establish a par value for the dollar in gold.

"(2) Subsection (a) shall not take effect until the date on which the Secretary of the Treasury transmits a notice to both Houses of the Congress specifying that the Secretary has complied with the provisions of paragraph (1).". . .

MR. ST GERMAIN: Mr. Chairman, I raise a point of order against the amendment on the ground that it affects matters beyond the scope of the legislation and is therefore not germane.

The bill directs the Secretary of the Treasury to take certain actions regarding the IMF, international lending institutions and affects lending by U.S. banks.

The amendment requires the Secretary of the Treasury to establish a par value for the dollar in gold. In order to do this the Secretary would have to take some action in the gold market to defend this action, such as agreeing to sell gold at its par value. This, in turn, would require the Federal Reserve to manage the money supply with an eye toward keeping the market and dollar-convertible gold prices equal. Such a policy would be an abrupt shift from managing the money supply to maximize U.S. employment and price stability, as is now required by the Federal Reserve Act. Neither of these topics—the Secretary's responsibilities with respect to the value of gold, nor the monetary policy duties of the Federal Reserve—are covered by the legislation.

Thus, the amendment would require the Secretary of the Treasury and the Federal Reserve to take actions beyond the scope of the bill and far different in character than those required in the bill. I ask the Chair to rule the amendment out of order. . . .

MR. DANNEMEYER: . . . The distinction between this amendment and the one that this Member from California previously offered is very simple. I have deleted from the amendment that is now pending before the committee the paragraph or the clause that says:

"and thereafter shall redeem in gold at such price all Federal Reserve notes which are presented to the Secretary for redemption."

That clause is gone.

It is the opinion of this Member from California that the deletion of that clause will eliminate the impediment which caused the Chair to previously rule that the point of order to the previous amendment should be and was sustained.

And the points of authority I would like to cite on behalf of that position are consistent with the points and authorities that I cited with respect to the previous point of order on that amendment.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would rule that the distinctions between this amendment and the one previously offered are minor distinctions and that the reasoning advanced by the gentleman from Rhode Island (Mr. St Germain) on the point of order against the previous amendment also holds true for this amendment.

The point of order is sustained and the amendment is not in order.

Tax Reform in Foreign Nation

§ 31.37 To a bill authorizing funds for foreign assistance, an amendment making such aid to any nation in Latin America contingent upon the enactment of tax reform measures by that nation was held to be not germane.

In the 90th Congress, during consideration of the Foreign Assistance Act of 1967,[10] the following amendment was offered:[11]

Amendment offered by Mr. [Ellis Y.] Berry [of South Dakota]: On page 37, after line 24, insert the following:

(5) At the end of section 620 add the following new subsection:

"(s) After December 31, 1967, no further assistance shall be furnished under this Act to any country in Latin America until the President determines and reports to the Congress that the recipient country has established and implemented an equitable and effective system of tax collection with respect to taxes on real and personal property."

Mr. Thomas E. Morgan, of Pennsylvania, raised the point of order that the amendment was not germane. Contending that the point of order was not well taken, Mr. Joe D. Waggonner, Jr., of Louisiana, stated:[12]

Mr. Chairman, title I, chapter 2, section 208, is entitled "Self-Help Criteria." It says:

In determining whether and to what extent the United States should furnish development assistance to a country under this chapter the President shall take into account—

(a) the extent to which the country is taking such measures as may be appropriate to its needs and capabilities to increase food production. . . .

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10. H.R. 12048 (Committee on Foreign Affairs).

11. 113 CONG. REC. 23977, 90th Cong. 1st Sess., Aug. 24, 1967.

12. *Id.* at p. 23978.

. . . Section 208 describes in great detail the self-determination criteria which are required of these countries before they will receive foreign assistance, so it is beyond comprehension to me that when we require in one part of this bill very specific self-help criteria on the part of those who receive assistance that we would be willing to ignore it in every other area. . . .

Therefore, Mr. Chairman, I believe the point of order is out of order. This is simply an additional requirement to become eligible for aid.

The Chairman,[13] in ruling on the point of order, stated:

. . . [T]he amendment would delay the operation of the proposed legislation pending an unrelated contingency. Under a previous precedent of the House to be found in Cannon's Precedents, volume VIII, section 3037, a similar amendment was held not to be germane. The present occupant of the chair, following that precedent, sustains the point of order.

Bill Authorizing Radio Broadcasting to Cuba—Enactment of Law Authorizing Broadcasts to South Africa

§ 31.38 To a bill authorizing funds for one purpose, an amendment delaying the effectiveness of that authorization contingent upon Congressional action on an unrelated subject is not germane; thus, to a bill authorizing appropriations for radio broadcasting to Cuba, an amendment prohibiting use of those funds until the President proposes and Congress enacts a separate law authorizing radio broadcasts to South Africa for purposes of imparting information concerning conditions in that country was held to be not germane.

During consideration of H.R. 5427 in the Committee of the Whole on Aug. 10, 1987,[14] Chairman William R. Ratchford, of Connecticut, sustained a point of order against the following amendment:

MR. [MICKEY] LELAND [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Leland: Page 6, after line 17, insert the following:

"(2) The funds authorized in paragraph (1) shall not be appropriated by the Congress unless the President proposes and the Congress enacts legislation, subsequent to the enactment of the Radio Broadcasting to Cuba Act, which authorizes the Board to provide accurate information to the people of South Africa (through the use of radio broadcasting) regarding the existence of apartheid and oppression in South Africa.". . . .

MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, I do insist on the point

13. Charles M. Price (Ill.).

14. 128 CONG. REC. 20256, 20257, 97th Cong. 2d Sess.

of order as being in violation under clause 7, rule XVI, as nongermane and has nothing to do with the subject matter of the bill. . . .

MR. LELAND: . . . Mr. Chairman, the amendment is germane for two reasons which I will explain.

H.R. 5427 contains two basic proposals, neither of which are specifically related to Cuba.

First, that the foreign policy of the United States seeks to guarantee the human rights of all persons as defined by the Universal Declaration of Human Rights, and in particular article 19 of that declaration. Article 19 says that it is the right of all persons to "seek, receive, and impart information and ideas through any media and regardless of frontiers." That this is the purpose of the bill is clearly stated in section 2 of H.R. 5427.

Second, that the Board for International Broadcasting (BIB), to carry out that purpose of our foreign policy, is authorized to "provide for the open communication of information and ideas through the use of radio broadcasting." This is clearly stated in section 3 of H.R. 5427, which is the operative clause of the bill. It is the BIB which is being instructed to carry out this part of our foreign policy.

My amendment is perfectly consistent with the operative clause of the bill (section 3), and with the broader foreign policy goals of the bill. Surely it is not the intention of the President and of the gentleman from Florida that article 19 of the Universal Declaration of Human Rights applies only to Cuba. . . .

MR. FASCELL: . . . The main purpose of this bill makes an amendment to the Board for International Broadcasting nothing else primarily, and the limitation on the policy findings are that it is to the people of Cuba and radio broadcasting to Cuba, and nothing else.

THE CHAIRMAN: The Chair is prepared to rule.

The point of order raised is on the issue of germaneness and the Chair is persuaded that in spite of the strong arguments from the gentleman from Florida, the amendment, as offered, is not germane.

Let the Chair cite from precedents specifically to a bill authorizing appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane.

This particular germaneness precedent in the 96th Congress related to the issue of whether or not there could be a condition on fuel assistance, that condition being awaiting the action of the passage of a windfall profit tax. In effect, tonight what the gentleman is attempting to do is condition funding of broadcasting to Cuba, on an unrelated contingency, which is broadcasting to South Africa and, therefore, the Chair is prepared to sustain the point of order as raised by the gentleman from Florida.

—Congressional Consideration of Balanced Budget Amendment to Constitution

§ 31.39 It is not germane as an amendment to render a measure contingent upon an unrelated Congressional action; thus, to a bill author-

izing appropriations for radio broadcasting to Cuba, an amendment prohibiting use of those funds until Congress has considered a constitutional amendment mandating a balanced budget was held to be nongermane, imposing an unrelated contingency requiring separate Congressional action on another subject.

On Aug. 10, 1982,[15] during consideration of H.R. 5427 in the Committee of the Whole, Chairman William R. Ratchford, of Connecticut, sustained a point of order against the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 8, after line 12, insert the following new section:

Sec. 13. No funds appropriated or authorized under this act shall be expended in violation of section 7 of Public Law 95–435 or until both Houses of the United States Congress have considered an amendment to the United States Constitution mandating a balanced federal budget.

MR. [DANTE B.] FASCELL [of Florida]: Mr. Chairman, I raise a point of order against the amendment. . . . (T)he amendment is clearly not germane. . . .

MR. WALKER: Mr. Chairman, I think the amendment is entirely germane. All it is, is a limitation of funding under the bill. It simply says that the program could go ahead and be authorized but that the funding must be limited under the provisions of Public Law 94–435. So I think that this is an entirely appropriate limitation of funding. It does not in any way become nongermane to the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the amendment. The amendment clearly imposes a contingency, the contingency being further action by the Congress of the United States on another subject and, therefore, in violation of House precedents.

The Chair rules that the amendment is not in order.

Completion of Committee Investigations

§ 31.40 To a bill providing in part for marketing quotas for feed grains, an amendment proposing that provisions of the bill remain inoperative pending completion of certain committee investigations of alleged mismanagement of agricultural programs was held to be germane.

In the 87th Congress, during consideration of the Food and Agricultural Bill of 1962,[16] the fol-

15. 128 CONG. REC. 20250, 97th Cong. 2d Sess.

16. H.R. 11222 (Committee on Agriculture).

lowing amendment was offered:[17]

> Amendment offered by Mr. [Robert J.] Dole [of Kansas]: Page 15, line 17, immediately preceding the word "subtitle B" insert the following:
>
> Notwithstanding any other provision of law, all the provisions of this title IV shall remain inoperative until the completion of the investigation of the Billie Sol Estes case by the Subcommittee on Intergovernmental Relations of the House Committee on Government Operations and the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations and both such committees have filed the reports and recommendations on such investigation with the House of Representatives and the Senate respectively.

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

> MR. [ROSS] BASS [of Tennessee]: Mr. Chairman, I make a point of order against the amendment. It is not germane to the bill and deals with the activities of other departments and does not come within the purview of this bill.
>
> The Chairman[18] summarily overruled the point of order without explanation and without rebuttal.

Parliamentarian's Note: This ruling was improperly decided since nothing in the pending title of the bill involved congressional investigations or conditions, and since the contingency in the amendment required reports by committees not involved with the pending bill.

Removal of Secretary of State

§ 31.41 To the Selective Training and Service Act, an amendment providing that not more than one person may be inducted into the Armed Services under the provisions of the act so long as the President "retains Dean Acheson as Secretary of State" was held to be not germane.

The above ruling by Chairman Jere Cooper, of Tennessee, was made with respect to an amendment offered[19] by Mr. Ben F. Jensen, of Iowa, to a bill[20] comprising amendments to the Universal Military Training and Service Act.

Removal of Commissioner of Education

§ 31.42 To a bill authorizing funds for elementary and secondary education, an amendment providing that no funds shall be expended

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17. 108 CONG. REC. 11373, 87th Cong. 2d Sess., June 21, 1962.

18. Francis E. Walter (Pa.).

19. See 97 CONG. REC. 3904, 82d Cong. 1st Sess., Apr. 13, 1951.

20. S. 1–1951 (Committee on Armed Services).

thereunder "so long as the present . . . Commissioner of Education occupies that office" was held to be germane.

In the 89th Congress, during consideration of the Elementary and Secondary Education Act of 1966,[1] an amendment was offered[2] as described above. A point of order was raised against the amendment, as follows:

> MR. [CARL D.] PERKINS [of Kentucky]: . . . The amendment is not germane, because we are undertaking to invade the authority of the executive branch of this Government. The executive branch of this Government has the appointive power, not the legislative branch. Therefore, this amendment or proposal contravenes the law and Constitution, and it is not germane.

In defending the amendment, the proponent, Mr. Albert W. Watson, of South Carolina, stated:

> Certainly it is not uncommon . . . for the Congress to restrict the executive in the administration or implementation of pieces of legislation. . . . We are not attempting to remove the [Commissioner]. It would be up to the President to determine whether to do so or not.

The Chairman,[3] in ruling on the point of order, stated:

> The Chair is of the opinion that the amendment is germane to the bill, and overrules the point of order.

Restoration of Postal Service

§ 31.43 To a bill proposing to readjust postal rates, an amendment which would postpone the effective date of the provisions of the act until the restoration of postal service curtailed by previous orders of the Postmaster General was held not germane.

On Sept. 19, 1951, during consideration of a bill[4] to readjust postal rates, an amendment was offered as follows:[5]

> Amendment offered by Mr. Javits to the committee amendment: On page 26, line 8, strike out the period and insert a semicolon and the following: "*Provided however,* That the rates provided for in this act shall not take effect until the restoration of delivery and other essential postal services curtailed by the order of the Postmaster General, dated April 18, 1950."

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

> MR. [THOMAS J.] MURRAY [of Tennessee]: Mr. Chairman, I make a point

1. H.R. 13161 (Committee on Education and Labor).
2. 112 CONG. REC. 25583, 89th Cong. 2d Sess., Oct. 6, 1966.
3. Daniel D. Rostenkowski (Ill.).
4. H.R. 2982 (Committee on Post Office and Civil Service).
5. 97 CONG. REC. 11681, 82d Cong. 1st Sess.

of order against the amendment on the ground that it is not germane to the bill. The bill says nothing about deliveries. It only applies to postal rates. It is not germane, because in 8 Cannon's Precedents, section 3037, an amendment delaying operation of the proposed legislation pending an unrelated contingency was held not to be germane, and this relates to a very similar situation.

In defense of the amendment, the proponent stated as follows:[6]

MR. [JACOB K.] JAVITS [of New York]: Mr. Chairman, the amendment which I have proposed, if adopted, becomes a part of section 14 of the act against which all points of order have been waived by the rule which the House adopted.

This section already contains specific contingencies deferring the time of the effective date of the rate specified hereunder. One of those contingencies relates to all rates in the act, making them effective three calendar months following the calendar month in which enacted. The other relates to a special provision with relation to second-class-mail rates. I am attempting to defer the time when all rates specified under the act shall become effective until certain restoration of delivery and other essential services under the act. It seems to me that is another limitation upon the date specified when the rates shall take effect, and is therefore entirely in order.

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

. . . The Committee has before it a bill to adjust postal rates. The gentleman from New York [Mr. Javits] offers an amendment which would postpone the effective date of the provisions of the bill until the restoration of delivery or other essential postal services curtailed by previous orders of the Postmaster General. The bill affects rates only. The amendment seeks to affect the effective date of the provisions of the act by the happening of a future event.

First, the Chair desires to state with reference to the question of the rule under which the bill is being considered waiving points of order, that those points of order waived apply to the provisions in the bill alone and not to amendments offered from the floor.

The gentleman from Tennessee [Mr. Murray] has referred to the precedent in volume 8, Cannon's Precedents, section 3037, the syllabus of which reads:

> An amendment delaying operation of the proposed legislation pending an unrelated contingency was held not to be germane.

The Chair is of the opinion that the pending amendment is not germane, and sustains the point of order.

Opportunity To Use Milwaukee Port Facilities

§ 31.44 To a bill authorizing the Administrator of General Services to convey a certain parcel of land to the city of Milwaukee, an amendment proposing that such conveyance not be executed until Milwaukee declares it will

6. *Id.* at p. 11682.

7. Paul J. Kilday (Tex.).

provide opportunity for water transportation from other ports to enter to discharge and take on cargo at its port was held to be not germane.

In the 84th Congress, a bill[8] was under consideration to authorize the Administrator of the General Services Administration to convey certain land to the city of Milwaukee. Mr. Clare E. Hoffman, of Michigan, offered an amendment as described above.[9] The following proceedings then took place:[10]

THE SPEAKER:[11] The gentleman from Michigan is recognized for 5 minutes in support of his amendment.

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Speaker, I make the point of order that the amendment is not germane.

MR. HOFFMAN of Michigan: It certainly is.

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Speaker, I make the point of order that the gentleman from Michigan was recognized before the point of order was raised.

THE SPEAKER: The gentleman had not begun his remarks. . . .

MR. REUSS: Mr. Speaker, I renew the point of order on the ground that the amendment is not germane.

THE SPEAKER: The amendment does apply to a different subject matter altogether and, therefore, the point of order is sustained.

§ 32. Amendments Providing for Restrictions or Limitations

Prohibition on Military Operations in North Vietnam

§ 32.1 To a bill authorizing supplemental appropriations for military procurement, research, and construction, an amendment declaring it to be the sense of Congress that none of the funds therein authorized shall be used to carry out military operations in North Vietnam was held to be a restriction on the authorizations contained in the bill and therefore germane.

In the 90th Congress, during consideration of supplemental military authorizations for fiscal 1967,[12] an amendment was offered[13] as stated above. A point of order was raised against the amendment, as follows:

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I make a

8. H.R. 6857 (Committee on Government Operations).
9. 101 CONG. REC. 12408, 84th Cong. 1st Sess., July 30, 1955.
10. *Id.* at pp. 12408, 12409.
11. Sam Rayburn (Tex.).
12. H.R. 4515 (Committee on Armed Services).
13. 113 CONG. REC. 5143, 90th Cong. 1st Sess., Mar. 2, 1967.

point of order against the amendment offered by the gentleman from California on the ground that the amendment is not germane. It is in the realm of policy.

The Chairman,[14] in ruling on the point of order, stated:

The Chair thinks the present amendment simply places a restriction on authorizations contained in this bill and relates only to the funds in this bill.

The Chair holds that the amendment is germane.[15]

Prohibition on Use of Funds to Relocate Vietnam War Evacuees in High Unemployment Areas

§ 32.2 To a substitute dealing with humanitarian and evacuation assistance to war victims of South Vietnam, an amendment prohibiting the use of such assistance to relocate or to create employment opportunities for evacuees in high unemployment areas in the United States was held to raise issues beyond the scope of the bill and was held to be not germane.

On Apr. 23, 1975,[16] during consideration of H.R. 6096,[17] in the Committee of the Whole, an amendment was offered to which a point of order was made and sustained. The proceedings were as follows:

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Clay to the amendment offered by Mr. Eckhardt, as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Add a new section to the end of the bill which reads:

"No funds authorized under this act shall be used directly or indirectly to transport Vietnamese refugees to any congressional district or create employment opportunities in any congressional district where the unemployment rate exceeds the national unemployment rate as defined by the Bureau of Labor statistics of the United States Department of Labor.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It goes greatly beyond the scope of the bill and the amendment in the nature of a substitute. Nothing in the bill or

14. Daniel D. Rostenkowski (Ill.).

15. See § 4.32, supra, for discussion of another amendment, in the form of a statement of congressional policy, which was offered to the same bill and ruled out as not being within the jurisdiction of the committee reporting the bill.

16. 121 CONG. REC. 11512, 94th Cong. 1st Sess.

17. The Vietnam Humanitarian Assistance and Evacuation Act.

in the amendment in the nature of a substitute deals with the national unemployment rate. . . .

MR. CLAY: . . . The amendment simply imposes a condition that none of the money may be used, or a limitation on the way the money will be spent. I do not know how it goes beyond the scope of this bill or the amendment in the nature of a substitute.

THE CHAIRMAN:[18] The Chair is ready to rule. For the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) and for the fact that the contingency set forth in the gentleman's amendment is not related to the purposes of the bill, the point of order is sustained.

Construction of Naval Ships To Be Postponed Pending Arms Limitation Conference

§ 32.3 To that paragraph of a naval authorization bill increasing the authorized tonnage of the Navy with respect to certain categories of vessels, an amendment providing that the construction of capital ships shall be postponed pending the call of a naval limitation of armament conference, and that such construction shall be governed by the results of the conference, was held germane.

In the 75th Congress, the Naval Authorization Bill of 1938[19] was under consideration, which provided in part:[20]

Be it enacted, etc., That in addition to the tonnages of the United States Navy as agreed upon and established by the treaties signed at Washington, February 6, 1922, and at London, April 22, 1930, and as authorized by the act of March 27, 1934 (48 Stat. 503), as amended by the act of June 25, 1936 (49 Stat. 1926), the authorized composition of the United States Navy in under-age vessels is hereby increased by the following tonnages:

(a) Capital ships, 105,000 tons, making a total authorized under-age tonnage of 630,000 tons;

(b) Aircraft carriers, 30,000 tons, making a total authorized under-age tonnage of 165,000 tons. . . .

An amendment was offered[1] as described above. Mr. Carl Vinson, of Georgia, raising the point of order that the amendment "is not germane at this part of the bill," stated:

. . . This is a section dealing with categories of ships, whereas the amendment deals with a restriction with respect to when the ships shall be built.

The Chairman,[2] in ruling on the point of order, stated:

While it is true that in the committee amendment appearing at the top of page 7 there are provisions re-

18. Otis G. Pike (N.Y.).
19. H.R. 9218 (Committee on Naval Affairs).
20. See 83 CONG. REC. 3593, 75th Cong. 3d Sess., Mar. 17, 1938.
1. *Id.* at p. 3610.
2. John J. O'Connor (N.Y.).

ferring to some sort of a conference, at the same time the amendment . . . is a limitation. The place of its insertion in the bill does not go to its germaneness at this particular point, even though the amendment has some reference to another provision of the bill.

The amendment is therefore in order at this point as a limitation, and the Chair overrules the point of order.

Restrictions on Use of Margarine by Navy

§ 32.4 To a bill to amend the Navy Ration Statute to permit oleomargarine to be served to naval personnel, an amendment providing that no oleomargarine be acquired for use by the Navy when surplus butter stocks are available to the Navy through the Commodity Credit Corporation was held to be germane.

In the 85th Congress, a bill[3] was under consideration amending the Navy Ration Statute as indicated above. The following amendment was offered to the bill:[4]

Amendment offered by Mr. [Melvin R.] Laird [of Wisconsin]: Add the following new section:

Sec. 2. During any period when surplus butter stocks are available to the Navy through the Commodity Credit Corporation no oleomargarine or margarine shall be acquired for use by the Navy, or any branch or department thereof. . . .

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

MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, the gentleman's amendment imposes additional duties upon the officers and expands on the purpose of the bill, which is of the single purpose to amend the Navy ration statute so as to permit the use of oleo or margarine, whereas the amendment offered imposes additional duties upon the officials of the Department in connection with the procurement of supplies.

The Chairman,[5] in ruling on the point of order, stated:

Under this amendment it is purely a limitation placed upon the Navy. Therefore, the point of order is overruled.[6]

Restrictions on Contributions to International Financial Organization

§ 32.5 To a bill continuing authority under existing law to make contributions to an international financial organization and authorizing ap-

3. H.R. 912 (Committee on Armed Services).
4. 104 CONG. REC. 6931, 85th Cong. 2d Sess., Apr. 22, 1958.
5. James W. Trimble (Ark.).
6. See § 8.30, supra, discussing a contrary ruling with respect to a similar but more broadly worded amendment.

propriations for those contributions, an amendment adding a further restriction on the use of United States contributions to those already contained in that law is germane.

On July 2, 1974,[7] during consideration of a bill continuing United States participation under the International Development Association Act, an amendment prohibiting the use of United States contributions as loans for the purchase of nuclear weapons or materials was held germane as a restriction on the use of loans by recipient nations which added to several restrictions already contained in the Act:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"Sec, 14. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of $375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

"(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of $375,000,000 each for payment by the Secretary of the Treasury.".

THE CHAIRMAN:[8] Are there any amendments to this section? There being no amendments the Clerk will read.

The Clerk read as follows:

Sec. 2. Subsections 3 (b) and (c) of Public Law 93–110 (87 Stat. 352 are repealed and in lieu thereof add the following:

"(b) No rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad. . . .

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 2, immediately after line 9, insert the following new section:

Sec 2. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 15. No moneys contributed by the United States to the Association may be loaned to, or utilized by, any country for the purpose of purchasing nuclear materials, or nuclear energy technology or for the purpose of developing nuclear explosive devices or nuclear weapons.". . .

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I make the point of order against the amendment that it is not germane. It purports to amend subsections 3 (b) and (c) of Public Law 93–110 (87 Stat. 352). Public

7. 120 CONG. REC. 22026, 22028, 93d Cong. 2d Sess.

8. John Brademas (Ind.).

Law 93–110 is the Par Value Act which affected the gold value of the dollar. The amendment offered by the gentleman from New York (Mr. Biaggi) attempts to amend the International Development Association Act, this has to do with nuclear materials, it is, therefore, entirely nongermane to the act which it seeks to amend. . . .

MR. BIAGGI: . . . Mr. Chairman, my amendment simply seeks to add a new section to this bill, section 15. This section would condition any of the moneys to be spent in the event IDA is successful this afternoon, or any of the moneys to be loaned, and I use that as a euphemism because, in fact, it is an outright grant in its nature, and we have recognized it as such, and I do not think anyone thinks that we will ever have the money returned, but it represents a condition under which the money can be loaned.

The fact of the matter is, the money, if it is to be loaned, cannot be used to provide nuclear technology or nuclear material in any of the proposed countries, and it is my judgment that the appropriate manner in which to do that is to add an additional section, and we do that in my amendment by creating section 15.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Wisconsin (Mr. Reuss).

The bill is drafted as a continuation of the U.S. Governor's authority to agree to make U.S. money available to IDA under terms of the International Development Association Act. That statute already contains several restrictions on the Governor's authority to cast dissenting votes for loans to nations lacking certain qualifications. Therefore an amendment to further restrict the use of funds for loans under IDA, part of which are authorized by the bill, would be germane, and the point of order is overruled.[9]

Ratification of International Monetary Fund Articles—Prohibition Against Alienation of Gold to IMF Trust Fund and Other Parties

§ 32.6 While an amendment may be germane which limits for certain purposes the authorities granted in a bill, the amendment must be confined to the agencies, authority and funds addressed by the bill and may not be more comprehensive in scope; thus, to a bill amending the Bretton Woods Agreement Act to ratify proposed amendments to the International Monetary Fund Articles of Agreement, to approve an increase in the United States quota in the Fund and to authorize dealing in gold in connection with the Fund, an amendment prohibiting the alienation of gold to any IMF

9. In response to a further point of order, the Chair ruled that the Biaggi amendment came too late, because section 2 of the bill had already been read.

trust fund, to any other international organization or its agents, or to any person or organization acting as purchaser for any central bank or governmental institution was held not germane, being more general in scope.

On July 27, 1976,[10] the Committee of the Whole had under consideration H.R. 13955 (amending the Bretton Woods Agreement Act), when a point of order against the amendment described above was sustained.

Committee amendments: page 2, line 23, strike out "Sec. 3" and insert "Sec. 5".

Page 3, line 11, strike out "Sec. 4" and insert "Sec. 6".

Page 3, after line 12, insert the following:

Sec. 7. Section 10(a) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(a)) is amended to read as follows:

"Sec. 10. (a) The Secretary of the Treasury, with the approval of the President, directly or through such agencies as he may designate, is authorized, for the account of the fund established in this section, to deal in gold and foreign exchange and such other instruments of credit and securities as he may deem necessary to and consistent with the United States obligations in the International Monetary Fund. The Secretary of the Treasury shall annually make a report on the operations of the fund to the President and to the Congress.". . .

MR. [RONALD E.] PAUL [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Paul: On page 5, add the following new section:

"Unless Congress by law authorizes such action, neither the President nor any person or agency shall on behalf of the United States alienate any gold to any trust fund established by the Board of Governors of the International Monetary Fund, or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution.". . .

MR. [THOMAS M.] REES [of California]: . . . The legislation before us is to provide for amendment of the Bretton Woods Agreements Act and only the Bretton Woods Agreements Act, and only those things in the U.S. statute that are directly thereto attached to the purpose of the Bretton Woods Agreements Act. This amendment is not limited to the International Monetary Fund because there is the language at about page 5 of the amendment, "or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution."

It goes about 5 miles beyond the Bretton Woods Agreements Act. Mr. Chairman, I submit that the amendment is not germane. . . .

MR. [JOHN H.] ROUSSELOT [of California]: . . . Mr. Chairman, on page 18, Article 5, Section 12, of the Jamaican Agreements, which is something which we are partially ratifying with this leg-

10. 122 CONG. REC. 24040, 24041, 94th Cong. 2d Sess.

islation, it does refer to this special trust fund.

On page 18 of the communication sent to us from the Secretary of State it refers to this special trust fund and the conditions under which our governor and others will be expected to abide, and it is very much a part of what we are ratifying.

So I believe that it can be shown, because we are ratifying the Jamaica Agreements with this legislation, that in fact we are speaking and the gentleman from Texas is speaking to this issue and he wishes to put conditions on our Governor in this International Monetary Fund. . . .

THE CHAIRMAN:[11] The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Texas (Mr. Paul) is not germane to the bill H.R. 13955.

The bill has as its major purpose the ratification of proposed amendments to the International Monetary Fund Articles of Agreement, and to consent to an increase in the quota of the United States in the International Monetary Fund.

The amendment would prohibit the President or the Secretary of the Treasury from alienating or selling any gold to any trust fund established by the IMF or to any other international organization or its agents, or to any person or organization acting as a purchaser on behalf of any central bank or governmental institution, unless Congress authorizes such action by law.

While the Chair is not completely aware of the impact which the gentleman's amendment would have on international organizations other than the International Monetary Fund, it is apparent from the text of the amendment that it is far more comprehensive in scope than the bill to which offered. Since the amendment is not limited by its terms as a restriction upon U.S. authority to alienate gold to the IMF, the Chair holds that the amendment is not germane to H.R. 13955 and sustains the point of order.

11. Charles H. Wilson (Calif.).

Medical Facilities for Agency Employees—Prohibition on Performance of Abortions

§ 32.7 To a bill establishing a new Department of Education and authorizing the furnishing of medical services, supplies and facilities for employees of said department, an amendment prohibiting the use of such services to perform certain abortions was held germane as a restriction on use of authorized facilities.

During consideration of H.R. 2444[12] in the Committee of the Whole on July 11, 1979,[13] the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

> Sec. 428. (a) The Secretary is authorized to provide, construct, or

12. The Department of Education Organization Act.

13. 125 CONG. REC. 18022, 18051, 18052, 96th Cong. 1st Sess.

maintain, as necessary and when not otherwise available, the following for employees and their dependents stationed at remote locations:

(1) emergency medical services and supplies;

(2) food and other subsistence supplies. . . .

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 84, in line 6, strike out the semicolon and insert in its place: ", provided that such services and supplies shall not include any services or supplies for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term;". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . .

This amendment is in the guise of a limitation on the authorization contained in section 436. It is, in effect, an amendment to repeal a statute not within the jurisdiction of the Committee on Government Operations. It would prevent the payment of salaries, prevent the execution of laws transferred by the bill to the new department. If you extend this concept, Mr. Chairman, it would certainly not be germane to this reorganization. It is expressly devoted to the preservation and reorganization of the educational institutions of this country.

Mr. Chairman, I think to allow this amendment would circumvent the authorities of other committees and would be certainly not germane in any shape, form or fashion to this legislation on reorganization. . . .

MR. ASHBROOK: . . . A clear reading of section 428 clearly indicates that the Secretary is authorized to provide services. Subparagraphs 1 through 7 clearly delineate these services. Emergency medical services and supplies, food and subsistence supplies, dining facilities, living and working quarters and facilities.

A reading of section 428 would seem to negate the entire argument of the able gentleman from Texas.

This section creates authority in a reorganization bill, authority for the Secretary to construct, maintain as necessary the following for employees and their dependents.

My amendment simply offers a limitation on one of these services that is established in section 428, and for that reason I would suggest it is clearly germane.

THE CHAIRMAN:[14] The Chair is prepared to rule.

The Chair has examined section 428 and agrees that the section does provide for the furnishing of certain services.

Paragraph 1 does provide for the furnishing of emergency medical services and supplies to departmental employees.

The amendment of the gentleman from Ohio is limited to restricting such services and supplies for certain medical purposes and is germane to that section.

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14. Lucien N. Nedzi (Mich.).

Accordingly, the Chair overrules the point of order.

Provisions Permitting Use of Facilities of Department of Education—Restriction on Use by Certain Educational Institutions

§ 32.8 To a bill establishing a new Department of Education and authorizing the department to allow the use by public and private agencies of facilities maintained by the department at remote locations, an amendment prohibiting the use of such facilities by any higher education institution which uses mandatory student fees to perform certain abortions was held germane.

On July 11, 1979,[15] during consideration of H.R. 2444[16] in the Committee of the Whole, the Chair overruled a point of order against the amendment offered to the following section:

> Sec. 429. (a) With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function vested in the Secretary or in the Department.
>
> (b) In carrying out his duties, the Secretary, under such terms, at such rates, and for such periods (not exceeding five years), as the Secretary may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations, or by individuals of any real property, or any facility, structure, or other improvement thereon, acquired pursuant to sections 427 and 428, under the custody and control of the Secretary for Department purposes. . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Ashbrook: On page 85, in line 18, strike out the period and insert in its place: "; except that the Secretary may not permit such use by any institution of higher education which uses mandatory student fees to pay for the performance of abortions, except where the life of the mother would be endangered if the fetus were carried to term.".

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

I think this is a little different from the other. The other amendment offered by the gentleman from Ohio had to do with the services that were rendered or to be under the control of the Secretary with regard to employees at remote locations.

In this one, it seems to me that it is different. It seems to me that we are creating a new law. This is not under the jurisdiction of the Committee on Government Operations.

It is inappropriate for our committee to be acting on this. This is a reorga-

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15. 125 CONG. REC. 18022, 18052, 96th Cong. 1st Sess.

16. The Department of Education Organization Act.

nization plan. It seems to me we ought not to be legislating new law with regard to this section of the bill.

MR. ASHBROOK: . . . My colleague from New York is correct in one important instance. This is a different section; but a full reading of section 429, particularly lines 13 through 21, clearly indicate the Secretary may require permittees under this section to recondition or maintain to a satisfactory standard at their own expense the real property, facilities, structures, and improvements involved.

This is merely a limitation on the authorization the Secretary has to permit the use by public and private agencies of the facilities.

For the reasons indicated before on the previous point of order, it is also a limitation on a specific authority given to the Secretary and does not impose any new duties.

I suggest that it is germane for that reason.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The Chair concurs that section 429 involves or covers the use of facilities.

Pursuant to subparagraph (b) of that section, the Secretary is authorized to permit the use by public and private agencies of certain facilities under this statute, including facilities by its terms which are made available under sections 427 and 428 which could include medical facilities.

The amendment of the gentleman from Ohio seeks to limit that authorization by restricting the use of such facilities for certain medically related purposes.

Accordingly, the Chairman overrules the point of order.

Restrictions on Activities of State and Local Agencies Receiving Federal Funds

§ 32.9 To a proposition amending several laws providing federally funded assistance, an amendment restricting the activities of the state and local agencies which are the recipients of those funds and also providing a judicial remedy where the restrictions imposed upon those agencies are not complied with is germane.

The proceedings of Mar. 26, 1974, during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education Act, are discussed in § 3.15, supra.

Limitation on Discretionary Authority of Federal Energy Administrator

§ 32.10 To a bill extending the Federal Energy Administration Act, including the Administrator's authority under that Act to conduct energy programs delegated to him, an amendment seeking to restrict the manner in which the Administrator was to submit energy action pro-

17. Lucien N. Nedzi (Mich.).

posals to Congress was held germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill.

On June 1, 1976,[18] during consideration of H.R. 12169 (Federal Energy Administration extension), it was held that to a bill continuing and reenacting an existing law, a germane amendment modifying the provisions of the law being extended was in order:

> The Clerk read as follows:
>
> Amendment offered by Mr. Eckhardt: Page 10, after line 4, insert the following:
>
> LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS
>
> Sec. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:
>
> "(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act.". . .
>
> MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:
>
> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).
>
> Mr. Chairman, the Dingell bill's fundamental purpose is to authorize appropriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.
>
> Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.
>
> The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.
>
> Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:
>
> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.
>
> Then I cite section 5.11, Mr. Chairman, which says the following:
>
> To a section of a committee amendment in the nature of a sub-

18. 122 CONG. REC. 16045, 16046, 94th Cong. 2d Sess.

> stitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. . . .

. . . [T]he amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169. . . .

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c)(1):

> Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c)(1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the nation. To that end, they shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. . . .

THE CHAIRMAN:[19] The Chair is ready to rule.

The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment offered by the gentleman from Texas (Mr. Eckhardt) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Adminis-

19. William H. Natcher (Ky.).

tration Act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman Flynt ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

Development of Synthetic Fuels—Restriction on Contracts With Major Oil Companies

§ 32.11 To a bill authorizing appropriations and providing contracting authority, an amendment restricting the use of the authorization or contracting authority for the benefit of a certain class of recipients is germane; thus, to a bill authorizing appropriations to enter into contracts for the development of synthetic fuels, an amendment prohibiting the use of the funds authorized to enter into contracts with any major oil company was held germane.

During consideration of the Defense Production Act Amendments of 1979[20] in the Committee of the Whole on June 26, 1979,[1] Chairman Gerry E. Studds, of Massachusetts, held the following amendment germane:

> Amendment offered by Mr. Udall: On page 11, after line 2, insert the following:
>
> "(3) by inserting "(1)" before the first word of section (a) and by inserting the following after the last sentence.

20. H.R. 3930.

1. 125 CONG. REC. 16694–96, 96th Cong. 1st Sess.

"(2) No funds authorized in subparagraph (1) above to carry out the purposes of Sections 305(d)(3) and 305(d)(5) may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company. For the purposes of this section:

(A) The term 'major oil company' means any person, association, or corporation which, together with its affiliates, either produces or refines a daily world-wide volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents. . . .

MR. [STEVE] SYMMS [of Idaho]: Mr. Chairman, according to rule XVI, clause 7—that is the germaneness rule of the House—one of the tests is the jurisdiction of the committee of jurisdiction. Certainly a bill of this nature which we are talking about, when we have sort of a divestiture of certain oil companies, legislation of this sort should come from the Committee on the Judiciary.

Second, the title of the bill is another test of jurisdiction. According to the title, this is a bill "to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes."

Certainly that does not come under germaneness test and the defense title of the bill. If there is any purpose to this bill, it is to provide for the production because of defense purposes, and this is an attempt to interfere and stop a substantial section of our country from participating in the program.

So, Mr. Chairman, I think certainly under rule XVI, clause 7, my argument stands up. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The amendment is carefully drafted as a limitation on authorization. It says, "No funds authorized . . . to carry out the purposes of sections" so-and-so "may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company."

The amendment is clearly germane to the bill. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: . . . Mr. Chairman, I rise to suggest that the point of order is not well taken. The provisions of this act that provide for an opportunity for Government-based cooperation provides for the limitation on the size of the contract in terms of 100-billion-a-day equivalent synthetic fuels. It has all sorts of parameters in the nature of purchases by contractors and the nature of the agreement. I think this is one further limitation that is in order in terms of this legislation. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair cannot see any questions of germaneness raised by the amendment offered by the gentleman from Arizona (Mr. Udall). It appears to the Chair to be simply an additional restriction or condition on the contracting authority granted under this act and, therefore, to be germane.

The Chair overrules the point of order.

Transfer of Property to Provide Homeless Shelter—Restriction on Noncharitable Use of Property

§ 32.12 To a bill authorizing the transfer of Federal property to accomplish a particular purpose, an amendment rescinding the transfer if the use of the property is not consistent with that purpose (as defined in another law) is germane if that law refers to the same purpose covered by the bill; thus, to a bill providing for the transfer of a specified property in the District of Columbia solely for the purpose of providing shelter to homeless and to protect the public health, amended to include restrictions on liability and maintenance responsibilities, an amendment requiring reversion of the property if not used for that charitable purpose as defined under a provision of the Internal Revenue Code was held germane as a further restriction on the same use of the property.

During consideration of H.R. 4784 in the Committee of the Whole on June 5, 1986,[2] Chairman Pro Tempore John P. Murtha, of Pennsylvania, overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

H.R. 4784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services shall, within five days after the date of enactment of this Act, transfer jurisdiction over the property located at 425 Second Street, Northwest, in the District of Columbia, to the municipal government of the District of Columbia in accordance with section 1 of the Act of May 20, 1932 (40 U.S.C. 122), other than the first proviso of such section, solely for purposes of administration and maintenance of such property for providing shelter and related services to homeless individuals in the District of Columbia and for other use in the protection of the public health. . . .

THE CHAIRMAN PRO TEMPORE: The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: At the end of the bill add the following new section:

Sec. 2. Upon the transfer of jurisdiction pursuant to the first section of this Act, the Federal Government (1) shall not be liable for injuries or damages that occur while the property is under the jurisdiction of the municipal government of the District of Columbia and that arise out of the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property by such municipal government; and (2)

2. 132 CONG. REC. 12592–94, 99th Cong. 2d Sess.

shall not be responsible for the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property while the property is under the jurisdiction of such municipal government. Nothing in this section shall be deemed to prohibit the Federal Government from funding the renovation of the property. . . .

The committee amendment was agreed to. . . .

MR. [JOSEPH J.] DIOGUARDI [of New York]: Mr. Chairman, I offer an amendment. ;

The Clerk read as follows:

Amendment offered by Mr. DioGuardi. At the end of the bill add the following new section:

Sec. 4. (a) If any organization selected by the municipal government of the District of Columbia to administer such property as a shelter for homeless individuals uses such property in a manner that would cause a charitable organization as described in section 501(c)(3) of the Internal Revenue Code of 1954 to lose its tax exempt status under section 501(a) of the Internal Revenue Code of 1954—

(1) the property shall be considered to have ceased being used for the purposes described in the first section of this Act; and

(2) jurisdiction over such property shall revert to the United States. . . .

MR. [THEODORE S.] WEISS [of New York]: Mr. Chairman, the amendment offered by the gentleman from New York is not germane to H.R. 4784. It places restrictions on the use of the building in question that are not within the jurisdiction of the Government Operations Committee, have nothing to do with the transfer of Federal property, which this bill addresses, and is otherwise in violation of rule XVI. . . .

THE CHAIRMAN PRO TEMPORE: . . . The Chair agrees with the gentleman from New York that this amendment merely places additional restrictions on the use of the property covered by this bill in addition to those other restrictions which are already in the bill. So the Chair thinks the amendment is germane and overrules the point of order.

Juvenile Delinquency Control Act—Limitation on Assistance to Projects in District of Columbia

§ 32.13 To a bill authorizing federal assistance on the city, state, and national levels for projects designed to prevent juvenile delinquency, an amendment to limit the federal assistance to projects within the District of Columbia was held to be germane.

In the 87th Congress, during consideration of the Juvenile Delinquency Control Act of 1961,[3] an amendment was offered[4] as described above. A point of order was raised against the amendment, as follows:

MR. [JAMES] ROOSEVELT [of California]: Mr. Chairman, I make the point of order on the ground that if

3. H.R. 8028 (Committee on Education and Labor).

4. 107 CONG. REC. 17612, 87th Cong. 1st Sess., Aug. 30, 1961.

this amendment is in order it would take the legislation completely out of the jurisdiction of the Committee on Education and Labor and transfer it to the Committee on the District of Columbia and, therefore, would completely change the character of the bill.

The Chairman,[5] in ruling on the point of order, stated:[6]

In the opinion of the Chair, the amendment offered is clearly a limitation and actually confines the activity, and for that reason the amendment is germane and the point of order is overruled.

Restrictions on Subsidies to Copper Producers

§ 32.14 To a bill authorizing funds for stabilizing production of copper, lead, and certain other commodities through subsidies to domestic producers, an amendment prohibiting subsidy payments to any producer who declares a dividend or transfers funds to a surplus account was held to be germane.

In the 85th Congress, a bill[7] was under consideration which sought to stabilize production of copper, lead, zinc, acid-grade fluorspar, and tungsten from domestic mines. The following exchange[8] concerned a point of order raised by Mr. John J. Rhodes, of Arizona, against the amendment, which had been offered by Mr. John James Flynt, Jr., of Georgia:

MR. RHODES [of Arizona]: Mr. Chairman, the amendment is not germane to the bill. . . .

MR. FLYNT: Mr. Chairman, may I say that the amendment is as germane to the bill as the provision in the bill which precedes the point at which the amendment is offered, providing a time limit on the disbursement of payments under the act. My amendment would simply provide and place a limitation on eligible producers who can participate under the proceeds of the act. . . .

The Chairman,[9] without elaboration, overruled the point of order.

Certain Panama Canal Employees Required To Be American Citizens

§ 32.15 To an amendment relating to compensation of employees on the Panama Canal and authorizing, under certain conditions, engagement of persons having specified qualifications, an amendment requiring that des-

5. Francis E. Walter (Pa.).
6. 107 CONG. REC. 17613, 87th Cong. 1st Sess., Aug. 30, 1961.
7. S. 4036 (Committee on Interior and Insular Affairs).
8. 104 CONG. REC. 18960, 85th Cong. 2d Sess., Aug. 21, 1958.
9. Joseph L. Evins (Tenn.).

ignated classes of employees be American citizens was held germane.

In the 76th Congress, a bill[10] was under consideration which stated in part:[11]

> Be it enacted, etc., That the improvement and enlargement of the capacity of the Panama Canal . . . is hereby authorized to be prosecuted by the Governor of the Panama Canal. . . . For the purposes aforesaid, the Governor of the Panama Canal is authorized to employ such persons as he may deem necessary and to fix their compensation without regard to any other law affecting such compensation, to authorize the making of any contracts . . . deemed necessary for the prosecution of the work herein authorized . . . and in general to do all things proper and necessary to insure the prompt and efficient completion of the work herein authorized.

The following committee amendment was offered:[12]

> Committee amendment offered by Mr. Bland: Page 2, line 9, insert after the word "authorized", the letter "a" in parentheses, strike out the word "with" on line 10 and all of lines 11, 12, 13, 14, and 15, insert a colon and the following: "*Provided*, That the compensation of such persons shall not be lower than the compensation paid for the same or similar services to other employees of the Panama Canal: . . . [and] That the Governor of the Panama Canal, with the approval of the Secretary of War, is authorized to engage, under agreement, when deemed necessary, expert assistance in the various arts and sciences upon terms and rates of compensation for services and incidental expenses in excess of the maximum compensation provided by law for employees of the Panama Canal. . . ."

To such amendment, an amendment was offered which provided:[13]

> Amendment offered by Mr. [Joe] Starnes of Alabama to the committee amendment: On page 1, line 3, after the word "Canal" strike out the colon and insert a comma and the following: "and all such persons occupying skilled, technical, clerical, administrative, and supervisory positions shall be citizens of the United States."

Mr. Schuyler Otis Bland, of Virginia, raised the point of order that the amendment was not germane. The Speaker,[14] in ruling on the point of order, stated:

> . . . . From a . . . hurried reading of the committee amendment it appears that the first part of that proviso deals with the compensation of such persons; that is, persons who may be employed on the Canal. As the Chair reads the amendment offered by the gentleman from Alabama, it is a limitation upon the nature and character of such employees. The Chair is, therefore, of the

10. H.R. 5129 (Committee on Merchant Marine and Fisheries).

11. See 84 CONG. REC. 10725, 76th Cong. 1st Sess., Aug. 1, 1939.

12. *Id.* at pp. 10725, 10726.

13. *Id.* at p. 10728.

14. William B. Bankhead (Ala.)

opinion that the amendment is germane to the committee amendment, and overrules the point of order.

More Limited Treatment of Subject of Bill: Variances in Permitted Levels of Concentration of Pollutants

§ 32.16 For an amendment to the Clean Air Act authorizing state governors to permit variances affecting permitted levels in concentration of two pollutants from stationary sources in two classes of areas, a substitute authorizing governors to permit increases in concentration of one of those pollutants in one class of areas was held germane as a more limited approach to the subject treated in the amendment.

During consideration of H.R. 6161[15] in the Committee of the Whole, it was demonstrated that for an amendment changing certain language in a pending section, a substitute changing that text and also additional language in the section may be germane if it has the effect of dealing with the same subject in a related and more limited way, when a point of order against the amendment described above was overruled. The proceedings of May 25, 1977,[16] were as follows:

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

On page 296, strike out lines 4 through 23 and insert in lieu thereof the following:

"(c)(1) Each applicable implementation plan shall contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, sulfur dioxide and particulate matter, in the case of increases based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall provide that the Governor of the State may, upon application of any person and after notice and opportunity for hearing, permit the maximum allowable increases specified for each pollutant to be exceeded during five percent of the hours of the year with respect to such pollutant in Class I and Class II areas. . . .

MR. [K. GUNN] MCKAY [of Utah]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. McKay as a substitute for the amendment offered by Mr. Breaux: Strike out the text of the Breaux amendment and insert in lieu thereof the following:

"(c)(1) Except as may otherwise be permitted under subsection (d) in the case of air pollutants other than sulfur oxides and particulates, each applicable implementation plan shall

15. The Clean Air Act Amendments of 1977.

16. 123 CONG. REC. 16648, 16652, 16653, 95th Cong. 1st Sess.

contain an area classification plan based on maximum allowable increases in ambient concentrations of, and maximum allowable levels of ambient concentrations of, any air pollutant for which a national ambient air quality standard is established. In the case of an increase based on concentrations permitted under national ambient air quality standards for any period of twenty-four hours or less, such regulations shall permit such limitations to be exceeded during one such period per year and, in addition, in the case of the maximum allowable increase of sulfur dioxide for the three-hour period of exposure, a class II increment variance may be granted as provided in section 162. Such classification plan shall apply to all areas in each State where the national primary and secondary ambient air quality standards for any air pollutant are not being exceeded. Such classification plan shall provide for designation of all such areas as either class I, class II, or class III as to each such pollutant. Until such designation is effective, all such areas shall be deemed to have been designated as class II, except as may be otherwise provided under paragraph (3)(B). . . .

MR. BREAUX: Mr. Chairman, I make a point of order against the amendment offered as a substitute for the amendment. . . .

Mr. Chairman, I have discussed this amendment with the author of the amendment, the gentleman from Utah (Mr. McKay), and I think the amendment should be offered. However, I do not think it should be offered as a substitute for the particular amendment that is now pending:

The reason is, No. 1, that I think the amendment offered by the gentleman from Utah (Mr. McKay) goes considerably farther in bringing in other sections of the act that is before us than does my amendment.

My amendment does not speak to any duties or obligations of the Administration of EPA. It does not put any authority on or require the Federal land manager to take any steps or actions in this 5-percent exception that my amendment provides for.

My amendment regulates class I in two areas. The amendment offered by the gentleman from Utah (Mr. McKay) only talks to class II areas.

My amendment regulates and pertains to two potential pollutants, SO_2 and particulates. The gentleman's amendment, as I understand it, only relates to particulates.

While the amendment offered by the gentleman from Utah (Mr. McKay) may be proper at some other point in this particular legislation, I would object to his offering it at this point because it is not germane and because it goes considerably farther than does the pending amendment . . .

MR. MCKAY: Mr. Chairman, I think what the gentleman from Louisiana (Mr. Breaux) seeks to do is also what I seek to do in many respects, except that my amendment merely narrows what he is trying to do. It only deals with one pollutant, SO_2, as the gentleman has indicated. It does not violate the principle or the intent of the act here proposed.

So, Mr. Chairman, I think this is just a narrowing of the language and becomes very valid in connection with the amendment . . .

MR. [PAUL G.] ROGERS [of Florida]: . . . Mr. Chairman, both of the amendments to section 108 concern the same issues. They go to the increments and

variances, and I think the amendment offered by the gentleman from Utah (Mr. McKay) is very much in order as a substitute.

THE CHAIRMAN PRO TEMPORE:[17] The Chair has heard and considered the point of order and the arguments in support of and in opposition thereto and will now rule.

The McKay amendment is germane as a substitute for the Breaux amendment. The McKay amendment deals with the same subject of variances for sulfur dioxide pollutants. The Breaux amendment is broader insofar as it affects particulate matter pollutants as well as sulfur dioxide. The McKay substitute, while technically containing more language inserted at another place in section 108, nevertheless deals with the same subject in a more limited way.

The point of order is overruled.

Amendment in Guise of Limitation

§ 32.17 A different subject from that under consideration may not be proposed in the guise of a limitation; thus, to propose an amendment in the mere form of a limitation does not make the amendment germane.[18]

17. George E. Danielson (Calif.).
18. See Sec. 31.35, supra.

§ 33.—Amendments Affecting Powers Delegated in Bill

To a provision delegating certain powers, a proposal to limit such powers is germane.[19] For example, a proposal to grant the President certain discretionary authority can be amended by a provision limiting such authority.[20] And where a bill continues the authority of an official to set maximum interest rates on loans, an amendment placing a limit on such authority is germane.[1]

Authority of President To Enter Foreign-Trade Agreements .

§ 33.1 To a bill extending the period during which the President is authorized to enter into foreign-trade agreements, an amendment providing that no such agreements shall become effective until approved by Congress (but not changing the rules of the House) was held to be germane.

19. See Sec. 33.22, 33.32, infra.
20. See Sec. 33.1, 33.7, infra.
1. See Sec. 33.28, infra.

In the 75th Congress, a bill[2] was under consideration which stated:[3]

> *Resolved, etc.,* That the period the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the act (Public No. 316, 73d Cong.) approved June 12, 1934, is hereby extended for a further period of 3 years from June 12, 1937.
>
> The following amendment was offered:
>
> Amendment offered by Mr. [Daniel A.] Reed of New York: Line 8, before the period, insert a colon and the following: "*Provided,* That no foreign trade agreement entered into under the provisions of this act shall become effective until submitted to the Congress by the President and approved by both House and Senate by a majority vote. . . . In the event that Congress shall fail to act within [a] period of 20 days, then said agreement shall thereupon be in full force and effect.

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

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that that amendment is not germane to the bill. It entirely changes the object of the bill and for the first time brings back to the House of Representatives an act of the Executive to be ratified, not by the Senate alone, but by the House. . . .

The Chairman,[4] in ruling on the point of order, stated:

> In the opinion of the Chair the amendment submitted by the gentleman from New York places a limitation upon the President. The pending joint resolution proposes a grant of discretionary power to the Executive by the Congress, and, therefore, this limitation in the judgment of the Chair is germane.

§ 33.2 To a bill to extend the authority of the President to enter into foreign-trade agreements under a section of the Tariff Act, an amendment was held to be not germane which sought to establish specific limits on imports of certain hand-made articles.

On Feb. 9, 1949, the Trade Agreements Act of 1949[5] was under consideration, which provided in part:[6]

> Sec. 3. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of 3 years from June 12, 1948.

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2. H.J. Res. 96 (Committee on Ways and Means).

3. See 81 CONG. REC. 1044, 75th Cong. 1st Sess., Feb. 9, 1937.

4. James M. Mead (N.Y.).

5. H.R. 1211 (Committee on Ways and Means).

6. 95 CONG. REC. 1057, 81st Cong. 1st Sess., Feb. 9, 1949.

The following amendment was offered:[7]

> Amendment offered by Mr. Bailey: Page 3, after line 8, insert the following:
>
> Sec. 7. During any calendar year after 1948 the total amounts of imported wood wire spring clothespins, or the total amount of any article of china, hand-made glassware or tableware, which may be entered or withdrawn from warehouse in the United States for consumption, shall not exceed 25 percent of the production within the United States during the preceding calendar year of clothespins, or of such article of china, hand-made glassware or tableware, as the case may be.

Mr. Jere Cooper, of Tennessee, raised the point of order that the amendment was not germane. Mr. Cleveland M. Bailey, of West Virginia, responding to the point of order, stated that, "there is too much competition against the hand-craft glass and pottery industries and (such industries need the protection of import quotas)." The Chairman,[8] in sustaining the point of order, stated:

> The amendment offered by the gentleman from West Virginia might have been germane to another statute, but it certainly is not germane to the bill under consideration.[9]

7. *Id.* at p. 1070.

8. Francis E. Walter (Pa.).

9. Another amendment having a similar purpose had been offered by Mr. Bailey immediately prior to the above proceedings, and had also been ruled out of order. See § 33.3, infra.

§ 33.3 To a bill to extend the authority of the President to enter into foreign-trade agreements under a section of the Tariff Act, an amendment providing that no reduction in duty shall be made on certain imports competing with articles produced by "handicraft methods" in the United States was held not germane.

On Feb. 9, 1949, during consideration of the Trade Agreements Act of 1949,[10] the following amendment was offered:[11]

> Amendment offered by Mr. [Cleveland M.] Bailey [of West Virginia]: On page 3, after line 8, amend by adding a new section to be designated as a new section:
>
> Sec. 7. No reduction in duty under the Tariff Act of 1930 rates shall be made on imports competing directly with articles produced by handicraft industries in the United States. Handicraft industries are defined as those in which the salaries and wages or direct and indirect labor constitute 50 percent or more of the costs of production and include only those groups of manu-

10. H.R. 1211 (Committee on Ways and Means).

11. 95 Cong. Rec. 1069, 81st Cong. 1st Sess. See § 33.2, supra, for further discussion of the act and proceedings related to those discussed in this section.

facturers, excluding contractors, producing by recognized handicraft methods, like or similar products, from which the Bureau of the Census can obtain and publish industrial statistics. The Tariff Commission shall make the final determination of these qualifications.

A point of order was raised against the amendment, as follows:[12]

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make the point of order against the amendment that it is not germane. It imposes duties and requirements upon the Bureau of the Census which are certainly not within the scope of the pending bill or the original act which is sought to be amended by the pending bill.

The Chairman[13] sustained the point of order.

§ 33.4 To a bill extending the period during which the President is authorized to enter into foreign-trade agreements, an amendment directing the President to seek to withdraw or modify any past or future reciprocal trade agreement if a domestic industry is damaged thereby was held to be not germane.

In the 76th Congress, during consideration of a bill[14] relating to trade agreements as described above, the following amendment was offered:[15]

Page 1, line 8, after the period, insert the following:

If at any time an established domestic industry as a whole shall be damaged as a result of the inclusion of its product in a reciprocal-trade agreement, the President shall institute negotiations with the signatory country seeking to withdraw or sufficiently modify the concession made upon that product to remedy the damage inflicted upon said established domestic industry. . .

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

MR. [JERE] COOPER [of Tennessee]: I do not desire to detain the Committee and the Chair further than to point out that the amendment contains provisions with respect to making it retroactive and, further, brings in entirely different and irrelevant matters, entirely foreign to the purposes of the resolution under consideration and, of course, is not germane to it.

The Chairman,[16] who had already called attention to the provisions that would operate retroactively, sustained the point of order.

§ 33.5 To an amendment limiting the authority of the President in negotiating

12. 95 CONG. REC. 1070, 81st Cong. 1st Sess., Feb. 9, 1949.
13. Francis E. Walter (Pa.).
14. H.J. Res. 407 (Committee on Ways and Means).
15. 86 CONG. REC. 1913, 76th Cong. 3d Sess., Feb. 23, 1940.
16. Clifton A. Woodrum (Va.).

trade agreements by providing that such "authority . . . does not embrace authority to include in any trade agreement negotiations" certain excise taxes imposed under specified sections of the Revenue Act, an amendment proposing a similar limitation with respect to import duties under the Tariff Act was held to be not germane.

In the 76th Congress, during consideration of a trade agreements bill[17] and an amendment thereto excluding consideration of certain excise taxes from trade agreement negotiations, an amendment was offered by Mr. Karl E. Mundt, of South Dakota,[18] containing a similar provision with respect to import duties. The following exchange[19] concerned a point of order raised by Mr. Jere Cooper, of Tennessee, against the amendment:

MR. COOPER: . . . The amendment here offered is not an amendment to the excise taxes of existing law, but seeks to amend the tariff act with respect to certain rates. I submit, therefore, that the amendment to the amendment is not germane. . .

THE CHAIRMAN:[20] The sections which the gentleman brings in by number include a number of different sections of schedule (7) of title I of the Tariff Act of 1930. The Chair would understand that to relate to sections which deal with import duties as distinguished from excise taxes.

MR. MUNDT: The distinction is not recognized, Mr. Chairman, by the Secretary of State, who holds that they are one and the same. . .

THE CHAIRMAN: Of course, the Chair cannot be advised as to what the ruling of the Secretary of State would be on it; but, fundamentally, if as a matter of fact the gentleman's amendment brings into the picture a different class of taxes, his amendment is not germane to the Disney amendment.

MR. MUNDT: May I submit, Mr. Chairman, that the connecting feature between my amendment and the place where it picks up the Disney amendment is the coordinate conjunction "and," and that they both are based on the same fundamental premise of exempting from further negotiations certain specific products—oil in one instance, and beef, eggs, and other specified farm products in the other. Thus it is strictly in line with the motive and the purpose and the objective of the Disney amendment. . .

MR. COOPER: . . . [T]he gentleman is here seeking to amend those provisions of the tariff act levying certain tariff rates and customs duties through the guise of offering an amendment to an amendment relating solely to excise taxes. . . .

THE CHAIRMAN: . . . [F]rom the information the Chair has it seems that

17. H.J. Res. 407 (Committee on Ways and Means).

18. 86 CONG. REC. 1873, 76th Cong. 3d Sess., Feb. 23, 1940.

19. *Id.* at p. 1874.

20. Clifton A. Woodrum (Va.).

the amendment offered by the gentleman, while most likely being germane to the resolution, is not germane to the Disney amendment, because it does seek to bring in, theoretically at least, a different class of taxes—tariff import taxes—whereas the Disney amendment refers entirely to excise taxes.

The Chair therefore sustains the point of order.

§ 33.6 To an amendment limiting the authority of the President in negotiating trade agreements by providing that such "authority . . . does not embrace authority to include in any trade agreement negotiations" certain excise taxes imposed under specified sections of the Revenue Act, an amendment was held to be not germane which sought to prohibit entry into American markets of those foreign products of lower total cost than the cost of production of competitive American products.

In the 76th Congress, during consideration of a trade agreements bill,[1] and an amendment thereto as described above, the following amendment was offered:[2]

Amendment offered by Mr. [Lawrence J.] Connery [of Massachusetts]: "*Provided*, That no commodity or article shall be included in any foreign-trade agreement entered into which permits the entry into American markets of products of workers, farmers, or miners of foreign countries at total landed costs, all tariff duties paid, which total costs are less than the cost of production or wholesale selling price of competitive products of American workers, miners, or farmers where such American products are commercially available."

Mr. Jere Cooper, of Tennessee, having raised the point of order that the amendment was not germane to the amendment under consideration, Mr. Connery stated:[3]

Mr. Chairman, it is my understanding that it is perfectly germane inasmuch as the amendment of the gentleman from Oklahoma is an amendment of limitation. My amendment is simply a further limitation on the gentleman's amendment.

The Chairman,[4] in ruling on the point of order, stated:

The point of order made by the gentleman from Tennessee [Mr. Cooper] is that the amendment of the gentleman from Massachusetts [Mr. Connery] is not germane to the pending amendment offered by the gentleman from Oklahoma [Mr. Disney]. The Disney amendment relates to the exclusion of certain excise taxes. The amendment

1. H.J. Res. 407 (Committee on Ways and Means).
2. 86 Cong. Rec. 1869, 76th Cong. 3d Sess., Feb. 23, 1940.
3. *Id.* at p. 1870.
4. Clifton A. Woodrum (Va.).

of the gentleman from Massachusetts introduces an entirely new feature and undertakes to limit the authority granted the President on the question of cost of production as well as the wholesale selling propositions. The Chair thinks that while the amendment would undoubtedly be germane to the resolution pending before the House, yet it is not germane to the Disney amendment, and sustains the point of order.

Approval by President of Sale of Helium

§ 33.7 To a bill authorizing the President under certain conditions to approve the sale of helium gas for medical, scientific, and commercial uses, an amendment prohibiting the sale of such gas to any foreign country engaged in specified activities was held to be germane.

In the 75th Congress, a bill[5] was under consideration which stated in part:

> (b) That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use, including inflation of passenger-carrying airships: *Provided* . . . [that] the Federal Government shall have a right to repurchase helium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by said regulations.

The following amendment was offered:

> Amendment offered by Mr. [Samuel] Dickstein [of New York]: Page 6, line 13, after the word "regulation" change the period to a colon and insert:
>
> And provided further, That no helium shall be sold to any foreign country which . . . engages in . . . distribution . . . in the United States . . . of any propaganda . . . destructive to the democratic form of government of the United States. . . .

Mr. R. Ewing Thomason, of Texas, raised the point of order that the amendment was not germane to the bill. The Chairman,[6] in ruling on the point of order, stated:

> [The bill] gives the President of the United States discretion and authority to dispose of helium. The amendment . . . places a limitation on the powers of the President, and says that under certain conditions the President will not be permitted to dispose of helium to those countries.
>
> The Chair . . . overrules the point of order.[7]

5. S. 1567 (Committee on Military Affairs). See relevant portions of the bill at 81 CONG. REC. 9647, 75th Cong. 1st Sess., Aug. 21, 1937.

6. Jack Nichols (Okla.).

7. 81 CONG. REC. 9653, 9654, 75th Cong. 1st Sess., Aug. 21, 1937.

Authority of President Regarding Transfer of Defense Equipment to Korea—Amendment Affecting Timetable of Transfer

§ 33.8 To a proposition conferring discretionary authority on a federal official, an amendment limiting the exercise of that authority is germane; thus, to a section of a bill authorizing the President to transfer as much defense equipment to the Republic of Korea as he determined necessary in conjunction with withdrawal of an unspecified number of United States troops, an amendment reducing the time period of the equipment transfer, in conjunction with withdrawal of a stated number of troops, was held germane as a restriction on the discretionary authority conferred in the bill.

During consideration of H.R. 12514 (the foreign assistance authorization for fiscal year 1979) on Aug. 1, 1978,[8] the Chair overruled a point of order against the amendment described above. The section of the bill and the amendment offered thereto were as follows:

THE CHAIRMAN:[9] The Clerk will read.

The Clerk read as follows:

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE GROUND FORCES OF THE REPUBLIC OF KOREA

Sec. 19. (a)(1) The President is authorized, until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stratton: On page 15, strike out line 12 and all that follows down through line 20 and insert the following:

8. 124 CONG. REC. 23729, 23730, 23731, 95th Cong. 2d Sess.

9. Don Fuqua (Fla.).

Sec. 19. (a)(1) The President is authorized, until September 30, 1979—

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of not more than 6,000 troops of the 2nd Infantry Division and associated Army support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of those United States Army units scheduled to depart. . . .

MR. [LESTER L.] WOLFF [of New York]: Mr. Chairman, my point of order is this:

There is a limitation placed upon the President for the deployment of troops in Korea. Actually this amendment is subject to a point of order under the germaneness rule, rule XVI, clause 7, as it deals with a subject different from those under consideration in the bill.

The bill does not purport to deal with the deployment of U.S. combat forces abroad; it deals only with the authority to transfer equipment to the South Korean forces. This amendment may well be unconstitutional as an attempt on the President's constitutional power as Commander in Chief of all U.S. military forces.

MR. STRATTON: . . . I think my friend, the gentleman from New York (Mr. Wolff) has not read the amendment. The amendment simply makes several minor changes in the existing text of section 19 of the bill. For example, it puts in two or three additional words in section (a)(1)(A). It makes changes on page 17 and strikes out $800 million and puts in $90 million. On page 17, line 15, it changes the date from 1983 to 1979. It adds to the remaining section on page 18 additional reporting requirements beyond those called for in the original section.

This is absolutely in keeping with the bill itself. . . .

MR. WOLFF: . . . H.R. 12514 in no way seeks to dictate the level of troops to be maintained in Korea or, for that matter, elsewhere in the world. The fundamental purpose of the amendment is to limit the U.S. troops, as has been indicated in an amendment that this gentleman offered before and a point of order was raised upon. It seeks to limit the number of U.S. troops which may be withdrawn from Korea.

The fundamental purpose of H.R. 12514 is to authorize the appropriation of funds for the international security assistance program for fiscal year 1979. Therefore, the amendment is not germane to the bill, pursuant to clause 7 of House rule XVI. . . .

MR. STRATTON: . . . The gentleman's committee bill extends an authority to transfer equipment for 4 years, to December 31, 1982.

My amendment extends that authority only to the 30th of September 1979, and then says that during that period we are talking about, the withdrawal of 6,000 troops. If the House, if the President, or anybody else, wants to withdraw any more from Korea there is nothing in my amendment to prevent it. My amendment applies strictly to fiscal year 1979. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York (Mr. Wolff) makes a point of order against the amendment offered by the gentleman from New York, one of the points being constitutionality.

The Chair would like to point out that the Chair is not prepared to rule on the constitutionality of legislation pending before the committee; however, as to the germaneness of the amendment, the Chair has examined the amendment offered by the gentleman from New York (Mr. Stratton). In the bill, as has been pointed out, beginning on page 15, line 14, it relates:

> (A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea;

The amendment of the gentleman from New York sets a specific number which may be withdrawn, rather than following the language of a more general nature that is in the bill.

The Chair feels that the amendment meets the test of germaneness since it relates to the withdrawal of troops in Korea, a subject in the text of the bill.

The Chair, therefore, overrules the point of order.

President's Authority To Establish Priorities Among Users of Petroleum Products—Amendment To Impose Restrictions on Use for School Busing

§ 33.9 To a section of an amendment in the nature of a substitute conferring authority upon the president to establish rules for the ordering of priorities among users of petroleum products and requiring that vital services in areas of education and transportation shall receive high priority, an amendment restricting that regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the school closest thereto was held germane.

During consideration of the Energy Emergency Act[10] in the Committee of the Whole on Dec. 13, 1973,[11] it was illustrated that to a provision delegating certain authority, an amendment proposing to limit such authority is germane. The proceedings were as follows:

> SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.
>
> (a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:
>
> "(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide,

10. H.R. 11450.

11. 119 CONG. REC. 41267–69, 93d Cong. 1st Sess.

consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

"(k)(1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within the boundaries of the school attendance district wherein the student resides.

"(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies. . . .

MR. [BROCK] ADAMS [of Washington]: Mr. Chairman, I make a point of order against this amendment.

Mr. Chairman, I think this is one of the most important points of order that we will argue in this session of Congress.

As the Chair is well aware, under rule XXIII, the Chairman of the Committee can cite the point of order regardless of rulings of the Speaker.

The Chairman has full discretion.

Mr. Chairman, I make the point of order that this amendment is not germane. It is not germane under several propositions:

First, it does not apply to the fundamental purposes of the bill.

As is set forth in Cannon's precedents and in Hind's precedents, it is required that any amendment be to the fundamental purpose of the bill. The fact that the bill contains many subjects does not necessarily mean that another subject can be added.

I refer in particular to the ruling of the Chair in 5 Hind's Precedents, 5825, which states as follows:

> While a Committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Now, this subject, the busing of schoolchildren, is a new subject by way of amendment.

I also make the point of order, Mr. Chairman, that this must be germane to the particular section or paragraph to which it is offered. There is nothing in this paragraph on schoolbusing, and on the second page of the amendment, there is a reference to section 105 as well as to section 103.

Mr. Chairman, I make the point of order on the basis of germaneness that this is not germane, because it deals with a subject matter that is foreign to the subject matter of the particular paragraph. And I quote now from 8 Cannon's Precedents, 2918, which was a bill from the Committee on Interstate and Foreign Commerce, in which they were dealing with child labor in interstate commerce and an amendment was offered to apply this to foreign commerce, and the Chair ruled as follows:

> It seems to the Chair that most of the gentlemen who argued in favor of this proposition have discussed the power of Congress to regulate both interstate and foreign commerce rather than the question of whether the proposition regulating foreign commerce is germane to a bill regulating interstate commerce. Two subjects are not necessarily germane to each other because they are related.
>
> The Chair believes this is a bill to regulate child labor and interstate commerce and, therefore, that an amendment proposing to extend it to foreign commerce is a different matter and not in order.

Further, in Cannon's Precedents, under 2951, there is this proposition:

> An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class. To a bill providing for insurance for crews of vessels an amendment providing for insurance for sailors transported on such vessels was held not to be germane.

Now, in this bill, Mr. Chairman, we are providing for allocation of fuel products, and it seems to me that this precedent which provides that we cannot add an amendment applying to those who were being transported on a vessel, is directly in point, and that the amendment offered by the gentleman is not germane.

Mr. Chairman, I would further state that in this particular matter we are dealing with the fundamental purpose of the bill. The fundamental purpose of this bill is not to regulate the busing of children. That is before the Committee on Labor and Education.

Under the principles set forth in VIII Cannon's Precedents, section 2911, it is clearly stated of child labor, which was particularly involved there, that you could not extend the proposition.

Therefore, Mr. Chairman, because this is not germane to the section to which it is offered and because it involves not being germane to the fundamental purpose of the bill because it is not germane even though there are several subjects embraced in this bill, I therefore make a point of order against it. . . .

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I, too, would like to make a point of order against the amendment because the Com-

mittee on the Judiciary spent a great deal of time considering the various constitutional problems associated with schoolbusing, and it comes properly within the jurisdiction of the Committee on Education and Labor and not this committee. I do not think that we should, in a bill dealing with trying to solve an economic crisis, deal with matters attempting to correct racial imbalances by means of busing of schoolchildren.

MR. ADAMS: Mr. Chairman, I finish my argument by stating in V Hinds' Precedents, section 5825, despite the fact that this bill has within it a number of different subjects, it is not in order to introduce a new subject by way of amendment.

Mr. Chairman, the regulation of schoolbusing through the allocation of fuel or the failure to allocate fuel is introducing a new subject into this bill. Even though there are many subjects involved in it, it is one that is not properly before the Committee at this time. . . .

MR. DINGELL: Mr. Chairman, my good friend from Washington has made a most eloquent and moving statement regarding germaneness. It is regrettable that he has apparently not read the amendment which he discusses, because I read in the amendment nothing which refers to matters under the jurisdiction of the Committee on the Judiciary, nothing relating to enforced schoolbusing, nothing relating to civil rights.

Quite to the contrary, Mr. Chairman, I read into the amendment the conservation of energy, the conservation of petroleum products, the conservation of refined petroleum products.

Mr. Chairman, my friend from Washington cited a great number of precedents, and again I say it is most regrettable that he has not bothered to read the amendment which is before us, because the amendment before us relates to the conservation of energy as does the bill before us.

For the assistance of the Chair and my good friend from Washington, for whom I have an abundance of affection and respect, I will read now from page 442 of the Rules of the House of Representatives, under rule XVI, clause 7, which is a rule relating to germaneness and which was not cited by my good friend from Washington, and to read under the annotations thereunder this language:

> Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest.

The text is before the Chair. The Chair has read the text, I am sure, in his preparation for ruling upon the matter before us.

This amendment relates to allocations of products. It is specifically a prohibition upon the allocation of products. Section 103 to which this amendment is drafted is an amendment to the Emergency Petroleum Allocation Act of 1973. Section 103, as the Chair will note, at page 4, line 4, relates to priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence.

The amendment directs the President as to the way such users may re-

ceive oil. It refers in line 11 of that page 4 to transportation services. We transport hundreds of thousands of children in school buses. This relates to the kind of allocation and priority of the users of that kind of transportation.

Further down in the same page, page 4, it refers again at line 17 to the President to cause such adjustments in the allocation. Again, at line 19, the word "allocation"—as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product.

Again at the bottom of page 4, line 24, "The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs 1 and 2."

It provides for petition and review and reclassification and modification of any determination regarding priorities.

At page 5, lines 1 through 4, and on the following page 6, under line 4, the term "allocation" is again referred to. . . .

THE CHAIRMAN:[12] Unless there are other Members who desire to be heard on the point of order, the Chair is prepared to rule.

The Chair has had the opportunity to examine the amendment for some hours—in fact, for approximately 1 day. The Chair has diligently searched the precedents. The Chair finds that the point of order made by the gentleman from Washington (Mr. Adams) that the amendment offered by the gentleman from Michigan (Mr. Dingell) is not germane to the amendment in the nature of a substitute, is not good.

The Chair would like to describe why.

The amendment is offered to section 103 of the amendment in the nature of a substitute which deals with the authority of the President to establish rules for the ordering of priorities among users of petroleum products. Section 103 specifies that in ordering such priorities, the maintenance of vital services in the areas of education and transportation is to be emphasized.

The amendment of the gentleman from Michigan (Mr. Dingell) restricts the authority bestowed upon the President by the pending substitute and by the portion of the Emergency Petroleum Allocation Act which is proposed to be altered. The amendment refers to fuel allocation regulations to be issued under the act, and is germane.

The Chair must, therefore, overrule the point of order.

Restriction on Official's Discretion To Interpret Laws Administered by Him

§ 33.10 To a title of a bill as perfected, limiting in several respects an executive official's authority to construe legal authorities transferred to him in the bill except as specifically permitted by law, an amendment further restricting that official's authority to construe under any circumstances certain laws to be administered by him was held germane as an

12. Richard Bolling (Mo.).

additional (although more restrictive) curtailment of existing authorities being transferred by the bill.

On June 11, 1979,[13] the Committee of the Whole had under consideration H.R. 2444, the Department of Education Organization Act of 1979. The first title of the bill as amended, in addition to creating a new Department of Education, stated broad findings and purposes of the Department including the promotion of daily prayer in public schools, prohibited the construction of laws administered by the Department to authorize federal control of public education except as specifically authorized by federal statute, and prohibited the Department from withholding federal funds from educational entities because of curriculum except as specifically authorized by law. An amendment was offered prohibiting the construction of laws administered by the Department to authorize the issuance of regulations requiring the transportation of students or teachers to achieve racial balance or requiring other desegregation plans as a condition of federal assistance. The amendment was held germane as a further restriction, related to those in the title as perfected, on the construction of laws to be administered by the Secretary of Education. The proceedings were as follows:

THE CHAIRMAN: G5(14) Are there any amendments to section 2?

If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions . . .

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effec-

13. 125 CONG. REC. 14226, 14233, 1423–38, 96th Cong. 1st Sess.

14. Lucien N. Nedzi (Mich.).

tively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American . . .

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs; and

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 3. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

Subsequent amendments included the following:

Amendment offered by Mr. Walker: On page 56, in line 17, strike out the "and";

In line 19, strike out the period and insert in lieu thereof "; and"; and

After line 19, insert the following:

(8) to promote in all public schools providing elementary or secondary education a daily opportunity for prayer or meditation, participation in which would be on a voluntary basis. . . .

Amendment offered by Mr. Skelton: Page 56, line 22, insert "(a)" immediately after "Sec. 103.", and on page 57, after line 7, insert the following new subsection:

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law. . . .

Amendment offered by Mr. Ashbrook: on page 57, line 7 strike "law."

And insert in lieu thereof the following language: "by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section."

The amendment offered by Mr. Robert S. Walker, of Pennsylvania, was amended to change "promote" to "permit."(15) Thereafter, the amendments offered by Mr. Walker, Mr. Ike Skelton, of Missouri, and Mr. John M. Ashbrook, of Ohio, were agreed to. Then Mr. Ashbrook offered a further amendment, as follows:

MR. ASHBROOK: Mr. Chairman, I offer an amendment.

15. The amendment to the Walker amendment was offered by Mr. Arlen I. Erdahl (Minn.).

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 56, line 22, insert "(a)" after "Sec. 103." and page 57, after line 7 insert:

"(b) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system."

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN: Does the gentleman wish to be heard on his point of order? . . .

MR. BROOKS: Mr. Chairman, I want to say that just a simple reading of the amendment says that it is going to try to make a plan of desegregation of any institution.

I do think we can have any such plan really in that fashion. I do want to make a point of order against the amendment under rule XVI, clause 7, which requires amendments to be germane to the subject under consideration.

In order to be germane, an amendment must have the same fundamental purpose as a bill under consideration.

The purpose of H.R. 2444 is to establish a Department of Education. It deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants and employees that are not now authorized by law are not consistent with that organizational purpose and therefore should be ruled out of order.

A further test might be that such an amendment would certainly not be sent to the Government Operations Committee if it were offered as a bill on the floor of this Congress. . . .

MR. ASHBROOK: Mr. Chairman, even the most strict reading of the preamble clause of this bill, which, as my colleague has indicated, has come out of the Government Operations Committee—not the Judiciary Committee, not the Education Committee, it has come out of the Government Operations Committee—even the most strict interpretation if you read the preamble, they talk about every facet of education, promoting education, making reports available; every particular facet of education that relates to elementary and secondary schools, is reposited in the Department of Education.

I do not think there is an American, let alone a Congressman, who believes that busing in one way or another is not a part of education. I do not believe there is a Member of this Chamber who believes in one way or another busing will not be under consideration by the newly created Department of Education, and for all those purposes, I believe it to be absolutely germane. I hope the Chair will so rule.

THE CHAIRMAN: The Chair is prepared to rule.

Section 103, title I, mandates how existing education laws are to be construed in several diverse respects. Section 103 does contain certain limitations upon the statutory constructions

of several authorities of the Secretary to control education programs.

The amendment is a further restriction on construction of other authority of the Secretary in construing existing education law, is germane to title I and the Chair therefore overrules the point of order.

Amendment Providing for Disapproval of Agency Regulations by Congress

§ 33.11 To a bill authorizing an agency to undertake certain activities, an amendment providing that agency regulations issued pursuant to that authority may be disapproved by Congress is a germane restriction upon the authority conferred in the bill so long as the disapproval mechanism does not directly amend the rules of the House; thus, although other committees of the House have jurisdiction over the Environmental Protection Agency's regulatory authority contained in various environmental laws, an amendment to a bill reported from the Committee on Science and Technology (having jurisdiction over environmental research and development) which restricts the internal regulations of that agency relating to its research and development activities may be germane if limited to that phase of the agency's operations.

During consideration of H.R. 12704 [16] in the Committee of the Whole on May 4, 1976,[17] the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby authorized to be appropriated to the Environmental Protection Agency for the fiscal year ending September 30, 1977, for the following categories:

(1) Research, development, and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act, $13,813,900.

(2) Research, development, and demonstration under section 301 of the Public Health Service Act, $878,900.

(3) Research, development, and demonstration under the Safe Drinking Water Act, $13,592,500. . . .

Amendment offered by Mr. Ketchum: Page 5, after line 7, add the following new section:

Sec. 6. Notwithstanding any other provision of law, no rule or regulation promulgated on or after the date of enactment of this Act by the Administrator of the Environmental Protection Agency, in connection

16. The environmental research, development and demonstration authorization for fiscal year 1977.

17. 122 CONG. REC. 12344–48, 94th Cong. 2d Sess.

> with research, development, or demonstration under any of the Acts specified in subsection (a) of the first section of this Act, shall become effective unless . . . the Congress by concurrent resolution does not disapprove such rule or regulation within 60 days. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the bill before us has the purpose of authorizing appropriations to the Office of Research and Development of the Environmental Protection Agency for fiscal year 1977 with respect to certain specific areas.

One is research, development, and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act, which act, as I understand it, is an act wholly under the jurisdiction of the Committee on Agriculture, even with respect to its research operations; with respect to research, development, and demonstration under section 301 of the Public Health Service Act, which is an act which is generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Safe Drinking Water Act, which is an act generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Clean Air Act, which is also under the jurisdiction of the Committee on Interstate and Foreign Commerce generally; research, development, and demonstration under the Solid Waste Disposal Act, which is generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Federal Water Pollution Control Act Amendments of 1972, which is generally under the Committee on Public Works. . . .

Furthermore, this provision, as I read it, would make a rule or regulation which might include regulatory authority, but which would also include research, development, or demonstration within its reach, subject to what is called the congressional veto.

Thus, if a rule or regulation were made by the Administrator that affected both research and development and other functions of the agency clearly outside the jurisdiction of this committee, this amendment would reach, broadly, rules and regulations of very diverse character. . . .

The original rule, if vetoed by concurrent resolution by Congress, would in turn be subject to a veto by the President because the Constitution says that any act requiring the concurrence of both bodies must be submitted to the President and he may veto it.

So this amendment has great and broad reach far beyond the provisions of the bill, and I submit, Mr. Chairman, that it is therefore not germane to the bill itself. . . .

MR. [WILLIAM M.] KETCHUM [of California]: . . . If you will read the language of my regulatory reform-type amendment closely, you will see that it pertains only to rules and regulations connected with "research, development, or demonstration under any of the acts specified in subsection (a)." Therefore, the scope of my amendment is expressly limited to coincide with the scope of this bill. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I would like to join the gentleman from California (Mr. Ketchum) is his argument that

this is most assuredly within rule XVI of the House which requires germaneness, because in any such situation where a proposition confers broad discretionary power upon an executive official, it is perfectly within the rights of any Member to offer an amendment that directs that official to take certain actions prior to the expenditure of funds or the exercising of certain policies.

In chapter 28, paragraph 24.2 of Deschler's Procedure, the general rule is stated that points out the precedents on an authorization bill indicate that the authorization itself may be made contingent upon a future event if the event is related to the subject matter before the House. . . .

MR. ECKHARDT: . . . Rules and regulations, under almost all administrative agency acts or acts concerning a department of Government that has a rule or regulatory structure, are contained in a special section of a bill.

They generally deal with the action of that department or of that regulatory agency having to do with enforcement, but they also in many instances deal with matters of internal operation of the agency, which internal operation concerns both research and development and examination of projects, direction of personnel of highly technical proficiency, and other matters.

These matters are related not only to the ultimate regulation, but are related to certain research which occurs prior to the making of such final rules affecting the persons so regulated.

When we permit an amendment to a bill which purports only to deal with demonstration projects, et cetera, under this committee's jurisdiction, with this whole complex subject of rulemaking, and provide an entirely new method of congressional review whereby a rule will not go into effect if Congress, by concurrent resolution, disapproves such rule or regulation, we vastly alter a section in each of these bills that deals not only with rules and regulations or, rather, with demonstration and research, but also is related to the whole operation of the bill.

One cannot go in and alter those sections piecemeal. And if we permit an amendment on the floor to provide for this kind of congressional review and then a subsequent presidential veto, we deal with a matter so integrally related with the rulemaking process in each of these bills—four of which I believe were under the jurisdiction of the Committee on Interstate and Foreign Commerce, one under the Committee on Agriculture and one under the Committee on Public Works and Transportation—that we invite utter confusion respecting where the dividing line is between the rule's application to research and development and the rule's application to other functions. . . .

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

The Chair would first point out that the research and development programs in the bill itself are very broad and diverse, as is illustrated by the six categories that are set forth on page 2, lines 1 through 15. In addition to that, based upon the language of the amendment itself, as well as the colloquy between the gentleman from California and the gentleman from Washington, the amendment is restricted to regula-

18. Neal Smith (Iowa).

tions promulgated in connection with research, development, and demonstration activities, under the acts that are specified in this bill. Therefore, it does not go to other research and development programs not specified in the bill and not within the Science and Technology Committee's jurisdiction.

The Chair would also point out that this amendment provides merely for a disapproval mechanism in a manner that does not change the Rules of the House, so it really is a limitation upon the authority granted under the act. The Chair cannot, of course, rule upon the constitutionality of such a disapproval procedure. Therefore, the Chair overrules the point of order and holds the amendment germane.

Authority of Federal Energy Administrator — Amendment To Direct Administrator To Restrict Petroleum Exports

§ 33.12 To a proposition conferring broad discretionary authority on an executive official, an amendment directing that official to take certain actions in the exercise of that authority is germane; thus, to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in military operations in Indochina was held germane as a delineation of the broad authority conferred by that substitute.

On Dec. 14, 1973,[19] during consideration of H.R. 11450 (the Energy Emergency Act), the Chair held the following amendment to be germane to the amendment in the nature of a substitute to which it was offered:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Ms. Holtzman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos.". . .

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the

19. 119 CONG. REC. 41753, 93d Cong. 1st Sess.

House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example. . . .

MS. HOLTZMAN: Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that that subject is germane, and that my amendment is germane to the bill.

THE CHAIRMAN:[20] The Chair is prepared to rule.

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

> To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products. . . .

The amendment offered by the gentlewoman from New York (Ms. Holtzman) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. Broyhill).

—*Amendment Imposing Ceiling Prices on Petroleum Products*

§ 33.13 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the Nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment prescribing guidelines to be followed by the Administrator in establishing petroleum prices (a permissible limitation on the discretionary authority conferred in that section), but also directly imposing ceiling prices on petroleum products where the Administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was held to be not germane.

On Mar. 6, 1974,[1] during consideration of H.R. 11793[2] in the Committee of the Whole, it was demonstrated that, while a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to

20. Richard Bolling (Mo.).

1. 120 CONG. REC. 5433–36, 93d Cong. 2d Sess.

2. Federal Energy Administration Act.

be administered by that agency is not germane.

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 18, line 11, insert "(a)" after "Sec. 5.".

Page 20, after line 2 and after the Alexander amendment, insert the following:

(14) In administering any pricing authority, provide for equitable prices with respect to all sales of crude oil, residual fuel oil, and refined petroleum products in accordance with subsection (b) of this section.

(b)(1) Pricing authority of the Administrator shall be exercised so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of any regulation under pricing authority of the Administrator which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil for which prices are posted; and

(B) a maximum of $1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, the amendment offered by the gentleman from California (Mr. Moss) is nongermane to this reorganization bill, and section 5, under rule XVI, clause 7.

The committee yesterday amended section 5 of the bill before us so that the functions listed would clearly not confer any new authority on the FEA Administrator. The authority available to the FEA Administrator must come from other sections of this act, or provisions of other laws which are now in existence.

As the Chair pointed out yesterday, amendments must be germane to the bill as modified by the Committee of the Whole at the time they are offered, and not as originally referred to the committee. Therefore, amendments attempting to add policy or program powers to section 5 are nongermane to that section.

The subject matter of this amendment was not considered in the committee, and is not dealt with in any other provisions in this bill; it is a subject matter completely different from the matter under consideration.

In the interest of orderly legislation . . . the amendment should be ruled out of order. It is inappropriate to section 5, because section 5 does not add any new policy or program. It amends existing law, Mr. Chairman, in ways that are not affected by the bill which is now before the committee. For example, the Economic Stabilization Act, there are sections there that are in

this amendment that are not involved in this bill. . . .

MR. MOSS: . . . Section 5 of the bill before us requires the Administrator to:

> Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise. . . .

The amendment I have offered is a limitation upon the Administrator. It says he cannot go back before the prices set in May of 1973 in the exercise of his authority, excepting that he may add a total of $1.35, bringing to $5.25 a barrel the effective price of crude oil. It does provide that there can, upon certain findings by the Administrator, be an increase to $7.09. . . .

. . . We are limiting the discretion. We are limiting the authority which we are by this act itself, the proposed legislation in the Committee on Government Operations, granting to the Administrator. Clearly that is germane; clearly that is within the province of this committee and of this House to limit the scope of authority conferred or being conferred upon a new office. . . .

THE CHAIRMAN:[3] The Chair is prepared to rule.

The gentleman from California (Mr. Moss) has offered a substantive amendment to section 5 of this bill. The amendment has been read in its entirety and will appear in the Record of the proceedings of today.

Against this amendment the gentleman from New York (Mr. Horton) has made a point of order as follows:

> That the amendment offered by the gentleman from California (Mr. Moss) is not germane to the bill or to the section of the bill to which it is presently offered.

The Chair had, of course, anticipated that further questions regarding the germaneness of amendments to section 5 might arise today, and for that reason the Chair has reviewed the actions taken by the Committee of the Whole on yesterday.

The Chair has carefully read and fully attempted to analyze each line of the amendment offered by the gentleman from California (Mr. Moss).

The Chair has diligently endeavored to understand the full import and the total impact of the amendment which the gentleman from California (Mr. Moss) has offered. Section 5 of the bill was amended by the amendment offered yesterday by the gentleman from California (Mr. Holifield), so that the preface to that section now reads as follows:

> To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this Act or any other provisions of law. . . .

There follows in section 5 a list of functions which define the broad areas in which the Administrator may act. This list on enumeration of functions, as the Chair stated yesterday, is, of course, subject to germane amendment. Whether additional functions relating to the energy needs of the Nation, if added to this list by way of amendment, would be authorized by other provisions of this bill or by other law, is a legal question and not a parliamentary question.

3. John J. Flynt, Jr. (Ga.).

Whether or not a function given the Administrator under section 5 is authorized by existing law is a matter that goes to the effect of the amendment and not to the question as to whether or not it is germane.

The Chair does not, under the precedents, rule on questions of the consistency of amendments or upon their legal effect. The question upon which the Chair must now rule is, "Is the amendment in its entirety as offered by the gentleman from California germane to section 5 of the bill H.R. 11793?"

The Chair will state that section 5 sets forth the functions of the Administrator, and on yesterday the Chair enumerated some of the functions. The section includes a broad range of functions and duties, and under the rules of germaneness other related functions could be added to the list by way of amendment. Functions or duties could also be limited by way of amendment, but substantive law cannot be changed by an amendment to a section dealing with functions.

Much of what the gentleman from California (Mr. Moss) and others have said is true. Much of the amendment offered deals with functions, and part of the amendment purports to modify the Administrator's functions; but portions of the amendment extend further than defining, restricting, or limiting the functions of the Administrator.

It should be borne in mind that section 5 of this bill relates to the functions of the Administrator of the Federal Energy Administration. Although part of the amendment does define and limit the functions of the Administrator, other portions of the amendment place a mandatory burden on him or, even without action on his part, effectively change existing law and pricing authority.

Therefore, the Chair sustains the point of order made by the gentleman from New York.

—*Amendment To Prohibit Administrator From Setting Domestic Oil Prices Above Certain Level*

§ 33.14 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the Nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment prohibiting the Administrator from setting ceiling prices for domestic crude oil above a designated level in the exercise of the authority transferred to him in the bill was held a germane limitation not directly amending existing law, on the discretionary authority conferred in that section.

During consideration of the Federal Energy Administration Act (H.R. 11793) in the Committee of the Whole on Mar. 6, 1974,[4] the

4. 120 CONG. REC. 5444–46, 93d Cong. 2d Sess.

Chair overruled a point of order against the following amendment:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Dingell: Page 19 at the end of line 7 strike the semicolon and add the following: "The Administrator, in exercising the functions transferred by this Act, may not fix the price for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus $1.30 per barrel; or $5.25 per barrel plus 35 per centum thereof, if he finds it consistent with the purposes of this Act.". . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, this amendment amends a section of the Economic Stabilization Act that is not involved in this bill. For that reason and the other reasons I have previously stated, I make the point of order that this amendment is nongermane. . . .

MR. DINGELL: . . . Mr. Chairman, the question before us is, what is the nature of the amendment and to what statute does the amendment apply. The amendment is first of all, Mr. Chairman, a limitation on the powers which may be exercised.

As the Chair will observe, the amendment relates to section 5, which is entitled, "Functions," which appears in line 10 on page 18. The Chair will note that in the sections transferred under section 5 at line 3, page 19, the administrator shall, and then he is directed to do the following:

> (5) Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

Mr. Chairman, to recapitulate briefly, this amendment relates to functions which are transferred to the administrator from other agencies in Government. It refers specifically only to the powers which are vested in him by the transfers accomplished under this bill.

Referring to page 19, line 3, the administrator would have the duty transferred to him, and I am now quoting section 5:

> Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

Now, the administrator in exercising these functions as listed above would not be able to fix prices for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus the additional limitations which he could add if he were to feel that it were to be consistent with the purposes of the act.

Mr. Chairman, the amendment here is a limitation of the functions to be transferred and the powers which would be transferred. Clearly, this would then be a germane amendment because the amendment does not add, but rather subtracts, limits and restricts the functions and powers and prerogatives which would be vested in the administrator. It adds nothing that is not in the bill now, but rather limits significantly the powers which would be vested in the administrator.

For that reason, I submit to the Chair that the amendment is germane.

MR. [CHET] HOLIFIELD [of California]: Mr. Chairman, I rise in support of the point of order.

Mr. Chairman, in my opinion this amendment, by the use of the word "shall," imposes a mandate upon the Administrator. The authors have tried to draw this in the form of a limiting amendment. However, it actually says "shall." It says, "Shall fix the price for domestic crude oil," and then it goes on and says no higher than a certain amount and by a certain date and $1.30 per barrel plus 35 percent of $5.25, if he finds it consistent with the act. Therefore, actually, it mandates a duty upon the Administrator and it interferes, in my opinion, with the general mandate that he should stabilize the functions where the bill promotes stability in energy prices to the consumer.

That is the general statement of the objective, but it does not tell the Administrator how to do it. This tells the Administrator how to do it, and also imposes upon him certain limitations as to what he can do.

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

The gentleman from Michigan (Mr. Dingell) has offered an amendment to section 5 of the bill.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it is not germane to the section under consideration. The gentleman from California, speaking in support of the point of order, has stated that the amendment mandates certain action by the Administrator.

The Chair has carefully studied the language of the amendment and does not interpret any portion thereof as a mandate to set a certain price, because the language of the amendment, as read and to be printed in the Record at this point, does not say, "shall," but, rather, uses the words, "may not." Nor does the amendment amend existing law—the Economic Stabilization Act—as has been suggested.

Section 5 is a section that includes a broad range of functions and duties. It is clear that functions or duties enumerated therein could be limited by way of amendment.

The language of this amendment appears to limit the functions stated in section 5 of the bill, and the Chair, therefore, overrules the point of order.

MR. [CLARENCE J.] BROWN of Ohio: So that the Chair ruled that the language "may not" is permissive. Is that correct?

THE CHAIRMAN: The Chair will state in response to the inquiry of the gentleman from Ohio (Mr. Brown) that the Chair ruled that the language of the amendment was a limitation above which the Administrator could not go in exercising certain functions transferred to it under the provisions of this act.

—Amendment Directing Administrator To Issue Guidelines for Citizens' Fuel Use

§ 33.15 To a proposition conferring discretionary authority, an amendment adding a related function or limiting the exercise of that authority is germane; thus, to a section of a bill prescribing the func-

5. John J. Flynt, Jr. (Ga.).

tions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizens' fuel use was held germane as a further delineation of those functions.

On Mar. 5[6] and 6,[7] 1974, the Committee of the Whole had under consideration a section of the Federal Energy Administration Act (H.R. 11793) stating in part:

Sec. 5. To meet the energy needs of the Nation for the foreseeable future, the Administrator shall—

(1) advise the President and the Congress with respect to the establishment of a comprehensive national energy policy for the balance of the twentieth century, and in coordination with the Secretary of State, the integration of domestic and foreign policies relating to energy resource management;

(2) assess the adequacy of energy resources in meeting demands for the immediate and long-range future for all sectors of the economy and for the general public;

(3) develop effective arrangements for the participation of State and local governments in the resolution of energy problems;

(4) develop plans and programs for dealing with energy production shortages;

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

(6) assure that programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;

(7) develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources;

(8) develop and recommend policies on import and export of energy resources;

(9) collect, evaluate, assemble, and analyze energy information on reserves, production and demand and related economic data;

(10) identify the need for and take action to expedite the development of energy resources;

(11) work with business, labor, consumer and other interests and obtain their cooperation; and

(12) perform such other functions as may be prescribed by law.

MR. [FRANK] HORTON [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point. . . .

There was no objection. . . .

MR. [BILL] GUNTER [of Florida]: Mr. Chairman, I offer an amendment.

6. 120 CONG. REC. 5301, 93d Cong. 2d Sess.

7. *Id.* at pp. 5436, 5437.

The Clerk read as follows:

Amendments offered by Mr. Gunter: Page 19, line 23, add the following new subsection:

"(11) Issue preliminary summer guidelines for citizen fuel use within 30 days of the enactment of this Act.

Page 19, line 23, strike out "(11)" and insert in lieu thereof "(12)".

Page 20, line 1, strike out "(12)" and insert in lieu thereof "(13)".

MR. HORTON: Mr. Chairman, I make a point of order against the amendments. Basically they are the same arguments I made before and also this sets up a policy or program which is outside the section and not a subject matter of this bill.

THE CHAIRMAN:[8] Does the gentleman from Florida desire to be heard on the point of order?

MR. GUNTER: I do, Mr. Chairman.

Mr. Chairman, the amendment is rather simple and easy to understand. It requires the Administrator to issue within 30 days, upon enactment of this act, a preliminary summary. . . .

Mr. Chairman, the amendment as stated would simply require the Administrator, to issue within 30 days upon enactment of this act, preliminary summer guidelines for fuel use which, Mr. Chairman, I think falls within the framework of the section specifying the functions. I do not interpret this particular specification as outside of those programs which are spelled out in the committee report, and in the body of the act.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Gunter) has offered an amendment to section 5 of the bill, to which amendment the gentleman from New York (Mr. Horton) has raised a point of order.

The Chair has carefully read the language of the amendment, and has carefully listened to the arguments made by the gentleman from New York (Mr. Horton), in support of his point of order, and the arguments made by the gentleman from Florida (Mr. Gunter), in opposition to the point of order.

In the opinion of the Chair, the language of the amendment as offered by the gentleman from Florida clearly relates to the functions of the Administrator, which are otherwise enumerated and defined within the section now under consideration.

The Chair finds nothing in the language of the amendment which mandates the Administrator any more than do the other functions enumerated, nor does the Chair find anything in the amendment which would in any way amend or seek to amend existing law.

The Chair does not rule now or at any other time on the consistency of amendments; the Chair, therefore, after analyzing the amendment and listening to the argument, rules that the amendment is germane and, therefore, overrules the point of order.

—Amendment To Prohibit Rationing Without Congressional Approval

§ 33.16 To a section of a bill prescribing the functions of a new Federal Energy Administration, an amendment prohibiting the promulgation

8. John J. Flynt, Jr. (Ga.).

of petroleum rationing rules as an exercise of the authority conferred in that section, without prior approval by Congress (which did not constitute a change in House rules), was held a germane limitation on that discretionary authority.

On Mar. 6, 1974,[9] during consideration of H.R. 11793[10] in the Committee of the Whole, Chairman John J. Flynt, Jr., of Georgia, overruled a point of order against the following amendment:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: Page 20, line 2, strike out the period and insert the following: "; *Provided however*, That none of the powers or functions granted to the Administrator under the terms of this Act shall permit the promulgation of any rule or rules providing for the establishment of a program for the rationing among classes of users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of users not similarly entitled, without the prior approval of Congress.". . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment for the reasons that I have stated earlier. In addition, in effect it indirectly amends section 4 of the Emergency Petroleum Allocation Act, and it also gives specific negative direction to the administrator in a section which purports to outline the general powers or functions of the administrator. Therefore, I think it is a nongermane amendment, and I ask that the Chair declare it nongermane. . . .

MR. BAUMAN: . . . [T]he amendment specifically states that it applies to the limitations of the powers and functions granted to the administrator under the terms of this act. . . .

For the . . . reason that this is no more than a limitation on the powers granted in the bill, I think this is perfectly germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Maryland (Mr. Bauman) has offered an amendment to section 5 of the bill. The gentleman from New York (Mr. Horton) has raised a point of order against the amendment on the ground of nongermaneness. The Chair has carefully read the amendment offered by the gentleman from Maryland (Mr. Bauman). It is well settled that section 5 includes a broad range of functions and duties of the administrator. It is clear that under the rules of germaneness, other related functions may be added to the list by way of amendment.

Also, the functions or duties therein enumerated may be limited by way of amendment.

The Chair feels that the amendment offered by the gentleman from Maryland is in the nature of a limitation

9. 120 CONG. REC. 5439, 93d Cong. 2d Sess.

10. Federal Energy Administration Act.

and, therefore, overrules the point of order.

—*Limitation on Authority Regarding Setting of Prices for Propane Gas*

§ 33.17 To a proposition conferring discretionary authority, an amendment limiting the exercise of that authority is germane; thus, to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment limiting the authority of the Administrator in setting prices for propane gas by requiring an equitable allocation of costs of production based upon certain delineated standards was held germane where the amendment did not directly amend existing law.

During consideration of H.R. 11793[11] in the Committee of the Whole on Mar. 5, 1974,[12] the Chair overruled a point of order against the following amendment:

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Alexander: Page 20, after line 2, insert the following new subsection:

(13) in administering any pricing authority, by rule, provide for equitable allocation of all component costs of producing propane gas. Such rules may require that (a) only those costs directly related to the production of propane may be allocated by any producer to such gas for purposes of establishing any price for propane, and (b) prices for propane shall be based on the prices for propane in effect on May 15, 1973. . . .

Mr. Frank Horton, of New York, made the point of order that the amendment was not germane, and referred to the arguments he had successfully used against a prior amendment, which had sought directly to amend a statute not amended by the bill.[13] In addition to arguing on the basis of committee jurisdiction of the subject matter of the bill and amendment, he had sought to establish that the bill's purpose was to change the organizational structure through which energy programs were administered, without changing substantive laws and without changing policies or granting authority to substantially change existing programs, so that an amendment which in effect sought to achieve the latter would not be germane.

MR. ALEXANDER: Mr. Chairman, the gentleman from New York in raising a

11. The Federal Energy Administration Act.

12. 120 CONG. REC. 5309, 5310, 93d Cong. 2d Sess.

13. See 120 CONG. REC. 5306–08, 93d Cong. 2d Sess., Mar. 5, 1974.

point of order with reference to my amendment addresses himself to the transfer of functions, which is the entire basis of his argument.

I point out to the Chairman that the transfer of functions is achieved under section 6, page 20, of the bill entitled "Transfers."

My amendment, Mr. Chairman, is to section 5 entitled "Functions."

While this bill establishes a new Federal Energy Administration for administering the authority transferred to it by the enactment of this bill, it also grants authority to exercise the power of discretion.

Discretion with respect to the establishment of a comprehensive national energy policy for the balance of the 20th century.

Discretion to develop plans and programs for dealing with energy production shortages.

Discretion to promote stability in energy prices to the consumer.

Discretion to prevent unreasonable profits within the various segments of the energy industry.

And, discretion to assure that programs are designed and implemented in a fair and efficient manner so as to minimize hardships and inequity.

Mr. Chairman, inasmuch as the exercise of previous Federal discretion has in fact caused hardships and inequity—has in fact been unfair—I offer this amendment to limit the discretion of the Administrator granted in this bill so as to insure that he shall, by rule, assure that programs are in fact designed and implemented in a fair and efficient manner so as to minimize hardship and inequity.

THE CHAIRMAN:[14] The Chair is prepared to rule.

The gentleman from Arkansas (Mr. Alexander) has offered an amendment on page 20, after line 2. . . .

The gentleman from New York (Mr. Horton) has raised a point of order against the amendment on the ground that it is a nongermane amendment and on the ground that it seeks to amend existing law.

The Chair has carefully examined the amendment offered by the gentleman from Arkansas (Mr. Alexander) and has listened carefully to the arguments made in support of the point of order by the gentleman from New York (Mr. Horton) and the arguments made against the point of order by the gentleman from Arkansas (Mr. Alexander). The Chair does not find anything in the amendment which seeks to amend any existing law.

The Chair has referred to volume VIII, Cannon's Precedents, sections 3022 and 3023, where it is stated that to a provision delegating certain powers a proposal to limit such powers is germane.

To a section authorizing the Interstate Commerce Commission to change rates, an amendment providing that the Commission in making such changes shall not increase rates was held to be germane.

To a proposal to grant certain authority, an amendment proposed to limit such authority is germane.

To a bill authorizing the imposition of war risk insurance to insure vessels, an amendment denying such insurance to vessels charging exorbitant rates was held to be germane.

The pending section, as the Chair points out, contains a list of functions or authority.

14. John J. Flynt, Jr. (Ga.).

The Chair will again point out that committee jurisdiction is not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

Section 5 of the bill under consideration sets forth the functions of the Administrator. Under the provisions of section 5 the Administrator is directed to engage in the following:

To advise the President and the Congress on energy policies; assess the adequacy of energy resources; develop plans and programs for dealing with energy production shortages; promote stability in energy prices and prevent unreasonable profits; assure that programs are designed and implemented to assure the priority needs of the Nation are met; develop and oversee voluntary and mandatory energy conservation programs; recommend policies on import and export policy; and take action to expedite development of energy resources.

This section includes a broad range of powers; therefore it is clear that to the list functions so enumerated in this section, other related functions could be added by way of amendment. It is also clear that these functions or duties could be limited by way of amendment. For these reasons, the Chair overrules the point of order.

Energy Conservation Measures by Civil Aeronautics Board—Amendment To Require Congressional Approval of Revisions of Airline Flights

§ 33.18 To a section of an amendment in the nature of a substitute providing that the Civil Aeronautics Board and other regulatory agencies shall have authority within their jurisdictions to take actions to conserve energy, an amendment requiring Congressional approval of revisions of scheduled airline flights (but not amending the rules of the House) was held germane as a restriction on the authority granted in that section.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[15] the Chair held germane an amendment to the following section of an amendment in the nature of a substitute:

SEC. 107. REGULATED CARRIERS.

(a) Agency Authority.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts adminis-

15. 119 CONG. REC. 41746, 41747, 93d Cong. 1st Sess.

tered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person. . . .

(c) Reports.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. . . .

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

The Clerk read as follows:

Amendment offered by Mr. [Robert] McClory [of Illinois] to the amendment in the nature of a substitute offered by Mr. [Harley O.] Staggers [of West Virginia]: on Page 16 following line 14, add the following newparagraph and renumber the ensuing paragraphs accordingly:

"(c) The revision of regular airline schedules, including the elimination of scheduled flights shall be permitted only pursuant to authority granted by the Civil Aeronautics Board. In exercising this authority, the Civil Aeronautics Board shall report to both Houses of the Congress within 30 days following such approved revision of plane schedules or elimination of regularly scheduled plane flights. The Civil Aeronautics Board shall be empowered to reinstate any such revised plane schedules or elimination of commercial air flights as to which both Houses of Congress shall by affirmative vote overrule any such orders of the Civil Aeronautics Board, and with respect to which the Congress shall find that such joint Congressional action shall not jeopardize the energy control purposes of this legislation."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order. . . .

Mr. Chairman, the amendment offered by the gentleman substitutes an entirely new procedure and requires a proceedings essentially similar to or identical to that required by the Reorganization Act on reorganization in connection with actions to be taken by a Federal regulatory agency. Nowhere else in the bill which is now before us is any language imposing that kind of a procedure or process of congressional approval over the Federal regulatory agencies.

For that reason, Mr. Chairman, the amendment is not germane and falls as violative of the rule of germaneness. Since we are not engaging in an action or after an authority to the regulatory agency involved, but rather to set up an entirely new procedure involving congressional action, congressional approval of agency actions through a device which is totally different than that found anywhere else in the bill. . . .

THE CHAIRMAN:[16] The Chair will rule.

The Chair has had an opportunity to examine the language appearing on

16. Richard Bolling (Mo.).

page 15, section 107. It appears to the Chair that insofar as the amendment is concerned, it represents a restriction in the exercise of the power outlined in section 107(a), so the Chair feels that the amendment is germane to the matter and overrules the point of order.

Broad Authority To Minimize Effect of Energy Emergency Act on Employment—Amendment Directing Particular Means to Assist Unemployed

§ 33.19 To a proposition conferring a broad authority to accomplish a particular result, an amendment authorizing and directing a specific approach to be taken in the exercise of such authority is germane; thus, to a section of an amendment in the nature of a substitute directing the president to minimize any adverse impact upon employment because of actions taken under the Energy Emergency Act to conserve energy resources, an amendment authorizing grants to states for assistance to individuals unemployed as the result of administration of that Act and not eligible for assistance under other unemployment compensation programs was held to be germane.

On Dec. 14, 1973,[17] during consideration of H.R. 11450[18] in the Committee of the Whole, it was demonstrated that a specific proposition is germane to a proposition more general in scope, Chairman Richard Bolling, of Missouri, holding an amendment to an amendment in the nature of a substitute to be germane, as indicated below:

> SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.
>
> (a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.
>
> (b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

MR. [RONALD A.] SARASIN [of Connecticut]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the

17. 119 CONG. REC. 41732, 93d Cong. 1st Sess.

18. The Energy Emergency Act.

gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

> Amendment offered by Mr. Sarasin to the amendment in the nature of a substitute offered by Mr. Staggers: Page 44, after line 12, insert the following:
>
> (b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order against the amendment, that the amendment is not germane to the bill.

I make a point of order that the amendment is not germane to the section. . . .

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, my point in supporting the point of order raised by the gentleman from Michigan is that the Unemployment Compensation Act is not being amended in any place in this act. The gentleman in the well is attempting to amend the Unemployment Compensation Act.

I happen to be rather familiar with it; it is one of the acts that is within the jurisdiction of the Committee on Ways and Means, and I am sure it is not within the scope of this act at all. . . .

MR. DINGELL: . . . As the Chair will note, the bill in subsection (a) of section 122, which is amended, provides for the President taking certain actions to minimize the impact of the adverse effect of the act. In the second part, the President is directed to perform a study.

As the Chair will note, the amendment offered by my good friend from Connecticut—and I commend him for offering it; it is an amendment that appears to have a great deal of merit—but I would point out it is not an amendment which is germane, because the amendment directs the President and the States to provide for individual unemployed and to make payments for unemployment.

It relates to the eligibility of unemployed for compensation and Federal grants which in turn support the unemployment compensation, and also authorizes appropriations, which is not authorized in the act before us.

It is for those reasons, since some of the provisions are carried elsewhere in the bill or in the section before us, it is obvious the amendment is not germane. . . .

MR. SARASIN: . . . On line 7, page 44, the first section of paragraph A, it says:

Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment.

It is the responsibility of various agencies. I do not see that this amendment I have offered to authorize the President to make grants to States providing assistance to any individual unemployed, if such unemployment is resulting from the administration and enforcement of this act, is nongermane.

It would seem to me that it certainly is a logical extension of what is in here within section 122 as it now stands.

THE CHAIRMAN: The Chair is ready to rule.

The Chair will state that the section sought to be amended by the amendment offered by the gentleman from Connecticut (Mr. Sarasin), as he has just read it, directs the President, in carrying out his responsibilities under this act, that he shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon unemployment.

The amendment does not amend another act. It seeks to provide an authorization for a specific approach for the carrying out of the broad authority bestowed upon the President to "minimize" adverse impact of actions taken under the act.

Therefore, the Chair overrules the point of order, and, under clause 6 of rule XXIII, recognizes the gentleman for 5 minutes.

Authority of Price Control Administrator

§ 33.20 To a bill amending the Price Control Act of 1942 and containing provisions relating to powers of the Administrator under that act, an amendment was held to be germane which proposed further restrictions and limitations on the authority of the Administrator and employees of the Office of Price Administration, especially with respect to the authority to impose penalties.

In the 78th Congress, during consideration of a bill [19] to extend the period of operation of the Emergency Price Control Act of 1942, the following amendment was offered: [20]

Amendment offered by Mr. [John] Jennings [Jr., of Tennessee]: On page 12, line 2, add a new paragraph as follows:

Sec. 2. Section 201 of the Emergency Price Control Act of 1942, as amended, is amended by adding at the end thereof the following new subsection:

"(f) . . . No person, who in good faith acts upon a written interpretation of any . . . regulation . . . of the Office of Price Administration made by any official authorized by the Price Administrator . . . shall be subjected to any penalty . . unless such interpretation shall have been revoked and notice of such revocation shall have been given. . . ."

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19. H.R. 4941 (Committee on Banking and Currency).

20. 90 CONG. REC. 5713, 78th Cong. 2d Sess., June 10, 1944.

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

> MR. [A. S. MIKE] MONRONEY [of Oklahoma]: Mr. Chairman, I make the point of order against the amendment that it is not germane to this bill. It involves the rationing powers conferred on the O.P.A. by Executive order under authority of the Second War Powers Act, and thus is not germane to price control.

The Chairman,[1] in ruling on the point of order, stated:[2]

> . . . [T]he pending bill provides for amendment to the Emergency Price Control Act of 1942 and contains provisions relating to the Administrator of that act and imposes certain limitations and restrictions on the Administrator. The Chair is of the opinion that the pending amendment also seeks to impose certain restrictions and limitations on the Administrator of the Emergency Price Control Act of 1942. Therefore, the Chair overrules the point of order.

Price and Wage Stabilization—Jurisdiction of Bureau of Internal Revenue

§ 33.21 To a bill amending and extending an act providing for price and wage stabilization, an amendment was held to be germane which sought to give to the Bureau of Internal Revenue jurisdiction over stabilization of salaries of executive and professional personnel, and which incorporated by reference certain definitions of terms contained in existing laws.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,[3] the following amendment was offered:[4]

> Amendment offered by Mr. Cole of Kansas: Page 9, line 3, insert a new section as follows:
>
> Sec. 110. Notwithstanding the other provisions of this section, administration of salary stabilization for executive, administrative, supervisory, and professional personnel shall be under the jurisdiction of the Bureau of Internal Revenue, under stabilization policies promulgated by the Economic Stabilization Administrator. The term "supervisory personnel" as used herein shall have the same meaning as the term "supervisor" as defined by the "Labor-Management Relations Act, 1947," and the terms "executive," "administrative," and "professional" shall have the same meaning as the corresponding terms as defined in existing regulations of the Administrator for the purposes of the Fair Labor Standards Act.

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

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1. Jere Cooper (Tenn.).
2. 90 CONG. REC. 5714, 78th Cong. 2d Sess., June 10, 1944.
3. H.R. 821 (Committee on Banking and Currency).
4. 98 CONG. REC. 8061, 82d Cong. 2d Sess., June 25, 1952.

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill but attempts to amend other legislation that is not before us. It attempts to impose other duties upon the Bureau of Internal Revenue, Treasury Department, and also attempts to change the Fair Labor Standards Act.

Mr. Albert M. Cole, of Kansas, who had offered the amendment, stated:

The amendment . . . merely transfers the responsibility of salary stabilization from the Wage Stabilization Board to the Bureau of Internal Revenue. . . .

Mr. Jesse P. Wolcott, of Michigan, also speaking in defense of the amendment, stated:

. . . The manner of stabilizing salaries and wages surely is not only germane to the bill, because the bill compels the President to stabilize wages and salaries when he controls prices, but in this particular section he is compelled to stabilize wages and salaries, even though the present act was silent on the manner in which he stabilizes salaries. An amendment which provides the machinery for stabilization of salaries would surely be in order.

The Chairman,[5] in ruling on the point of order, stated:[6]

The Chair is of the opinion that the amendment offered by the gentleman from Kansas [Mr. Cole] proposes to change the existing provisions of section 403 of the Defense Production Act of 1950 as amended) by making specific, whereas 403 now leaves discretion.

The Chair is of the opinion, therefore, that the amendment offered by the gentleman from Kansas [Mr. Cole] is germane. . . .

Discretion of Interstate Commerce Commission in Establishing Rates of Common Carriers

§ 33.22 To a bill granting discretion to the Interstate Commerce Commission in establishing rates charged by common carriers, an amendment prohibiting rate increases was held to be not germane.

In the 75th Congress, during consideration of a bill[7] to amend the Interstate Commerce Act, the following amendment was offered:[8]

Amendment offered by Mr. [John R.] Murdock of Arizona: On page 2, line 17, after the word "act", strike out the period, insert a colon and the words "And provided further, That rates, fares, or charges existing at the time of the passage of this act to or from

5. Wilbur D. Mills (Ark.).

6. 98 CONG. REC. 8062, 82d Cong. 2d Sess., June 25, 1952.

7. H.R. 1668 (Committee on Interstate and Foreign Commerce).

8. 81 CONG. REC. 3486, 75th Cong. 1st Sess., Apr. 14, 1937.

points other than water ports shall not be increased."

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

MR. [SAMUEL P.] PETTENGILL [of Indiana]: Mr. Chairman, I make the point of order that the amendment is not germane, because, as I understand it, if agreed to, it would freeze every rate, fare, and charge in the United States, and would forever forbid the Interstate Commerce Commission to permit any change thereafter to be made. Therefore it is not germane to the section of the bill or to the bill itself which was intended to give the Interstate Commerce Commission full authority from time to time to agree to the raising or lowering of rates.

The Chairman,[9] rejecting the argument that "the purpose of this bill is the fixing of rates," sustained the point of order. The Chairman commented that the amendment sought "to accomplish directly the opposite purpose to that set forth in the bill."

Authority of Carriers of Coal by Pipeline—Reference to Rules Affecting Contracts of Railroad Carriers as Measure of Duration of Contracts of Coal Carriers

§ 33.23 An amendment limiting authorities conferred in a bill may be germane if restricted to those authorities, though incorporating as a term of measurement qualifications applicable to authorities beyond the scope of the bill; thus, to a bill authorizing the carriage of coal by pipeline and the exercise of the power of eminent domain by carriers licensed under the bill, an amendment limiting the duration of contracts by a "carrier" to the maximum duration of similar contracts by railroad carriers was held germane as a limitation on powers granted in the bill ("carrier" being defined in the bill as a carrier of coal by coal pipeline subject to the provisions of the bill), which did not limit authorities of rail-carriers.

On July 19, 1978,[10] during consideration of H.R. 1609 (the Coal Pipeline Act of 1978) in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: At the end of section 5 of the amendment in the nature of a substitute, add the following new subsection:

9. J. Mark Wilcox (Fla.).

10. 124 CONG. REC. 21703, 21704, 95th Cong. 2d Sess.

(h) No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carrier by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I . . . insist on my point of order. . . .

Mr. Chairman, I think this amendment is doing much more than affecting just coal slurry pipelines. The provision is as follows:

> No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carrier by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act.

As I read this amendment it amends the Interstate Commerce Act to provide that the period of time permissible or required or limit for a railroad to permit a contract is applicable to all other carriers. . . .

MR. ICHORD: Mr. Chairman, I would point out to the Chair that it does not touch the Interstate Commerce Act at all. It does not touch the operations of railroads at all. All it says is that these contracts shall not be permitted to be longer than those permitted by the railroads.

THE CHAIRMAN:[11] The Chair is ready to rule.

The Chair has had opportunity to study this amendment. The term "carrier" as defined in the Udall substitute which would apply to this amendment means carrier of coal by coal pipeline. It does not refer to other types of carriers. The limitation involved in the amendment offered by the gentleman from Missouri (Mr. Ichord) applies to the duration of contracts of coal slurry pipeline carriers. It only refers to the duration of railroad contracts as a term of measurement. It does not seek to reach out to contracts of other types of carriers beyond the coal pipeline carriers and, therefore, does not affect railroad contracts or any carriers in other ways. Therefore, the amendment is germane.

The point of order is overruled.

Authorization of Funds To Carry Out Urban Mass Transportation Act—"Buy America" Restrictions on Contracts Not Requiring Use of American-made Goods

§ 33.24 To a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment prohibiting the use of those authorities or funds to purchase foreign-made goods or equipment is germane; thus, to an amendment in the nature of a substitute comprehensively amending the Urban Mass Transportation Act and authorizing the appropriation of funds to carry out that

11. Robert N. Giaimo (Conn.).

Act, an amendment amending the Act to prohibit the obligation of funds authorized to be appropriated thereunder for certain contracts unless a certain percentage of American-made goods be used pursuant to the contract was held germane, as a restriction on the broad authorities granted in the bill, and as an incorporation of provisions of another Act which in effect already amended the Urban Mass Transportation Act.

On Dec. 4, 1980,[12] during consideration of the Surface Transportation Act of 1980 (H.R. 6417) in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> Amendment offered by Mr. [James L.] Oberstar [of Minnesota] to the amendment in the nature of a substitute offered by Mr. Howard, as amended: Page 44, after line 7, insert the following:
>
> BUY AMERICA
>
> Sec. 225. (a) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:
>
> "(h)(1) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States at least 50 per centum from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Minnesota (Mr. Oberstar). . . .

Mr. Chairman, the Oberstar amendment seeks to introduce a new subject which is part neither of this bill nor of the statue which this bill seeks to amend. The Oberstar amendment would introduce a Buy America requirement, through which funds will be limited, into the Urban Mass Transit Act of 1964, where none now exists, and in so doing, it repeals the similar provision that currently exists in the Surface Transportation Assistance Act of 1978. It is an attempt to amend the Surface Transportation Assistance Act of 1978 by adding to the statute which this bill amends and repealing it where it currently exists.

It may be argued that the amendments made by this bill are sufficiently broad to open the entire 1964 act for amendment. But the 1964 act contains no such domestic content provision.

The Oberstar amendment introduces a new subject, and couching it in language that tacks the provision on at the end of the existing section of the

12. 126 CONG. REC. 32169, 32170, 96th Cong. 2d Sess.

1964 act is not enough to make it germane.

The Oberstar amendment really amends the Surface Transportation Act of 1978, an act which itself amended the 1964 act.

I submit that regardless of whether H.R. 6417 is broad enough to open the entire 1964 act for amendment, it is not broad enough to open other acts for amendments as well, and neither is it broad enough to render germane any new subject, even though not addressed either in this bill or the act it omits. . . .

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

Mr. Chairman, the amendment that I am offering is to the Howard substitute, which is substantially broad enough to admit an amendment dealing with the Buy America Act, which is a part of the original Urban Mass Transit Act. There was a Buy America provision in the Surface Transportation Assistance Act of 1978, which provided that a final manufactured article should be substantially all-American produced and established the 10-percent price differential between foreign and domestic bids.

My amendment would broaden that language, which is existing law somewhat, and is perfectly in order because it is an amendment to the Howard substitute and is restricted entirely to the language of the Urban Mass Transportation Act and does not, as the gentleman from Minnesota suggested, go beyond the provisions of the Urban Mass Transportation Act. . . .

THE CHAIRMAN PRO TEMPORE:[13] The Chair is prepared to rule.

The Chair has heard the aqrguments of both the maker of the point of order and the opponent of it, and the Chair is constrained to agree with the gentleman from Minnesota (Mr. Oberstar) that the amendment amends only the Urban Mass Transportation Act. That law in 1978 was in effect amended by the Buy America title contained in the Surface Transportation Assistance Act, and the pending amendment only alters the effect of the 1978 law as it relates to authorities under UMTA. On two previous occasions, Buy America amendments have been held germane when offered to bills, comprehensively amending existing laws and drafted as restrictions on authorities contained in those laws.

The first was on May 7, 1959, when Chairman Bass held germane to a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment prohibiting use of such funds to purchase foreign-made equipment. On another occasion perhaps the gentleman from Minnesota (Mr. Frenzel) will recall, when he made a similar point of order to the Outer Continental Shelf Lands Act amendments; and the chairman of the committee at that time, the gentleman from Kentucky (Mr. Natcher), on July 21, 1976, held the amendment to be in order. These precedents are contained in Deschler's Procedure, chapter 28, sections 4.27 and 23.7.

The Chair, therefore, overrules the point of order.

Authority of Secretary of Interior

§ 33.25 To that section of a bill authorizing the Secretary of

13. Gerry E. Studds (Mass.).

the Interior to promulgate regulations in order to put the bill's provisions into effect, an amendment limiting the Secretary's authority by requiring him, before promulgating such regulations, to consult with persons who would be affected by the regulations was held to be germane.

In the 75th Congress, a bill[14] was under consideration to provide subsistence for Eskimos and other natives of Alaska in all branches of the reindeer industry. The bill stated in part:

> Sec. 12. The Secretary of the Interior is hereby authorized to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this act.

The following amendment was offered:

> Amendment offered by Mr. Dimond: Page 7, line 21, after the period, insert the following:
>
> > Prior to the promulgation of any such rules and regulations the Secretary of the Interior shall endeavor to ascertain the views of the natives of Alaska who may be affected thereby as to the nature of the rules and regulations desirable for making effective the provisions of this act. . . .

Mr. John Taber, of New York, raised the point of order that the amendment was not germane to the bill. Mr. Anthony J. Dimond, of Alaska, in response to the point of order, stated:

> The proposed amendment merely provides that prior to the making and promulgation of such rules and regulations, the Secretary of the Interior shall consult with the natives affected and endeavor to ascertain their wishes. It does not take away any power conferred by the act upon the Secretary of the Interior. It is intensely and intimately related to the provisions of section 12.

The Chairman,[15] overruled the point of order.[16]

Authority of Secretary of Agriculture

§ 33.26 To a bill granting authority to an executive officer to employ persons to assist in exercising powers and duties conferred by the act, an amendment placing limitations upon such authority by specifying certain requirements as to the employment or separation of persons was held to be germane.

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14. S. 1722 (Committee on Territories).

15. Arthur H. Greenwood (Ind.).

16. See the proceedings at 81 CONG. REC. 9491, 75th Cong. 1st Sess., Aug. 20, 1937.

On June 29, 1937, the farm tenancy bill[17] was under consideration which stated in part:[18]

TITLE IV—GENERAL PROVISIONS

FARM SECURITY ADMINISTRATION

Section 41. (a) The Secretary shall establish in the Department of Agriculture a Farm Security Administration to assist him in the exercise of the powers and duties conferred by this act.

(b) For the purposes of this act, the Secretary shall have power to—

(1) Appoint (without regard to the civil-service laws and regulations) and fix the compensation of such officers and employees as may be necessary. . . .

The following amendment was offered:[19]

Amendment offered by Mr. Faddis: On page 11, line 25, after the word "Territory", strike out the period, insert a semicolon and the following:

Provided hereafter, That appointment of persons to the Federal service for employment within the District of Columbia under the provisions of this act, whether such appointment be within the classified civil service or otherwise, shall be apportioned among the several States and the District of Columbia upon the basis of population as ascertained at the last preceding census.

In making separations from the Federal service . . . of persons employed within the District of Columbia under the provisions of this act, the appointing power shall give preference in retention to appointees from States that have not received their share of appointments according to population. . . .

Mr. Marvin Jones, of Texas, raised the point of order that the amendment was not germane to the paragraph or to the bill. He stated:[20]

. . . The second paragraph of the amendment treats with making separations from the Federal service through furloughs and otherwise, it deals with employment in the District of Columbia, and so forth.

Mr. Charles I. Faddis, of Pennsylvania, in response to the point of order, stated:

. . . The portion of the amendment referred to by the gentleman from Texas as treating with separations refers to separations from the Federal service of those coming under the provisions of this bill.

The Chairman,[1] in ruling on the point of order, stated:

The bill under consideration seeks to vest in the Secretary of Agriculture, by the language beginning in line 3, on page 11, authority to employ certain persons in connection with the operation of the business, the duties and responsibilities of making acquisitions of land, and making those lands available to the classes of persons embraced in the bill.

17. H.R. 7562 (Committee on Agriculture).

18. 81 CONG. REC. 6574, 75th Cong. 1st Sess., June 29, 1937.

19. *Id.* at pp. 6578, 6579.

20. *Id.* at p. 6579

1. William J. Driver (Ark.).

The amendment under consideration is nothing more nor less than a mere limitation on the authority granted by the bill.

The Chair therefore rules that the amendment is germane to the bill.

National Aeronautics and Space Administration—Authority of Administrator

§ 33.27 To a bill authorizing funds for the National Aeronautics and Space Administration, an amendment was held to be germane which prohibited the Administrator from entering contracts for "support" services except where certain comparisons had been made between the cost of such contracts and the cost of obtaining the services by directly hiring employees.

In the 90th Congress, during consideration of a bill[2] authorizing appropriations for the National Aeronautics and Space Administration, the following amendment was offered:[3]

Amendment offered by Mr. Hardy to H.R. 10340, as reported: On page 5, after line 22, insert the following:

(h) After January 1, 1968, no support service contract in the amount of $100,000 or more shall be awarded, renewed or extended unless—

(1) A study has been made showing the relative cost of obtaining the services through contract and through direct hire employees . . . and

(2) The Administrator has made a written determination (with respect to cost or necessity of obtaining services by the methods specified).

The Administrator shall maintain a central file of the determinations made pursuant to clause (2) of this subsection and shall make them available upon request to the Senate and the House of Representatives. . . . As used in this subsection the term "support service contract" does not include contracts for the production of commercial and industrial products or for the construction of facilities.

Mr. George P. Miller, of California, raised the point of order that the amendment was not germane to the bill. In defense of the amendment, the proponent, Mr. Porter Hardy, Jr., of Virginia, stated:

. . . The bill provides authorizations for NASA's operations, and this amendment would simply require that on their service contracts—and the bill provides for service contracts—this amendment would be a limitation upon the manner in which they could engage in service contracts.

The Chairman,[4] in ruling on the point of order, stated:

It appears to the Chair that the amendment offered by the gentleman from Virginia (Mr. Hardy) relates to

2. H.R. 10340 (Committee on Science and Astronautics).

3. 113 CONG. REC. 17748, 90th Cong. 1st Sess., June 28, 1967.

4. John J. Flynt, Jr. (Ga.).

contracts under the terms of the authorization bill now under consideration.

The Chair is constrained to rule that the amendment is germane. . . .

Authority of Administrator of Veterans' Affairs To Establish Interest Rates for Loans

§ 33.28 To the proposition that the Administrator of Veterans' Affairs be authorized to establish a maximum interest rate for loans, an amendment stating that "the rate fixed shall not be higher than the FHA rate" was held germane.

In the 91st Congress, a bill[5] was under consideration extending the authority of the Administrator of Veterans' Affairs to set interest rates on mortgages. An amendment was offered[6] as described above. The following exchange concerned a point of order raised against the amendment.

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[7] The gentleman makes his point too late. The gentleman from Texas was recognized.

MR. SAYLOR: Mr. Chairman, I was on my feet trying to get recognition. . . . [The Chair then stated that he would hear Mr. Saylor on the point of order.]

Mr. Chairman, my point of order is that the gentleman's amendment comes too late. The committee amendment has been adopted.

THE CHAIRMAN: The committee amendment, as amended, is still pending. . . .

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Chairman, a further point of order, and I was on my feet when the gentleman offered his amendment. His amendment is not germane to this bill. . . .

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, the gentleman from Pennsylvania made a point of order and the Chairman recognized the gentleman for that purpose. The Chair never ruled against the point of order of the gentleman from Pennsylvania. . . .

THE CHAIRMAN: The Chair intended to rule against the point of order of the gentleman from Pennsylvania because the premise of his point of order was not factual. The gentleman from Pennsylvania made the point of order on the hypothesis that the committee amendment to the bill had been adopted. . . .

Subsequently, the Chairman, overruling the point of order raised by Mr. Teague, stated:

The gentleman from Texas (Mr. Patman) offered an amendment to the amendment of the committee. The committee amendment gives the Administrator authority to set the interest and the amendment of the gentleman from Texas (Mr. Patman) establishes a maximum interest.

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5. H.R. 13369 (Committee on Veterans' Affairs).

6. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.

7. Charles E. Bennett (Fla.).

Participation in International Development Association—Direction to United States Representative To Oppose Certain Loans

§ 33.29 To a bill containing diverse sections (1) continuing United States participation under the International Development Association Act; and (2) repealing existing law which prohibited United States citizens from holding gold, an amendment adding a new section at the end of the bill directing the United States representative to IDA to oppose loans to nations not party to a nuclear nonproliferation treaty was held in order as a germane restriction on authority contained in section 1 of the bill.

On July 2, 1974,[8] during consideration of the International Development Association Act[9] in the Committee of the Whole, the Chair overruled a point of order against an amendment, as indicated below:

MR. [CLARENCE D.] LONG of Maryland: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Long of Maryland: Page 2, immediately after line 20, insert the following:

Sec. 3. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by inserting at the end thereof the following:

"Sec. 15. The United States Governor is authorized and directed to vote against any loan or other utilization of the funds of the Association for the benefit of any country which develops any nuclear explosive device, unless the country is or becomes a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483)."

Redesignate the succeeding section accordingly.

MR. [CHARLES W.] WHALEN [Jr., of Ohio]: Mr. Chairman, I raise a point of order against the amendment. . . . [T]he Chair has ruled that the amendment previously offered by the gentleman from New York (Mr. Biaggi) was out of order because it should have been offered during the committee's consideration of section 1 which deals directly with the International Development Association.

Mr. Chairman, this is a very similar amendment to the one previously ruled out of order, except it creates a new section instead of amending an existing one.

This is an effort to thwart the Chair's earlier ruling. Therefore, Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN:[10] Does the gentleman from Maryland care to be heard on the point of order?

MR. LONG of Maryland: I should respond by saying that the gentleman's objection is specious. The amendment

8. 120 CONG. REC. 22029, 93d Cong. 2d Sess.

9. H.R. 15465.

10. John Brademas (Ind.).

is a genuine amendment. It fits in logically in the place that it is offered. I see no substance at all to the point of order.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Ohio.

The Chair would observe that when the gentleman from New York (Mr. Biaggi) offered his amendment it was ruled out of order because section 2 of the bill had already been read; but since the pending amendment is offered as a separate subsequent section, as a new section 3, the amendment is in order and the Chair overrules the point of order.

The gentleman from Maryland is recognized.

Parliamentarian's Note: An amendment in the form of a new section at the end of a bill need not necessarily be germane to the preceding section of the bill, it being sufficient where the bill contains diverse subjects that the amendment relate to the bill as a whole.[11]

Authority of Export-Import Bank—Amendment To Require Consideration of Nuclear Regulatory Commission Data in Transactions Involving Nuclear Reactor Sales

§ 33.30 To a bill extending the authorities of one agency, including requirements for consultation with several other agencies, an amendment requiring that agency to perform a function based upon an analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another agency.

On July 27, 1978,[12] the Committee of the Whole had under consideration H.R. 12151, a bill amending and extending the authorities of the Export-Import Bank. The bill incorporated existing and new requirements for cooperation and consultation by that agency with other designated government agencies. An amendment was offered to require, in the case of transactions involving nuclear reactor sales, that the Bank first undertake an evaluation based upon an analysis by the Nuclear Regulatory Commission of regulatory and safety practices of recipient countries. The amendment was held germane as an additional limitation on the authority of the Export-Import Bank to finance certain commercial transactions which did not separately mandate the performance of an

11. 8 Cannon's Precedents §2935.

12. 124 CONG. REC. 23107, 23108, 95th Cong. 2d Sess.

unrelated function by another agency. The proceedings were as follows:

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cavanaugh: Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

Sec. 10. Section 2(b)(3) of the Export-Import Bank Act of 1945 is further amended by inserting at the end thereof the following:

"; and

"(C) in the case of any transaction involving the sale of a nuclear reactor, an evaluation based upon an analysis prepared by the Nuclear Regulatory Commission (i) describing the nuclear regulatory organization and practices of the recipient country, and (ii) indicating the extent to which the Health and Safety standards adopted and implemented by the recipient country are consistent with those established by the Nuclear Regulatory Commission, and, where applicable, with International Atomic Energy Agency's standards and recommendations.". . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order against the language of the amendment on the ground that it violates rule XVI, clause 7, of the rules of the House and is not germane to the subject matter before us.

The bill before us deals with amendments to the Export-Import Bank Act, and this pending amendment, although it goes to a section of the act and does pertain to the export of nuclear technology, does not confine itself to that.

If the Chair will address himself to section 2(b)(3) of the Export-Import Bank Act of 1945, the Chair will find that the only requirements imposed there for reporting are those on the president of the Bank to give Congress a complete analysis of the proposed loans to be made. The section does not in fact impose any duties on anyone else or any other agency.

Section 2(b)(4) also imposes duties on the Secretary of State, as well as the Board of Directors of the Bank.

The gentleman's amendment, however, goes beyond anything in the present act and requires a scientific analysis by the Nuclear Regulatory Commission, which is not heretofore mentioned in the act, describing completely both the aspects of the organization and the practices of the recipient country, and even beyond that, the health and safety standards applied within that country.

I am informed by the Nuclear Regulatory Commission that it has no jurisdiction under existing law to address the question of nuclear exports in this matter. Neither the Atomic Energy Act of 1954 nor the Nuclear Nonproliferation Act of 1978 requires the Nuclear Regulatory Commission to review the health and safety standards of the recipient nations of nuclear exports. It has neither the staff nor the funding previously authorized to carry out these duties which are newly imposed by this language.

So, Mr. Chairman, this amendment is beyond the scope of the legislation now before the committee and is outside the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I would submit it is not germane to the bill before us. . . .

MR. CAVANAUGH: . . . Mr. Chairman, the arguments of the gentleman from Maryland (Mr. Bauman) do not primarily go to the issue of germaneness here. He vastly expands his argument to the question of the capability of the agency, and those should be substantive arguments based on requirements set out in my amendment. The issue here is whether or not this Congress can, through this legislation, require reports to it on a specific transaction involving the sale of nuclear facilities and whether it can require interagency cooperation in order to achieve that. The entire history of the legislation is replete with interagency cooperation provisions reflecting all aspects of the Federal Government.

The Small Business Administration is mandated by this legislation to cooperate with Ex-Im, as is the Commodity Credit Corporation, and more specifically, with regard to sections 2(b)(3) and 2(b)(4) to which this amendment is particularly germane, the Secretary of State already has analogous responsibilities mandated by Ex-Im legislation conferring particular responsibilities on the Secretary of State and in fact requiring the Secretary of State to similarly, as this amendment provides, examine cooperation with the International Atomic Energy Agency. . . .

MR. BAUMAN: Mr. Chairman, the gentleman from Nebraska (Mr. Cavanaugh) conveniently ignored my major point. Under the rule of germaneness, the amendment must be germane to the proposition before us.

The gentleman cites as his authority that the present act, the Export-Import Bank Act, in 2 sections requires certain reporting regarding the export of nuclear materials or the financing of them by the Board of the Bank and by the Secretary of State.

The gentleman's amendment goes far beyond that and imposes, for the first time, on a completely different governmental entity, the Nuclear Regulatory Commission, certain judgments to be made, as I have described, as to what the recipient country is doing regarding nuclear matters for health and safety, and to describe completely that country's nuclear capabilities and organization. It even goes so far as to require the NRC to apply the International Atomic Energy Agency's standards, which are not under their jurisdiction, adding still a fourth agency.

Nothing in the present law supports that extension of the power of the Export-Import Bank to make these judgments or to require them from another agency. Therefore, I feel that it is not germane, and the gentleman has not addressed the fact that there is no statutory law which allows the NRC to engage in these practices, nor is there anything in the law that this bill seeks to amend that covers the matters the amendment addresses. . . .

MR. CAVANAUGH: Mr. Chairman, first of all, this amendment does not, as the gentleman from Maryland has stated, require the imposition of IAEA standards or NRC standards on this transaction. It simply requires that the Export-Import Bank provide the Congress with an evaluation based upon an analysis performed by the NRC, and in no way expands the authority of Exim to the imposition of foreign standards or, indeed, of any standards, but simply a compilation of information which is peculiarly within the ex-

pertise of the NRC, and it would be impossible for the Export-Import Bank to accomplish its appropriate legislative mandate or evaluation to the Congress preliminary to an extension of credit for the sale of nuclear facilities. . . .

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, in speaking on the point of order, very briefly, a careful reading of the amendment shows that the amendment itself does not in any way impose on the NRC any additional duties. Clearly this Congress could provide that the Export-Import Bank would not export any nuclear energy or nuclear reactor information and technology. And if the Export-Import Bank is unable to provide this information which is called for in this amendment, my reading of it is they prohibit the exportation of it and the subsidy of it. A careful reading will show it does not impose on the NRC any additional duty.

THE CHAIRMAN:[13] The Chair is ready to rule on the point of order.

The amendment is drafted as a further condition to be imposed on the Bank before it may approve certain transactions.

From page 20 of the report it is evident that the Eximbank is already required by the bill and by the section of law being amended to consult with and seek the cooperation of diverse Government resources and agencies, including the Small Business Administration, the Commodity Credit Corporation, the Department of State, and the President himself.

For example, on page 20 the report indicates that the Commodity Credit Corporation is called upon to perform new functions in cooperation with the Eximbank.

In addition, section 2(b)(4) of the act already requires that the Bank be in receipt of information relating to compliance with the International Atomic Energy Agency standards.

The Chair will also turn to chapter 28, section 23.1 of Deschler's Procedure, which reads as follows:

> To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement from a particular facility pending the submission of a report by the Comptroller General relating to the feasibility of deactivating that facility was held to be germane. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

The Chair also refers to chapter 28, section 24.21 of Deschler's Procedure, which reads as follows:

> To a section of a bill reported from the Committee on International Relations authorizing appropriations for humanitarian and evacuation assistance to war refugees in South Vietnam, an amendment making that authorization contingent upon a report to Congress on the costs of a portion of the evacuation program, but not requiring the implementation of any new program (within the jurisdiction of another committee) was held germane as a related contingency. 121 CONG. REC. p.—, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act].

Therefore, the Chair rules the amendment is germane as a restriction on the authority of the Eximbank.

Accordingly the Chair overrules the point of order.

13. Norman Y. Mineta (Calif.).

Enforcement of Voting Rights

§ 33.31 To a bill authorizing proceedings instituted by the Attorney General in federal courts to obtain injunctive relief for citizens deprived of voting rights, an amendment was held to be germane which sought to guarantee a right to a speedy and public trial by jury in certain cases of contempt related to orders issued in such proceedings.

In the 85th Congress, a bill[14] was under consideration to provide means of protecting civil rights of persons within the jurisdiction of the United States. An amendment was offered[15] as described above. A point of order was raised against the amendment, as follows:[16]

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment . . . is not germane. . . .
>
> Mr. Chairman, the instant bill provides authority in Attorney General to file an action for injunction for the enforcement of civil rights created under old statutes. . . . We provide no method of procedure after the injunction is applied for. . . .

The Chairman,[17] in overruling the point of order, cited the principle that, "to a proposal to grant certain authority an amendment proposing to limit such authority is germane," and stated:[18]

> . . . The Chair holds that the amendment is a restriction upon the Attorney General and the courts. It deals with procedures and not penalties, and in the opinion of the Chair is germane.[19]

—*Amendment Limiting Jurisdiction of Courts in Contempt Cases*

§ 33.32 To a bill giving federal courts authority in civil actions for injunctive relief for citizens alleging deprivation of their right to vote, an amendment limiting the jurisdiction of the courts so that no person could be tried for contempt except within the judicial district wherein the alleged contempt occurred, was held to be germane.

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14. H.R. 6127 (Committee on the Judiciary).

15. 103 CONG. REC. 9184, 9185, 85th Cong. 1st Sess., June 14, 1957.

16. *Id.* at p. 9185.

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

18. 103 CONG. REC. 9187, 85th Cong. 1st Sess., June 14, 1957.

19. An amendment having a similar purpose was subsequently held to be germane to the same bill. See the proceedings at 103 CONG. REC. 9365, 85th Cong. 1st Sess., June 17, 1957.

In the 85th Congress, a bill[20] was under consideration to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States. The following amendment was offered:[1]

> Amendment offered by Mr. Brooks of Louisiana: On page 12, line 4, after the period insert, "No person shall be tried for contempt of any such restraining order or injunction except within the judicial district wherein the alleged contempt occurred."

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

> MR. [BYRON G.] ROGERS [of Colorado]: Mr. Chairman, I make the point of order against the amendment that it is not germane to any legislation here and would seek to change the jurisdiction of the court that might have charge of the contempt proceeding. It relates purely to venues and has nothing whatsoever to do with the legislation here, as it relates to jurisdiction.

Mr. Overton Brooks, of Louisiana, speaking in response to the point of order, stated:

> Mr. Chairman, this amendment involves substantially the same principle as the original amendment presented to the Chair for decision which is known as the trial by jury amendment. It simply provides procedure within the framework of the terms of this bill for carrying out the terms of the bill. It does not add anything to it. It provides additional procedure. . . .

The Chairman,[2] alluding to that part of the bill sought to be amended and noting that "the amendment has to do with practically the same subject," overruled the point of order.

—*Amendment Relating to Jurisdiction of State Courts*

§ 33.33 To a bill vesting jurisdiction in the District Courts over certain civil actions for protection of voting rights, amendments to preserve the jurisdiction of the state courts over elections were held to be germane.

In the 85th Congress, during consideration of a bill[3] as described above, the following amendments were offered:[4]

> Amendments offered by Mr. Hemphill: At the end of line 12, on page 10, of the bill, add a new section, to be known as (par. sixth), section 121, of the bill (42 U.S.C. 1935)), which will read as follows:
>
> Sixth: Nothing herein contained shall deprive the courts of record of

20. H.R. 6127 (Committee on the Judiciary).
1. 103 CONG. REC. 9374, 85th Cong. 1st Sess., June 17, 1957.
2. Aime J. Forand (R.I.).
3. H.R. 6127 (Committee on the Judiciary).
4. 103 CONG. REC. 9394, 85th Cong. 1st Sess., June 17, 1957.

the several States of their jurisdiction over elections, nor shall this legislation preempt the right of the several States in jurisdiction over all elections within the several States.

Amend at the end of line 13, page 12, of the bill by inserting therein a subparagraph (E), section 131 of the bill (sec. 2004 of the Revised Statutes (42 U.S.C. 1971)):

(E) Nothing herein contained shall deprive the courts of record of the several States of their jurisdiction over elections. . . .

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

MR. [KENNETH B.] KEATING [of New York]: I make the point of order against the amendment that it is not germane to the bill. It provides for election machinery, which certainly has nothing to do with this legislation.

In defending the amendment, the proponent, Mr. Robert W. Hemphill, of South Carolina, stated:[5]

The specific language of the statutes in question, which are the statutes referred to in the bill and which are the statutes sought to be amended by this legislation and by these amendments, takes up the question of voting in elections. My amendments take up the same question.

The Chairman,[6] in ruling on the point of order, stated:[7]

. . . The gentleman from South Carolina (Mr. Hemphill) offers two amendments, both dealing with the jurisdiction of the courts of the several States over elections. The amendments are offered to sections of the bill that have to do with voting, therefore with elections. For that reason the Chair holds that the amendments are germane and overrules the point of order.

§ 34.—Restrictions on Use or Availability of Funds

Amendments that merely place restrictions on the use of funds that are authorized or referred to in the bill are frequently held to be germane. As in other cases, however, the extent of the restriction or the manner in which it is sought to be imposed may affect the propriety of the amendment. Thus, to a bill authorizing funds for a given purpose, an amendment placing restrictions on funds authorized or appropriated in other bills and in prior years will be ruled out as not germane.[8]

While it is normally germane to limit the uses to which an authorization carried in a bill may be applied, that principle applies more appropriately to annual authorization bills reported from the committees of jurisdiction, rather than to a (re)organization bill creating a new department and transferring thereto existing au-

5. *Id.* at pp. 9394, 9395.

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

7. 103 CONG. REC. 9395, 85th Cong. 1st Sess., June 17, 1957.

8. See § 31.30, supra.

thorities and programs, in which case amendments restricting authorized funds to effect a change in the administration of substantive law may not be germane.[9]

As noted above,[10] it is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill.[11] But where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.[12]

Restrictions on expenditures, of course, are often sought to be imposed in furtherance of a larger policy or overriding aim. The precedents indicate that in such case, the germaneness of a proposed amendment should be determined from provisions of its text, rather than from the purposes which circumstances may suggest.[13]

9. See § 34.38, infra.
10. See the discussion in the introduction to § 31, supra.
11. See § 31.27, supra.
12. See § 31.16, supra.
13. See § 34.35, infra.

Increases in Public Debt Limit as Standard Affecting Availability of Funds

§ 34.1 An amendment which conditions the expenditure of funds covered by a bill by adopting as a measure of their availability the monthly increase in the public debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress; thus, to a joint resolution making continuing appropriations and restricting the use of any fiscal 1980 funds to pay cost-of-living salary increases for Members of Congress and other federal employees above a certain percentage, an amendment prohibiting the use of all such funds to pay over 99 percent of Members' salaries in any month in which the public debt has been increased was held germane since not amending or affecting the public debt limit, but rather using that limit as an easily ascertainable standard by which to relate Members' salary entitlements to the entire Federal fiscal situation.

During consideration of House Joint Resolution 404 (continuing appropriations for fiscal year 1980), the Speaker overruled a point of order against the amendment described above. The proceedings of Sept. 25, 1979,[14] were as follows:

MR. [KENNETH B.] KRAMER [of Colorado]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 6, insert before line 13 the following: Notwithstanding any other provision of this joint resolution or any other provision of law, for any month immediately following any month during which the total public debt subject to the statutory debt limit, as reported in the monthly statement of the public debt published by the Department of the Treasury, indicates an increase from the level so reported during the preceding month, no part of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act may be used to pay the salary of any Member of the Congress at a rate greater than 99 percent of the rate which would be payable without regard to this sentence. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment is not germane.

The amendment deals with the subject of Federal pay and has the purpose of limiting Federal pay. The amendment offered by the gentleman from Colorado (Mr. Kramer) introduces a new subject of a public debt, a completely new subject of public debt, and a different method of limiting Federal pay, that is, calculated relations between Federal pay and the public debt. . . .

MR. KRAMER: Mr. Speaker, I would like to quote from Deschler's Procedure, chapter 25, section 2.1 and also section 2.3. I think the precedents are very clear that this amendment is germane. I read as follows:

A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI.

The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.

Mr. Speaker, it is my understanding, in talking to the Parliamentarian's office, that a contingency amendment is, indeed, germane, provided that the contingency itself is within the scope of the performance of Congress.

I would ask that the amendment be ruled germane on that basis. . . .

THE SPEAKER:[15] The Chair is ready to rule on the point of order.

14. 125 CONG. REC. 26150–52, 96th Cong. 1st Sess.

For further discussion of amendments which seek to adopt, as a measure of the availability of funds for particular purposes, a determination required to be made with respect to the existence of certain conditions, related expenditures, or the like, see the introduction to § 31, supra.

15. Thomas P. O'Neill, Jr. (Mass.).

The amendment offered by the gentleman from Colorado (Mr. Kramer) provides a mechanism for measuring the ceiling to be placed on the amount of fiscal 1980 funds which can be available to pay salary increases for Members. The amendment does not in any way directly affect provisions of law relating to public debt levels during fiscal 1980.

As indicated in Deschler's Procedure, chapter 28, section 24.18, the Chair ruled on July 26, 1973, that an amendment which conditions the expenditure of funds in a bill by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other acts is germane, so long as the amendment does not directly affect the obligation and expenditure of other funds or the administration of other programs.

In the opinion of the Chair, the legislative standard stated in the amendment offered by the gentleman from Colorado as a measure of the amount of pay increase to be paid by fiscal 1980 appropriated funds is an easily ascertainable method of adjusting the availability of those funds in relation to the Federal financial situation as a whole, and is not drafted as a contingency which is dependent upon specific unrelated events or actions of Congress.

The gentleman's point of order is overruled.

Levels of Spending in Resolution on Budget as Measure of Spending Authority

§ 34.2 To a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending authority in the bill for the next fiscal year to the pertinent levels set forth in the lower of the House or Senate levels as adopted in the concurrent resolution on the budget for that fiscal year was held germane as merely a measure of availability of funds in the bill which did not directly affect the Congressional budget process.

On June 11, 1987,[16] during consideration of H.R. 4, the Housing Authorization Act, the Chair overruled a point of order against the following amendment:

MR. [JOHN] HILER [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hiler: Page 353, after line 9, add the following new title and conform the table of contents accordingly:

TITLE VII—BUDGET ENFORCEMENT

SEC. 701. ENFORCEMENT PROVISIONS.

If this Act and the amendments made by this Act provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1988 in excess of the level established (for any budget function or subfunction applicable to programs authorized by this Act and the amendments made by this Act) by

16. 133 CONG. REC. 15540, 100th Cong. 1st Sess.

the concurrent resolution on the budget for such fiscal year as passed by the House of Representatives or the Senate (whichever is lower), each amount provided by this Act and the amendments made by this Act for such budget function or subfunction shall be reduced by an equal percentage to ensure compliance with such level.

SEC 702. DEFINITIONS.

For purposes of this title, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622). . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, this amendment is invalid on the face of it because it would commit the House to an improbability of action on the part of the other body, over which we have no jurisdiction whatsoever.

It is premised on an illusory contingency which may or may never happen. We do not even do that to the Appropriations Committee; so I object on the basis that it foists on the House an unacceptable mandate under the rules. . . .

MR. HILER: Mr. Chairman, I do not think the point of order is in place. It is clear that what we are doing with this amendment is trying to bring this bill within an appropriation budget level, as we do on many, many bills when we have similar kinds of language. I do not think the point of order should be sustained.

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I rise to support the point of order, because this is an attempt to change the Budget Act which is not before us, to put in place a new mechanism and a unique mechanism for enforcement of the Budget Act, which is not a part of this legislation.

The fact is that it specifies and directs the Secretary in a certain way to enforce this on the Budget Act. It extends to the Budget Act that which cannot be amended. It goes to the reconciliation process and to other processes in the 1974 Budget Act, which is not the subject of this measure that is before us. However important the budget mechanisms that are in place, it is an attempt to modify them in a unique way and I think in a cumbersome way in terms of this issue. . . .

THE CHAIRMAN:[17] The Chair will rule that the amendment does not amend the Budget Act. The Budget Act is only a reference point, and levels in the budget resolution are measures of availability of funds authorized or provided by the pending bill.

The Chair will rule that it is not in violation of the rules of the House. No rule of the House requires the Chair to rule on or to determine the workability or unworkability of an amendment.

The Chair will rule that the amendment is germane and the point of order does not lie.

Expenditures Under Other Acts as Measure of Availability of Funds

§ 34.3 An amendment to an authorization bill which conditions the obligation or ex-

17. Brian J. Donnelly (Mass.).

penditure of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other Acts is germane so long as the amendment does not directly affect the use of other funds; thus, to a bill authorizing foreign economic and military assistance, an amendment providing that the percentage of funds obligated or expended pursuant to that Act at any time during fiscal 1974 shall not be more than 10 percent greater than percentages expended under certain other programs authorized by Congress was held to impose a germane limitation on the availability of funds authorized in the bill which did not directly affect the operation of other government programs.

During consideration of the Mutual Development and Cooperation Act of 1973,[18] on July 26, 1973,[19] the Chair overruled a point of order made against the following amendment:

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Danielson: On page 53, after line 23, insert the following new section:

EQUITABLE EXPENDITURE OF FUNDS

Sec. 30. (a) Unless the Congress shall provide otherwise in language expressly made applicable to this section, at any time during the fiscal year 1974, the amount obligated or expended pursuant to this Act for any program or activity authorized by this Act, expressed as a percentage of the amount appropriated by law for purposes of such program or activity, shall not be more than 10 percentage points greater than the amount obligated or expended at that time for any other program or activity authorized by Act of Congress, expressed as a percentage of the amount appropriated by law for purposes of such other program or activity for the fiscal year 1974.

(b) For purposes of this section, the term "other program or activity" shall include any program or activity administered by or under the direction of the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Department of Transportation, the Environmental Protection Agency, and the Veterans' Administration. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I insist on a point of order. . . .

[T]his bill deals solely with authorizations for appropriations for foreign aid. The amendment of the gentleman covers many programs of agencies: The

18. H.R. 9360.

19. 119 CONG. REC. 26210, 26211, 93d Cong. 1st Sess.

Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Veterans' Administration. It goes far afield from the present legislation, and therefore I insist on my point of order.

THE CHAIRMAN:[20] The Chair is ready to rule.

The Chair has examined the amendment, and observes that the amendment does not directly affect the obligation or expenditure of funds under other Government programs. Rather, the percentages obligated or expended under other programs merely serve as a measure or limit of percentages which can be obligated or expended under programs in the pending bill. For this reason, the Chair feels that the amendment is a germane restriction on the availability of funds authorized in the pending bill, and the Chair overrules the point of order.

Salaries of Members Who Voted Against Salary Increase

§ 34.4 To a proposition limiting the use of any fiscal 1980 funds to pay salary increases for Members of Congress above 5 percent while permitting top executive and judicial salaries to be increased by 7 percent, an amendment further restricting availability of those funds to pay salaries of those Members voting against any salary increase for Members contained in the pending joint resolution was held germane as an additional restriction on the use of the same funds, applied to the same category of recipients.

During consideration of House Joint Resolution 404 in the House on Sept. 25, 1979,[1] the Speaker overruled a point of order against the amendment described above, demonstrating that, to a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of those funds to a subcategory of the same recipients is germane. The proceedings were as follows:

H.J. RES. 404

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

Sec. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities. . . .

20. Melvin Price (Ill.).

1. 125 CONG. REC. 26135, 26136, 26138, 26140–43, 96th Cong. 1st Sess.

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year: *Provided further*, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980 except that in applying such limitation the term "at a rate which exceeds by more than 5.5 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 percent. . . .

MR. [GEORGE M.] O'BRIEN [of Illinois]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Brien: On page 5, strike lines 10 through 16.

On page 6, line 3, strike everything after "1980" through line 8, and insert a period. . . .

MR. [JOSEPH L.] FISHER [of Virginia]: Mr. Speaker, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: Page 5, beginning on line 3, strike out "(except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

Page 5, strike out line 10 and all that follows down through "limitation" on line 4 of page 6 and insert in lieu thereof the following:

Notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980; except that in applying the limitation in such section 304 to the pay of offices and positions (other than Members of Congress) covered by that section the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting such pay increases to 7 percent, and in applying such limitation to the pay of Members of Congress. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Speaker, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser to the amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: After the substitute offered by the gentleman from Virginia add the following:

Notwithstanding any other provision of this resolution, no part of the funds appropriated by this Act for fiscal year 1980 shall be available to pay the salary of any Member at a rate which exceeds the salary rate payable for that office for September 30, 1978, if at any time in the consideration of this resolution that Member voted in a recorded vote for any amendment that has the effect of limiting the amount payable for Members of Congress to the rate payable for September 30, 1978. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: . . . I make the point of order that the amendment is not germane to the substitute. The amendment conditions the use of funds to pay salaries on the votes of Members of Congress on this resolution and, therefore, introduces new subject matter, both a Member's voting record and a new method of calculating pay depending on the Member's voting record. The amendment places nongermane restrictions on the use of funds and should be ruled out of order. . . .

THE SPEAKER:[2] . . . The Chair will rule that the Fisher substitute contains a selective restriction on the availability of funds in the bill by separating salaries of certain employees, as opposed to Members of the Congress of the United States, and that is in order. The amendment offered by the gentleman from New York (Mr. Peyser) is a further selective restriction on the availability of fiscal 1980 funds for the Members' pay.

The Chair feels that the amendment as offered by the gentleman from New York (Mr. Peyser) is germane to the Fisher amendment, and the point of order of the gentleman from Massachusetts (Mr. Conte) is overruled.

2. Thomas P. O'Neill, Jr. (Mass.).

Travel of House Committee

§ 34.5 To a resolution authorizing an investigation and incidental travel to be undertaken by a committee of the House, an amendment placing restrictions on the funds permitted to be used in such travel may be germane.

In the 88th Congress, a resolution[3] reported from the Committee on Rules was under consideration. The resolution stated:[4]

Resolved, That effective January 4, 1963, the Committee on Armed Services, acting as a whole or by subcommittee appointed by the chairman of the Committee on Armed Services, is authorized to conduct a full and complete investigation and study of all matters—

(1) relating to the procurement . . . and disposition of . . . equipment, supplies, and services, and the acquisition . . . and disposition of real property, by or within the Department of Defense. . . .

The following committee amendment was reported:

3. H. Res. 84 (Committee on Rules).

4. 109 CONG. REC. 1547, 88th Cong. 1st Sess., Jan. 31, 1963.

On page 3, after line 4, add the following paragraphs:

> Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided*, (1) That no member or employee of said committee shall receive or expend local currencies for subsistence an amount in excess of the maximum per diem rates approved for oversea travel as set forth in the Standardized Government Travel Regulations, as revised and amended by the Bureau of the Budget; (2) that no member or employee of said committee shall receive or expend an amount for transportation in excess of actual transportation costs; (3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee or its employees in any country where counterpart funds are available for this purpose. . . .

Mr. Abraham J. Multer, of New York, made the point of order that "the matter of the appropriation of funds and the authorization of the use of funds by any committee of the House is within the jurisdiction of the Committee on House Administration." He further stated:

> There is no authorization for the use of funds in the resolution as presented, yet they attempt by the same resolution now to limit the expenditures that may subsequently be authorized by the Committee on House Administration. . . .

The Speaker,[5] in overruling the point of order, stated:

> The resolution before the House does not deal with funds, but the authorization of funds, and is also a restriction on the use of funds that may be made available. The actual funds are matters that will be passed upon by the Committee on House Administration.

Funds for Expenses of Retiring Members

§ 34.6 To a portion of an amendment in the nature of a substitute providing that use of the contingent fund for committee investigations be confined to travel in the United States and that no appropriated funds be expended for committee expenses outside the United States where local currencies are available, an amendment providing that "notwithstanding any other provision of law, no part of any appropriation and no local currency" shall be available to pay any expenses in connection with travel outside the United States of retiring Members was ruled out as not germane, since it waived provisions of law not necessarily related to House committee travel.

5. John W. McCormack (Mass.).

On Oct. 8, 1974,[6] during consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees), the Chair sustained a point of order against the amendment described above. The amendment read, in part, as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington:
>
> Page 28, line 20, strike out "committee". . . .
>
> Page 29, after line 21, insert the following new subparagraph:
>
> "(2) Notwithstanding any other provision of law, no part of any appropriation and no local currency owned by the United States shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—
>
> "(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary or regular election until such time as he shall thereafter again become a Member; or
>
> "(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .
>
> MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment. . . .
>
> As I heard the amendment, I believe it is directed at some general laws of the United States, not just at the Rules of the House of Representatives. . . .
>
> MR. [WAYNE L.] HAYS [of Ohio]: . . . Mr. Chairman, I think the point of order should be sustained, because it goes far beyond the Rules of the House and it deals with appropriations. It puts jurisdictions on agencies. It puts additional duties on the Department of State, and while I do not know that this directly affects the point of order, it interferes with the 2-year elected term of a Member of Congress. . . .
>
> THE CHAIRMAN:[7] The Chair is ready to rule.
>
> The Chair has carefully examined the second amendment read by the Clerk. At the bottom of the page the paragraph starts out:
>
> > Notwithstanding any other provision of law, no funds authorized for a committee, no part of any appropriation shall be available—
>
> and so forth.
>
> This prefatory provision itself makes the amendment subject to a point of order. Therefore, the point of order is sustained, and the amendment is not in order.

§ 34.7 To a provision in an amendment in the nature of a substitute restricting the use of the House contingent fund for committee expenses to travel only in the United States and providing that no

6. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess.

7. William H. Natcher (Ky.).

appropriated funds be used for committee expenses outside the country, where local currencies are available, an amendment prohibiting the use of funds "authorized for a committee" for expenses of retiring Members was held germane as a further restriction on the availability of committee funds.

During consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The proceedings of Oct. 8, 1974,[8] were as follows:

MR. [JOHN J.] DUNCAN [of Tennessee]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: Page 28, line 20, strike out "committee". . . .

Page 29, after line 21, insert the following new subparagraph:

"(2) No funds authorized for a committee shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—

"(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary or regular election until such time as he shall thereafter again become a Member; or

"(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make a point of order against the amendment. It changes the Constitution of the United States wherein it reduces the term of office of a Member and takes away some of his prerogatives and privileges that he has for a 2-year term equal to other Members, and it in effect makes a second-class citizen of a Member who may decide to retire. . . .

THE CHAIRMAN:[9] The Chair is ready to rule.

The Chair cannot pass upon constitutional questions. The Chair can only pass upon the germaneness of the amendment offered by the gentleman from Tennessee.

The Chair notes that the amendment is directed to the portion of the Hansen amendment relating to funds for committee travel and unlike the language in the prior amendment against which the point of order was sustained, does not appear to be broader in effect than the language in the Hansen amendment. The Chair holds the amendment germane and overrules the point of order.

Parliamentarian's Note: The prior ruling referred to by the Chair is discussed in § 34.6, supra.

8. 120 CONG. REC. 34465, 93d Cong. 2d Sess.

9. William H. Natcher (Ky.).

Provision Authorizing Missile System Depending on Specified Conditions—Amendment Containing Unconditional Prohibition on Missile System for One Year

§ 34.8 To an amendment precluding the availability of an authorization for a program for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative; thus, where an amendment as amended authorized procurement of an MX missile system after a time certain during the fiscal year if the President determined that the Soviet Union was not limiting similar weapons, a subsequent amendment prohibiting the use of funds in that title as a one year moratorium on the MX program notwithstanding other language in the amendment was held germane as an unconditional prohibition for the same fiscal year.

During consideration of H.R. 5167 (the Military Procurement Authorization for fiscal 1985), on May 16, 1984,[10] the Chair overruled a point of order against the following amendment:

> MR. [NICHOLAS] MAVROULES [of Massachusetts]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Mavroules to the amendment offered by Mr. Bennett: At the end of the section proposed to be added by the amendment add the following:
>
> MORATORIUM ON MX MISSILE PROCUREMENT
>
> Sec. 111. (a) Notwithstanding section 103(a) of this title, the maximum amount that may be appropriated for fiscal year 1985 for missiles for the Air Force is $5,942,700,000.
>
> (b) None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for the MX missile program.
>
> (c) It is the intent of Congress that the denial of funds for procurement under the MX missile system program for fiscal year 1985 constitutes a moratorium on procurement of missiles under such program but does not constitute a unilateral termination of that program.

MR. [WILLIAM L.] DICKINSON [of Alabama]: Mr. Chairman, I reserve a point of order on the amendment.

> THE CHAIRMAN:[11] Does the gentleman from Alabama (Mr. Dickinson) insist on his point of order?

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10. 130 CONG. REC. 12566, 12567, 98th Cong. 2d Sess.

11. Dan Rostenkowski (Ill.).

MR. DICKINSON: The gentleman will insist on the point of order.

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

MR. DICKINSON: Mr. Chairman, without having had an opportunity to study it, and I have not, but let me attempt to, it appears that this is broader than the scope of what we have just worked on. And I think it takes out missiles for more than just the MX. At this point it affects 1984 money, and at this point, without having any prior notice, there is no chance for me or staff to study it. . . .

So I respectfully submit that it is not germane, Mr. Chairman. . . .

THE CHAIRMAN: The Chair would rule that the amendment offered by the gentleman from Massachusetts is germane to the Bennett amendment as amended and the Chair does not rule on the consistency of amendments and, therefore, rules that the amendment is in order.

Production of Chemical Weapons

§ 34.9 To an amendment only decreasing the fiscal year 1984 authorization for Army ammunition funds in Title I of the Defense Department authorization bill, a substitute adding language prohibiting use of any Defense Department funds for the production or procurement of binary chemical weapons was held to be not germane because addressing funds not addressed by the pending amendment.

During consideration of H.R. 2969 in the Committee of the Whole on June 15, 1983,[12] the Chair, in sustaining a point of order against the amendment described above, indicated that a substitute for an amendment must be germane to the amendment to which offered:

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000". . . .

MR. [ED] BETHUNE [of Arkansas]: Mr. Chairman, I offer an amendment as substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bethune as a substitute for the amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000".

Page 10, after line 12, insert the following new section:

PROHIBITION ON PROCUREMENT OF BINARY CHEMICAL MUNITIONS AND RELATED PRODUCTION FACILITIES, EQUIPMENT, AND PRECURSOR CHEMICALS

Sec. 109. (a) None of the funds appropriated pursuant to the authorizations of appropriations in this title may be obligated or expended

12. 129 CONG. REC. 15803, 15809, 98th Cong. 1st Sess.

for procurement of binary chemical munitions or for production facilities, equipment, or precursor chemicals for such munitions.

(b) No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority. . . .

MR. [SAMUEL S.] STRATTON (of New York): Mr. Chairman, under section 109 of the amendment, on line 9, it says,

> No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority.

The point of order is that this bill is a bill that would authorize funds for fiscal year 1984 exclusively, whereas the amendment deals with funds that might have been made available to the Department of Defense in other ways, prior years, or subsequent year, and, therefore, is outside of the scope of the pending legislation and is, therefore, out of order. . . .

THE CHAIRMAN PRO TEMPORE:[13] The Chair will rule.

The Zablocki amendment addresses the Army ammunition funds authorized by title I of the pending bill. The Bethune substitute addresses other funds available to the Department of Defense not authorized by the pending title I and is not germane to the Zablocki amendment.

The Chair sustains the point of order.

Military Operations in North Vietnam

§ 34.10 To a bill authorizing supplemental appropriations for military procurement, research and development, and military construction, an amendment declaring it to be the sense of Congress that none of the funds therein authorized shall be used to carry out military operations in North Vietnam, was held to be germane.

In the 90th Congress, during consideration of a bill[14] comprising supplemental military authorizations for fiscal 1967, an amendment was offered[15] as described above. Mr. L. Mendel Rivers, of South Carolina, raised the point of order that the amendment was not germane to the bill.[16] The Chairman,[17] in ruling on the point of order, stated:

> The amendment relates only to funds authorized in this bill and is similar in concept to an amendment offered to the Foreign Assistance Act of 1950.

13. John P. Murtha (Pa.).

14. H.R. 4515 (Committee on Armed Services).

15. 113 CONG. REC. 5142, 5143, 90th Cong. 1st Sess., Mar. 2, 1967.

16. *Id.* at p. 5143.

17. Daniel D. Rostenkowski (Ill.).

That amendment provided that no money authorized by the bill should be granted to any country which violated the Charter of the United Nations.

It was thus a restriction on funds authorized by the bill.

Chairman [Oren] Harris of Arkansas ruled that it was germane—81st Congress, March 30, 1950, Record, page 4550.

The Chair thinks the present amendment simply places a restriction on authorizations contained in this bill and relates only to the funds in this bill.

The Chair holds that the amendment is germane.

Congressional Support for Geneva Accords

§ 34.11 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except in accordance with a congressional declaration of support for the Geneva accords of 1954 and 1962 was held to be not germane.[18]

Use of Funds To Relocate Vietnamese Evacuees in High Unemployment Areas in United States

§ 34.12 To a substitute dealing with humanitarian and evacuation assistance out of South Vietnam, an amendment prohibiting the use of such assistance to relocate or to create employment opportunities for evacuees in high unemployment areas in the United States was held to raise issues beyond the scope of the bill and was held to be not germane.

During consideration of H.R. 6096[19] in the Committee of the Whole on Apr. 23, 1975,[20] Chairman Otis G. Pike, of New York, sustained a point of order and held that the following amendment went beyond the scope of the bill and was therefore not germane:

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Clay to the amendment offered by Mr. Eckhardt, as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Add a new section to the end of the bill which reads:

"No funds authorized under this act shall be used directly or indirectly to transport Vietnamese refugees to any congressional district or

18. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967. See § 30.6, supra.

19. The Vietnam Humanitarian and Evacuation Assistance Act.

20. 121 CONG. REC. 11512, 94th Cong. 1st Sess.

create employment opportunities in any congressional district where the unemployment rate exceeds the national unemployment rate as defined by the Bureau of Labor Statistics of the United States Department of Labor.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It goes greatly beyond the scope of the bill and the amendment in the nature of a substitute. Nothing in the bill or in the amendment in the nature of a substitute deals with the national unemployment rate. . . .

MR. CLAY: . . . The amendment simply imposes a condition that none of the money may be used, or a limitation on the way the money will be spent. I do not know how it goes beyond the scope of this bill or the amendment in the nature of a substitute.

THE CHAIRMAN: The Chair is ready to rule. For the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) and for the fact that the contingency set forth in the gentleman's amendment is not related to the purposes of the bill, the point of order is sustained.

Funds for Deployment of Troops Beyond Specified Period

§ 34.13 To a bill authorizing funds and limited use of troops for a specific purpose, an amendment stating that "notwithstanding any other provision of this Act" funds authorized in the Act could not be used for deployment of troops beyond a certain period of time was held to be a proper limitation on use of funds and germane to the bill.

On Apr. 23, 1975,[1] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[2] in the Committee of the Whole, Chairman Otis G. Pike, of New York, overruling a point of order, held the following amendment to be germane:

MR. [STEPHEN J.] SOLARZ [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Solarz to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Page 1, line 5, insert "(a)" immediately after "Sec. 2.", and page 2, immediately after line 2, add the following new subsection:

(b) Notwithstanding any other provision of this Act, no funds authorized or made available under this Act may be used to finance, directly or indirectly, any combat activity, any involvement in hostilities, or any military or paramilitary operation, by the Armed Forces of the United States in, over, or off the shores of South Vietnam after the end of the 30-day period beginning on the first date after the date of enactment of this Act on which any American

1. 121 CONG. REC. 11508, 94th Cong. 1st Sess.
2. H.R. 6096.

ground combat forces are introduced into South Vietnam in conjunction with any program of evacuation as defined by Section 4 of this Act. . . .

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

From the few brief words that I heard, the amendment talks about authorizing funds, authorizing the President to operate in combat areas after a 30-day period of time, and I do not know whether that has to do with any provision in the bill. I raise a point of order against it. . . .

MR. SOLARZ: . . . I think it is quite clear from the debate today that the President had the inherent constitutional authority to send American troops to evacuate American citizens and their dependents.

My amendment says, in effect, if any troops are sent in, they cannot be sent in for any more than 30 days. I think it is quite clear under the constitutional powers that this amendment is germane. . . .

MS. HOLTZMAN: . . . I did not understand that there was anything in the bill that authorized the President to engage our troops in combat in Laos or anyplace else and, therefore, it seems to me the gentleman's amendment is not germane and subject to a point of order. . . .

MR. [WAYNE L.] HAYS of Ohio: . . . There is no question in my mind, with all of the precedents I have heard around here for many years, that this is a germane amendment. It is simply a limitation of the proposed legislation, no more and no less. It limits the time that the President can do the things that this bill will give him permission to do for 30 days. It is that simple.

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

This amendment constitutes and states in its language, "Notwithstanding any other provision of this act, no funds authorized or made available under this act may be used to finance," et cetera.

It is a limitation on the funds authorized in the act.

The amendment is germane, and the point of order is overruled.

Assistance Barred for Country Engaging in Aggression

§ 34.14 To a bill to provide foreign economic assistance, an amendment proposing that none of the money therein authorized be granted to any country which violates the Charter of the United Nations or engages in acts of aggression was held to be germane.

In the 81st Congress, during consideration of a bill [3] to provide foreign economic assistance, the following amendment was offered: [4]

Amendment offered by Mr. [Abraham J.] Multer [of New York]: On page 31, after line 10, insert the following:

---

3. H.R. 7797 (Committee on Foreign Affairs).

4. 96 CONG. REC. 4550, 81st Cong. 2d Sess., Mar. 31, 1950.

> Title IV, section 401. No money under any of the previous titles of this bill, or any of the acts amended by this bill, shall be granted, lent, or used directly or indirectly, and no assistance provided for, shall be made available to . . . any country which violates any provisions of the Charter of the United Nations, or directly or indirectly engages in acts of aggression as determined by proclamation of the President of the United States of America, or by the United Nations, so long as such acts continue, nor to, for, or in any country which directly or indirectly sells, gives, or ships any material to any country to which American nationals cannot obtain licenses for the sale, gift, or shipment of similar materials unless the consent of the President shall have first been obtained.

Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane to the bill. The Chairman,[5] in ruling on the point of order, stated:

> The language of the amendment relates to a title of the bill.
>
> The point of order is overruled.

Operation of Early-warning System in Sinai—Amendment Making Funds Dependent on Reduction in United States Contribution to United Nations' Peacekeeping Forces

§ 34.15 To a joint resolution authorizing the use of American civilians to operate an early-warning system in the Sinai, an amendment providing that funds subsequently authorized to carry out the provisions of the resolution may only be used to the extent that the United States contribution to the United Nations' peacekeeping forces in the Middle East is proportionately reduced, there being no mention of the United Nations' peacekeeping role or of United States contributions thereto in the resolution, was held to go beyond the scope of the resolution and was ruled out as not germane.

During consideration of House Joint Resolution 683 (to implement the United States proposal for the early-warning system in the Sinai), the Chair sustained a point of order against the amendment described above. The proceedings of Oct. 8, 1975,[6] in the Committee of the Whole, were as follows:

> MR. [C. W.] YOUNG of Florida: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Young of Florida: Page 2, line 10, after the period insert the following new sentence: To the extent funds are authorized to carry out the provisions of this resolution, such funds may be

5. Oren Harris (Ark.).

6. 121 CONG. REC. 32430, 32431, 94th Cong. 1st Sess.

> used only to the extent that the United States contribution to the United Nations for the purpose of peacekeeping forces in the Middle East is reduced. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I raise a point of order against the amendment.

Mr. Chairman, the amendment is not germane under clause 7 of rule 16 because it deals with a subject matter which is not dealt with in this resolution. The resolution would authorize the stationing of American technicians in the Sinai.

The cost of this operation would come from the special requirements fund for the Middle East, under section 903 of the Foreign Assistance Act. Neither the resolution before the House, nor section 903 of the Foreign Assistance Act, deal with the U.N. peacekeeping force.

The U.S. participation in the U.N. peacekeeping force is authorized by different legislation. U.S. contribution to that force comes also from separate legislation. The amendment, by attempting to tie this resolution to U.S. contribution to the U.N. peacekeeping force, goes far afield from the purpose of this legislation. It would considerably broaden the scope of this legislation and is therefore not germane. . . .

MR. YOUNG of Florida: . . . The title of House Joint Resolution 683 reads:

> To implement the United States proposal for the early-warning system in Sinai.

The resolving clause says:

> That the President is authorized to implement the "United States Proposal for the Early-Warning System in Sinai"

Mr. Chairman, the vast authority to implement stressed in the title and resolving clause make this an extremely broad and encompassing piece of legislation, in fact, more so than most.

For example, according to the report and also according to my earlier colloquy with the chairman, implementation of this early warning proposal will require $20 million the first year of already appropriated funds or funds still to be appropriated.

Since this resolution authorizes the implementation of the proposal, without a doubt, it inherently authorizes the spending of the funds.

The Chair has ruled many times that amendments to place a limitation on appropriations bills are in order if said amendments are limiting in nature and do not include legislation. . . .

Further, Mr. Chairman, I submit that the language of the title and resolving clause of this resolution are in fact broad enough that this amendment be considered in order.

THE CHAIRMAN:[7] The Chair is prepared to rule.

The gentleman from Pennsylvania (Mr. Morgan) makes a point of order against the amendment offered by the gentleman from Florida (Mr. Young) on the grounds that it is not germane to the joint resolution.

The Chair observes that the resolution does not involve the role of the U.N., and that the amendment would broaden the scope of the pending measure in a significant manner. By requiring a reduction in the U.S. contribution to the U.N. peacekeeping force, in an

7. K. Gunn McKay (Utah).

amount necessary to accomplish the purpose of the joint resolution, the amendment would inject into the joint resolution the issue of the extent of U.S. participation in the U.N. peacekeeping force and the issue of the curtailment of the entire peacekeeping role of the United Nations in the Middle East. As stated in Cannon's Procedure, page 205, two subjects are not necessarily germane because related, and the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill, as indicated at page 199, Cannon's Procedure.

For the reasons stated, the Chair sustains the point of order.

Federal Aid Road Act—Restriction Affecting States Practicing Segregation

§ 34.16 To a bill to amend and supplement the Federal Aid Road Act, an amendment providing that no funds collected under the act be available to any state or subdivision in which segregation is practiced in restaurants, restrooms, or in road construction was held to be germane.

In the 84th Congress, a bill[8] was under consideration amending the Federal Aid Road Act. The following amendment was offered to the bill:[9]

Amendment offered by Mr. [Earl] Wilson of Indiana:

On page 32, following line 7, add a new section 19:

No funds collected under this act may be available to any State, city, or subdivision in which segregation is practiced in restaurants, restrooms, or in road construction. . . .

The following exchange concerned a point of order raised against the amendment:

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

MR. WILSON [of Indiana]: . . . Here we are authorizing this great appropriation, under which we are going to spend billions of dollars in every State in the Union. Yet, there are some States in which the Negroes are not going to have a chance to work and earn part of this money to pay the taxes to build the highways, to earn money to pay the excise taxes on their trucks, to earn money to pay the extra cost of their tires.

. . . I think these Negroes should be given the opportunity to help build the highways because they are going to help to pay the taxes. I think they should be able to use the facilities, the restaurants, and the comfort stations, and so forth, that appear along the highways.

THE CHAIRMAN:[10] The gentleman from Indiana offers an amendment to provide for a limitation on the funds collected under the pending bill, to which the gentleman from Alabama [Mr. Jones] makes a point of order.

It is the opinion of the Chair that since the amendment refers to and

8. H.R. 7474 (Committee on Public Works).

9. 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955.

10. Eugene J. Keogh (N.Y.).

touches upon the funds collected under this act, limiting their use, the amendment is germane; therefore, the Chair overrules the point of order.

Branches of Air Force Practicing Segregation

§ 34.17 To that section of a supplemental appropriation bill making appropriations for the Air Force, an amendment providing that none of the funds appropriated therein be used in branches of the Department of the Air Force in which racial segregation exists was held to be germane.

In the 80th Congress, during consideration of a bill[11] comprising Supplemental National Defense Appropriations of 1948, an amendment was offered[12] as described above. A point of order was raised against the amendment, as follows:

> MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that this amendment is not germane and it is, therefore, not in order on this bill; that it is legislation on an appropriation bill; that [it] imposes additional burdens and restrictions that are entirely out of place.
>
> This is an aircraft procurement bill. This is not a labor bill. . . .

In defending the amendment, the proponent, Mr. Adam C. Powell, Jr., of New York, stated:

> . . . This is an amendment which has limitations; it is negative; it is the type that has been ruled in order on previous appropriation bills.

The Chairman[13] overruled the point of order.

Persons or Corporations Practicing Discrimination in Employment

§ 34.18 To a bill on the Consent Calendar seeking to remove from a paragraph of an appropriation bill a provision that no loans be made for the construction of any public works except in pursuance of a specific authorization, an amendment was held to be not germane which provided that none of the funds appropriated in the same paragraph "shall be paid to any person, firm or corporation which refuses equality in employment because of race, color or creed."

In the 81st Congress, during consideration of a bill[14] relating to loans by federal agencies for the construction of certain public

11. H.R. 6226 (Committee on Appropriations).
12. 94 CONG. REC. 4543, 80th Cong. 2d Sess., Apr. 15, 1948.
13. Joseph P. O'Hara (Minn.).
14. H.R. 1771 (Committee on Public Works).

works, an amendment was offered[15] as described above. A point of order was raised against the amendment, as follows:[16]

> MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, I make a point of order against the amendment that it is not germane to the bill under consideration. It is not a limitation because there is no appropriation involved. The purpose of the pending bill is merely to remove a restriction on legislation already passed where appropriations have been made. This makes no appropriation whatever.

In defense of the amendment, the proponent stated as follows:[17]

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, my amendment refers to the First Deficiency Appropriation Act of 1946. This bill, H.R. 1771, seeks to make amendments to that act. I submit the amendment I have offered to the pending bill is a further amendment of the Federal Public Works section of that act. My amendment is a further proviso restricting the use of funds. . . .

The Speaker pro tempore,[18] without elaboration, sustained the point of order.

Actions Brought on Account of Discriminatory Practices of State and Local Governments

§ 34.19 To that title of a bill authorizing the Attorney General to participate in actions brought on account of discriminatory practices of state and local governments, an amendment to limit expenditures to carry out purposes of the title was held to be germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Harold R.] Gross [of Iowa]: On page 50, line 3, after the word "title" insert a new section 305 to read as follows:
>
> In carrying out the provisions of title III of H.R. 7152 expenditures shall be limited to not more than $312,530.

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment of the gentleman from Iowa is not germane to the title of the bill. It would limit expenditures. The title itself makes no mention of expenditures; therefore, the amendment is not germane.

THE CHAIRMAN,[1] in ruling on the point of order, stated:

> The Chair will hold that the amendment is in the form of a limitation on

15. 95 CONG. REC. 7951, 81st Cong. 1st Sess., June 20, 1949.
16. *Id.* at pp. 7951, 7952.
17. *Id.* at p. 7952.
18. Jere Cooper (Tenn.).
19. H.R. 7152 (Committee on the Judiciary).
20. 110 CONG. REC. 2274, 88th Cong. 2d Sess., Feb. 6, 1964.
1. Eugene J. Keogh (N.Y.).

the authorizations of appropriations which may be made under the title; that there are sections authorizing activities for carrying out the provisions and of the title; and therefore the Chair overrules the point of order. . . .

Transportation Programs Intended To Overcome Racial Imbalance

§ 34.20 To a program authorizing federal financial assistance, an amendment limiting the uses to which those funds may be put is germane; thus, to a bill providing assistance for mass transportation programs, including language permitting school systems to be eligible applicants for schoolbus construction and operating subsidies where not in competition with private operators, an amendment prohibiting the use of funds authorized by the bill to implement transportation programs intended to overcome racial imbalance in school systems was held germane as a restriction on the availability of assistance contained in the bill.

On Aug. 15, 1974,[2] during consideration of H.R. 12859[3] in the Committee of the Whole, it was demonstrated that the germaneness of an amendment should be determined from provisions of its text rather than from the purposes which circumstances may suggest. The proceedings were as follows:

"§ 520. SCHOOLBUSES

"No Federal financial assistance shall be provided under this title for the construction or operation of facilities and equipment for use in providing public mass transportation service to any applicant for such assistance unless such applicant and the Secretary shall have first entered into an agreement that such applicant will not engage in schoolbus operations, exclusively for the transportation of students and school personnel, in competition with private schoolbus operators. This section shall not apply to an applicant with respect to operation of a schoolbus program if the applicant operates a school system in the area to be served and operates a separate and exclusive schoolbus program for this school system. This section shall not apply unless private schoolbus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards; and this section shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) was so engaged in schoolbus operations any time during the twelve-month period immediately prior to the

2. 120 CONG. REC. 28423, 28438, 28439, 93d Cong. 2d Sess.

3. The Federal Mass Transportation Act of 1974.

date of the enactment of this section. A violation of an agreement under this section shall bar such applicant from receiving any other Federal financial assistance under this title.

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Snyder: Page 68, line 4. After the period insert the following: "No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation), in order to carry out a plan of racial desegregation of any school or school system," . . .

MR. JAMES V. STANTON [of Ohio]: I do insist on my point of order, Mr. Chairman. I believe that the amendment as offered by the gentleman from Kentucky is totally unrelated to a national bus transportation policy that is being considered under this act. His amendment goes to a policy of social concern that he apparently has a deep commitment to, that I do not think should be considered in this bill, because this bill is dealing with physical property in transportation. It is not dealing with social causes involved in the gentleman's amendment. . . .

MR. SNYDER: . . . Certainly there is no question that what the gentleman says is absolutely correct. This is unrelated to the mass transit policy of this country, but it is absolutely related to the language of this bill and the exception to the prohibition that appears on line 13, page 67, relates not to the mass transit policy of this Nation, but to an individual school system that might operate a schoolbus system in connection with their school operation. There is where the prohibition is necessary if, in fact, the funds are not going to be used for this purpose.

THE CHAIRMAN:[4] The Chair is prepared to rule on the point of order.

The Chair would remind the committee that the germaneness of an amendment should be determined from provisions of its text, rather than from the purposes which circumstances may suggest (Hinds' Precedents, volume V, sections 5783, 5803).

Since the text of the amendment is related to a subject covered by the bill, which is to say there is money authorized in the bill for the construction and operation of buses which might be used for the transportation of students, it is germane to place a limitation on the uses for which that money may be directed.

Funds To Purchase Foreign-made Goods

§ 34.21 To a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment denying the use of those authorities or funds to purchase foreign-made goods or equipment is germane.

The proceedings of Dec. 4, 1980, during consideration of H.R. 6417,

4. James W. Symington (Mo.).

the Surface Transportation Act of 1980, are discussed in § 35.82, infra.

Funding Denied Unless Goods Produced by Slave Labor in Soviet Union are Barred From Customs Entry

§ 34.22 To a Senate amendment to a general appropriation bill prohibiting the availability of funds in any Act for salaries and expenses for the Office of the Assistant Secretary of Treasury for Enforcement and Operations after a date certain unless Congress enacts authorizing legislation for the Customs Service, a proposed substitute amendment restricting availability of funds in that bill for the same office unless specific categories of products, determined to have been produced by slave or convict labor in the Soviet Union, are barred from customs entry into the United States was conceded to be not germane as a condition totally unrelated to that contained in the Senate amendment.

On Nov. 7, 1985,[5] during consideration of H.R. 3036[6] in the Committee of the Whole, the Chair sustained a point of order against an amendment, thereby holding that to a proposition conditioning the availability of funds upon the enactment of an authorizing statute for an enforcing agency, a substitute proposal conditioning the availability of some of those funds upon a prohibition of certain imports into the United States was not germane, as establishing a contingency unrelated to that contained in the proposition to which offered. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[7] The Clerk will designate the first amendment in disagreement.
>
> The text of the amendment is as follows:
>
> > Senate amendment No. 3: Page 2, line 14, after "Annex" insert ": *Provided further,* That none of the funds contained in this or any other Act shall be available for the salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations, after March 1, 1986, unless United States Customs Service authorizing legislation is passed by the Congress."

5. 131 CONG. REC. 30984, 30985, 99th Cong. 1st Sess.
6. The Department of the Treasury and Postal Service Appropriations, fiscal 1986.
7. John P. Murtha (Pa.).

MR. [EDWARD R.] ROYBAL [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "*Provided*, That none of the funds appropriated by this Act shall be available for the salaries and expenses of the Office of the Assistant Secretary of the Treasury for Enforcement and Operations if any of the following products of the Union of Soviet Socialist Republics are entered, or withdrawn from warehouse, for consumption in the customs territory of the United States after December 31, 1985, unless the Commissioner of Customs is provided with sufficient information pursuant to 19 CFR 12.43 attesting to the fact that the products have not been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions:

"(1) gold ore,

"(2) agricultural machinery . . .

"(8) any other product that the Commissioner of Customs determines to have been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions: *Provided further,* That none of the funds appropriated by this Act shall be available to hinder or impede the Commissioner of Customs in making determinations tons in making determinations under subsection (8) of the preceding proviso". . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order that the amendment is not germane to the Senate amendment numbered 3 under clause 7 of rule XVI of the rules of the House.

Senate amendment numbered 3 provides that no funds shall be available for salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations after March 1, 1986, unless Congress passes authorizing legislation for the U.S. Customs Service.

The proposed substitute amendment, on the other hand, prohibits funding of that office unless seven specific categories of products and other categories determined by the Commissioner of Customs to be produced by slave or convict labor in the Soviet Union are barred entry into the United States after December 31.

The amendment clearly raises new issues and involves subject matter quite different from the Senate amendment. It also constitutes legislation specifically to prohibit certain imports within the jurisdiction of another committee. . . .

MR. ROYBAL: Mr. Speaker, I rise in opposition to the point of order at this particular point, and I just would like to state that the original Senate amendment provided that none of the funds contained in this or any other act shall be available unless the U.S. Customs Service authorizing legislation is passed by the Congress. . . .

This provision is more restrictive than the amendment in the Senate bill in that, No. 1, it limits the prohibition of funds to those made available by this act only and it does not apply to any other act.

No. 2, the language included in the amendment could appropriately be included in the authorizing legislation designated in the Senate amendment. It, therefore, does not address any ad-

ditional topic, question, issue, or proposition not committed to committee or conference because the Customs authorizing legislation could contain all of the provisions included in the amendment.

It is the committee's position that the primary purpose of this provision is not to change the scope of existing law. The purpose of this amendment is to compel the U.S. Customs Service to enforce existing laws.

I would like to put the administration on notice that we expect them to start enforcing the law.

Having said that, Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman concedes the point of order, and the point of order of the gentleman from Minnesota [Mr. Frenzel] is sustained.

United States Payments to Asian Development Bank

§ 34.23 To be germane an amendment restricting authorized funds in a pending title must relate solely to those funds and may not apply to another related category of funds; thus, to a title of a bill authorizing a United States contribution to the Asian Development Fund, a special fund of the Asian Development Bank, and providing for accounting procedures by the Bank applicable to such contribution, an amendment restricting United States payments to the Bank for subscriptions in Bank stock, as well as payments to the special Fund, was held not germane since affecting funds not carried in the bill.

During consideration of H.R. 3829 (8) in the Committee of the Whole on Mar. 6, 1980,(9) the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

TITLE II—ASIAN DEVELOPMENT BANK

Sec. 201. The Asian Development Bank Act, as amended (22 U.S.C. 285 et seq.), is further amended by adding at the end the following new section:

"Sec. 24. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $445,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $445,000,000 for pay-

8. A bill increasing United States participation in international financial institutions.

9. 126 CONG. REC. 4960, 4970, 4971, 96th Cong. 2d Sess.

ment by the Secretary of the Treasury.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury shall pay the United States contribution to the Asian Development Fund authorized by this section by letter of credit in four annual installments. The Secretary of the Treasury is directed to take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.". . .

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 3, line 24, strike out "section" and insert in lieu thereof "sections".

Page 4, insert the following after line 21:

"Sec. 25. No payment may be made to the Bank by the Secretary of the Treasury for (1) the United States share of the increase in subscriptions to the paid-in capital stock and callable capital stock, or (2) the United States contribution to the Asian Development Fund, if Taiwan (before January 1, 1979, known as the Republic of China) is excluded from membership in the Bank."

Page 4, line 21, strike out the closed quotation marks and final period. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, the amendment is not germane to the bill before us. Chapter 28 of "Deschler's Procedure" sets forth many examples of and precedents indicating that an amendment must be germane to the bill before the committee.

In this instance, the amendment offered by the gentleman from New York would, if adopted, amend the relationship of the United States to the Asian Development Bank.

The bill before the committee in no way makes any reference to the Asian Development Fund.

I would argue that the gentleman's amendment is not germane and should be ruled out of order. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, the legislation before us is the general authorizing legislation for all of the various multilateral lending institutions covered by the bill. The terms of this bill before us are broad in scope, and in the case of the Asian Development Bank, they specifically, for instance, in title IV, section 401, direct the Secretary of the Treasury to instruct the Directors of the Asian Development Bank to take certain steps regarding some future contingent event described therein. There are a number of other restrictions placed upon the lending institutions described in this bill.

The gentleman from New York's amendment simply suggests an additional limitation of the same quality and type already included in this bill be imposed upon the Secretary of the Treasury as it pertains to the Asian Development Bank, one of the institutions that the bill authorizes. The amendment is germane. . . .

MR. SOLOMON: . . . I would just like to explain, in reference to the germaneness of the amendment, that this amendment would prohibit the U.S. participation in the Asian Development

Bank if Taiwan is excluded from membership in that particular bank.

The gentleman is talking about the Asian Development Fund, rather, capital stock, and the pending bill makes no reference to capital stock. We are talking about the Asian Development Fund.

So the gentleman's amendment properly is not germane to the subject matter under consideration.

MR. SOLOMON: With all due respect to the chairman, it is simply a limitation. It refers to title II, the Asian Development Bank. I would state that the amendment is germane.

MR. GONZALEZ: Mr. Chairman, if I may be heard further, I do so only to underline the major motivation for my point of order, and this is that our bill addresses itself to the Asian Development Fund. At no point is it considering the question of capitalization structure or the stock. . . .

THE CHAIRMAN:[10] The Chair would direct [a] question to the gentleman and ask whether or not the $445 million authorized to be contributed in title II, does it include in that the U.S. share of subscriptions to the paid-up in capital stock and the callable capital stock, as well as the contribution to the Asian Development Fund?

MR. GONZALEZ: No; if the distinguished chairman will look at page 4 of the bill, the first line, section 24(a):

> The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $445 million to the Asian Development Fund.

There is a distinction between the fund and the bank. The amendment of the gentleman addresses itself to the bank and the capitalization structure, et cetera, et cetera. . . .

THE CHAIRMAN: The Chair is prepared to rule.

Having examined title II, and concurring with the gentleman from Texas that the authorizations are entirely to the Asian Development Fund and without reference to the bank and without reference to either paid in capital stock or callable capital stock, the Chair is forced to rule that to that extent the amendment offered by the gentleman from New York (Mr. Solomon) is nongermane to title II of H.R. 3829.

Restriction on Funds for Abortions

§ 34.24 To the "general provisions" title of the annual Defense Department authorization bill, including authorizations for special pay to health professionals within the armed services and authorization ceilings on payments to physicians under the uniformed services health benefit program (CHAMPUS) as well as other miscellaneous provisions and authorizations, an amendment prohibiting the use of funds authorized by the bill to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term

10. Robert Duncan (Ore.).

was held in order as a germane limitation on the use of the funds and authorities provided in the bill.

On Oct. 4, 1978,[11] the Committee of the Whole was considering an amendment to H.R. 14042 when a point of order was raised against the amendment on grounds that it was not germane. The proceedings were as follows:

MR. [ROBERT K.] DORNAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dornan: Page 39, immediately after line 3, insert the following new section:

PROHIBITION ON USE OF FUNDS FOR ABORTIONS

Sec. 818. None of the funds authorized to be appropriated by this Act may be used to pay for abortions performed by any means except where the life of the mother is in danger if the fetus is carried to term, nor may such funds be used to promote or encourage abortion.

MR. [MENDEL J.] DAVIS [of South Carolina]: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, I rise to make a point of order against the amendment on the basis of germaneness. In this bill, title I authorizes money for the procurement of major weapons systems for the Department of Defense.

Title II authorizes funds for R. & D. by the Department of Defense, and title VII authorizes funds for Civil Defense. However in the operation and maintenance of hospitals, medical clinics, payments for the services, and so forth, they are operated and paid for out of the O. & M. account and therefore not subject for authorization by this bill.

The amendment was introduced likewise on the appropriation bill. That is where it should have been, because that is where the moneys are, but, Mr. Chairman, to burden this bill with a nongermane amendment going to a limitation of funds that are not authorized by this bill is improper, and I would hope the Chair would sustain the point of order.

THE CHAIRMAN:[12] Does the gentleman from California (Mr. Dornan) care to be heard on that point of order?

MR. DORNAN: Yes, Mr. Chairman.

The distinguished gentleman from South Carolina did not mention title VIII. If my colleagues will turn to title VIII of this bill they will see a section entitled "Extension of Authority for Special Pay for Health Professionals." This impacts of course in some areas on abortion. On page 29 they will see the heading "Ceiling for Payments to Physicians Under CHAMPUS." It was this very program that first called my attention to how far we had moved in supporting and encouraging abortion with Defense dollars, because it was under this program in a military medical journal where they began to outline how vigorously they were going to move in the area of abortion far and beyond the movement we have seen, contrary to the wishes of the President and of Mr. Califano even in HEW.

11. 124 CONG. REC. 33529, 33530, 95th Cong. 2d Sess.

12. Dan Rostenkowski (Ill.).

So I believe it is not only germane, it is super-germane to this bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment offered by the gentleman from California (Mr. Dornan) and noted the arguments made by the gentleman from South Carolina (Mr. Davis). There are in title VIII authorizations for appropriations for certain programs involving military personnel as well as ceilings for payments and limitations with respect to the expenditure of funds involving personnel. It is for this reason and because of the specific provisions in title VIII mentioned by the gentleman from California that the Chair overrules the point of order and sustains the germaneness of the amendment.

The gentleman from California (Mr. Dornan) is recognized for 5 minutes in support of his amendment.

Education Bill—Funds for Teaching or Counseling as to Use of Abortion

§ 34.25 To a title of a bill establishing a new Department of Education, containing findings and purposes and setting forth restrictions on the authority of the new department to exercise federal control over education, an amendment denying the use of funds under federal programs to assist the teaching of or counseling as to the use of abortion was ruled out of order as not germane, being unrelated to the fundamental purpose of the title to restrict federal control over public education and curricula, inasmuch as it sought to address funding authority rather than legal restrictions.

On June 12, 1979,[13] the Chair sustained a point of order against an amendment to a title of a bill[14] which restricted the authority of an entity to exercise control over institutions for which it was to administer funding under existing laws, holding that the amendment, which curtailed the authority of the agency to provide funds for certain reasons, was not germane. The proceedings were as follows:

MR. [John M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

Sec. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be

13. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

14. H.R. 2444, Department of Education Organization Act of 1979.

> construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counseling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85–864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80–10), as amended; the Higher Education Act of 1965 (P.L. 89–329), as amended; the Adult Education Act (P.L. 89–750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I would say (the germaneness rule) requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not and I would like to speak on it if I might. . . .

Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute. . . .

MR. ASHBROOK: . . . I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1971 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts

that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the past days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

THE CHAIRMAN:[15] The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

For the reasons stated, the Chair sustains the point of order.

Amendment Denying Assistance to Health Centers in States That Permit Public Bath Houses

§ 34.26 It is not germane to condition assistance to a particular class of recipient covered by a bill upon an unrelated contingency, such as action or inaction by another class of recipient or agent not covered by the bill; thus,

15. Lucien N. Nedzi (Mich.).

to a bill only relating to federal funding and programs for community and migrant health centers not operated by state governments, an amendment denying assistance under the bill to any health center located in any state which permitted the operation of public bath houses was ruled out as imposing a nongermane contingency to bar the use of funds, since state governments were not recipients of funds in, or otherwise affected by, the provisions of the bill.

During consideration of H.R. 2418 (Health Services Amendments of 1985), in the Committee of the Whole on Mar. 5, 1986,[16] the Chair sustained a point of order against the following amendment:

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 5, after line 23 insert the following:

SEC. 7. GRANT CONDITION.

Effective 6 months after the date of the enactment of this Act, no grant may be made under section 329 of the Public Health Service Act for a migrant health center or under section 330 of such Act for a community health center if such center is located in a State which permits the operation of any public bath which is determined by the State or a local health authority to be hazardous to the public health or used for sexual relations between males. . . .

MR. [HENRY A.] WAXMAN [of California]: Mr. Chairman, I assert my point of order.

Mr. Chairman, the amendment offered by our colleague, the gentleman from California, is not germane to this bill. This bill provides for the operation of community health centers and migrant health centers. To our knowledge, no community or migrant health centers are operated by State governments. This amendment would delay the operation of the legislation until a contingency not related to the purposes of this bill is carried out by States. This amendment is not germane. . . .

MR. DANNEMEYER: . . . Mr. Chairman, the point of order that is being asserted by my friend from Los Angeles may have some merit if the proscription of the amendment had general applicability to all health care funds. It does not.

It is limited exclusively to any funding that may be available under the two programs. Community Health Centers and Migrant Health Centers. With that limitation, I think it is most appropriate to say in this authorization bill that none of the funds can be used unless, within 6 months, States of the Union who seek to apply for these funds have shut down bathhouses in their jurisdictions. In that narrow area, I believe it should pass muster as having germaneness and applicability.

MR. WAXMAN: Mr. Chairman, if I might be heard further on this amend-

16. 132 CONG. REC. 3613, 99th Cong. 2d Sess.

ment. An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. The funds granted under this program are to private entities, not to State governments.

To permit that those funds be cut off to private entities because of the inaction by State government is not germane because it is a contingency that cannot be met by the organization to which the funds would be granted. Chapter 28, section 24, provides that an amendment making the implementation of Federal legislation contingent upon the enactment of unrelated State legislation is not germane.

MR. [BARNEY] FRANK [of Massachusetts]: . . . There is reference in this amendment that would close down these programs if something was "used for sexual relations between males." There is nothing in this bill dealing with that. It introduces an entire new subject and would require the ascertainment of a fact that has nothing to do with the subject matter of this bill and would delay the enactment of the program on that basis. . . .

THE CHAIRMAN:[17] The Chair is prepared to rule.

This bill, H.R. 2418, is a categorical grant program. The money that is authorized under the bill, if appropriated, goes to community and migrant health centers and not to the States. The bill was narrowed earlier in these proceedings to remove from the bill the only paragraph that referred to the States.

This amendment by the gentleman from California, Mr. Dannemeyer, seeks to impose a condition upon a State which must be met by the State government before community health centers that may be in that State or partly in that State can receive the funds. States are not recipients of the funds provided in the bill or otherwise within the purview of the bill.

An earlier ruling of September 25, 1975, which appears in Deschler's Procedures of the House at page 596, states, "That an amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination."

Therefore, the amendment is not germane and the point of order is sustained.

Federal Energy Administration Hearings To Be Conducted in Specified Areas

§ 34.27 To a bill extending the existence of the Federal Energy Administration and authorizing appropriations for that agency, an amendment requiring that agency to promulgate regulations to assure that the agency hearings funded by the bill are conducted in the areas to be affected by that agency's actions was held germane as a restriction on the use of funds authorized by the bill.

On June 1, 1976,[18] during consideration of H.R. 12169, Chairman William H. Natcher, of Ken-

17. Neal Smith (Iowa).

18. 122 CONG. REC. 16057, 16058, 94th Cong. 2d Sess.

tucky, overruled a point of order against an amendment to the bill. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: Page 10, immediately after line 4, insert the following:

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

Sec. 3. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

"(D)(i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State. . . ."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order. . . .

[T]he amendment is not germane. If my colleagues will observe, we have a lengthy amendment here which embodies a number of things including extensive requirements for hearings in different parts of the country. But in addition to this it vests broad new discretion in the Administrator of FEA by saying that he can have a hearing or not have a hearing, or determine none is appropriate.

It also provides new quasi-judicial powers to the Administrator of the FEA to consolidate these hearings, raising great questions. There is also a series of cross-references to a large number of other parts of the Federal Energy Agency Act and of the EPCA, and as a result it is impossible to discern very quickly just what discretions and what authorities and what requirements are imposed upon the Administrator. . . .

MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Chairman, to alleviate any doubts any of my colleagues may have regarding the germaneness of this amendment, let me stress this is an amendment dealing not with just any hearings but would be one specifically tied to any hearing with respect to the disagreement over an expenditure of FEA funds. My amendment would assure that in connection with the administrative expenses paid out for FEA, the hearings—and it does not require any hearings to be held which are not now required to be held—will be held within the jurisdictions affected. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. Lagomarsino) is limited to hearings paid for by the funds authorized in this bill. The amendment restricts the uses to which such funds may be used and is germane. The Chair therefore overrules the point of order.

Contracts for Development of Synthetic Fuels—Prohibition Against Contracts With Major Oil Producers

§ 34.28 To a bill authorizing appropriations to enter into contracts for the development of synthetic fuels, an amendment prohibiting the use of the funds authorized to enter into contracts with any major oil company was held germane.

During consideration of the Defense Production Act Amendments of 1979[19] in the Committee of the Whole, it was demonstrated that to a bill authorizing appropriations and providing contracting authority, an amendment restricting the use of the authorization or contracting authority for the benefit of a certain class of recipients is germane. The proceedings of June 26, 1979,[20] were as follows:

> Amendment offered by Mr. Udall: On page 11, after line 2, insert the following:
>
> "(3) by inserting "(1)" before the first word of section (a) and by inserting the following after the last sentence.
>
> "(2) No funds authorized in subparagraph (1) above to carry out the purposes of Sections 305(d)(3) and 305(d)(5) may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company. For the purposes of this section:
>
> "(A) The term 'major oil company' means any person, association, or corporation which, together with its affiliates, either produces or refines a daily world-wide volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents". . . .

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, according to rule XVI, clause 7—that is the germaneness rule of the House—one of the tests is the jurisdiction of the committee of jurisdiction. Certainly a bill of this nature which we are talking about, when we have sort of a divestiture of certain oil companies, legislation of this sort should come from the Committee on the Judiciary.

Second, the title of the bill is another test of jurisdiction. According to the title, this is a bill "to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes."

Certainly that does not come under germaneness test and the defense title of the bill. If there is any purpose to this bill, it is to provide for the production because of defense purposes, and this is an attempt to interfere and stop a substantial section of our country from participating in the program.

So, Mr. Chairman, I think certainly under rule XVI, clause 7, my argument stands up. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The amendment is carefully draft-

19. H.R. 3930.

20. 125 CONG. REC. 16694–96, 96th Cong. 1st Sess.

ed as a limitation on authorization. It says, "No funds authorized . . . to carry out the purposes of sections" so-and-so "may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company."

The amendment is clearly germane to the bill. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: . . . Mr. Chairman, I rise to suggest that the point of order is not well taken. The provisions of this act that provide for an opportunity for Government-based cooperation provides for the limitation on the size of the contract in terms of 100-billion-a-day equivalent synthetic fuels. It has all sorts of parameters in the nature of purchases by contractors and the nature of the agreement. I think this is one further limitation that is in order in terms of this legislation. . . .

THE CHAIRMAN:[1] The Chair is prepared to rule.

The Chair cannot see any questions of germaneness raised by the amendment offered by the gentleman from Arizona (Mr. Udall). It appears to the Chair to be simply an additional restriction or condition on the contracting authority granted under this act and, therefore, to be germane.

The Chair overrules the point of order.

Direction to Department of Energy Concerning Purchase of Alternative Fuels

§ 34.29 To a title of the annual Department of Energy authorization bill, providing limitations and directions on the use of operating expenses for the entire Department funded throughout the bill, and specifically limiting the use of funds for physical facilities and for the purchase of gasoline for use of the Department, an amendment providing procedures for the Department to follow in purchasing alternative fuels for use in its vehicles during the fiscal year covered by the bill, was held germane as a further related restriction or direction on the use of operating funds for the fiscal year.

During consideration of H.R. 3000 in the Committee of the Whole on Oct. 18, 1979,[2] the Chair overruled a point of order, demonstrating that to a title of an annual authorization bill containing both limitations on the use of funds and directions to the agency for the fiscal year covered by the bill, an amendment adding further directions to that agency to be followed during the same period is germane. The proceedings were as follows:

1. Gerry E. Studds (Mass.).

2. 125 CONG. REC. 28795, 28796, 28798–800, 96th Cong. 1st Sess.

LIMITATION OF REPROGRAMMING OF FUNDS

Sec. 801. (a)(1) Subject to the limitations of sections 201(b) and 802, no amount appropriated pursuant to this Act (other than title I) may be used for any program, function, or purpose in excess of the amount expressly authorized to be appropriated for that program, function, or purpose by this Act, nor may the amount available for any program, function, or purpose from sums appropriated pursuant to this Act (other than title I) be reduced by more than 5 percent of the total of the sums appropriated pursuant to this Act for such program, function, or purpose or by more than $10,000,000 (whichever is the lesser) . . .

"(e) Not later than 120 days after the close of a fiscal year, the Secretary shall prepare and transmit to the Congress a report on—

"(1) revenues received during such fiscal year from uranium enrichment activities and other programs, and . . .

LIMITATION OF FUNDS FOR FACILITIES FOR DEPARTMENT OF ENERGY

Sec. 809. No funds authorized to be appropriated by this Act may be used for the renovation . . . of facilities to provide temporary or permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy and for which funds were appropriated by chapter V of title I of the Supplemental Appropriations Act, 1978.

LIMITATION ON USE OF GASOLINE BY DEPARTMENT

Sec. 810. No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or to reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of motor gasoline purchased . . . during the fiscal year ending September 30, 1979, by any component of the Department for which funds are authorized to be appropriated by this Act. . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 78, line 11, insert "(a)" after "Sec. 810.".

Page 78, after line 20, insert the following new subsection:

(b)(1) The Secretary of Energy shall advertise in the Federal Register to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for use during the fiscal year ending September 30, 1980, in motor vehicles owned by the Department of Energy.

(2) The Secretary shall require that each such distributor who submits such a bid include in such bid an agreement—

(A) to provide a quantity of an alternative fuel—

(i) which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline, and

(ii) the cost of which does not exceed the cost that the Secretary would incur to purchase 200,000 gallons of motor gasoline,

(B) to pay any amount, as determined by the Secretary, by which any cost of constructing, operating, and maintaining any facility for the storage of such alternative fuel ex-

ceeds the cost of constructing, operating, and maintaining any facility for the storage of motor gasoline that would have been incurred if such motor gasoline had been purchased by the Secretary in lieu of such alternative fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the rules of the House require that amendments to legislation shall be germane, first, to the bill, and second, to the portion of the bill to which they are directed.

Mr. Chairman, without addressing at this particular moment whether or not the amendment is germane to the bill, I will address the second point, which is the lack of germaneness of the amendment to the portion of the bill to which it is offered.

Mr. Chairman, if the Chair will observe, the portion of the bill to which the amendment is offered, it can be observed it is a limitation on the use of gasoline by a department. It then is a limitation on funds, which reads as follows:

> No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of the motor gasoline purchase.

In other words, we have here a limitation. The proposal that is offered by my dear friend, the gentleman from California, is one which would set up a rather large program which would require the Secretary of Energy to do a whole series of things, none of which are consistent with or which are relevant to this limitation. . . .

MR. DANNEMEYER: Mr. Chairman, section 810 of the committee bill which is before the committee now for its consideration contains a restriction on the use of funds during the existing fiscal year for the purchase of motor gasoline. That is in section 810 of the bill before the committee.

For instance, it provides that the Department of Energy is required to reduce its consumption of gasoline by not less than 15 percent during this 1980 fiscal year.

That is the very thrust of this proposed amendment. It is designed also to reduce the quantity of gasoline that is being consumed by the Department of Energy through the medium of soliciting alternative sources of supply. It is not specific; it just says, "alternative fuels" in the proposed amendment. . . .

THE CHAIRMAN PRO TEMPORE:[3] The Chair is prepared to rule.

The Chair will observe that the rules of the House require that the amendment first be germane to the pending portion of the bill to which it is offered.

Title VIII deals with operating funds and personnel expenses of the entire Department of Energy for the fiscal year 1980. The amendment appears to the Chair to be confined to fiscal year 1980 and to constitute an appropriate restriction or direction on how the Department uses its operating funds for the fiscal year in question, and it is, therefore, germane.

The Chair, therefore, overrules the point of order.

Administrative Services Related to Construction of Electrical Power Facilities

§ 34.30 To that paragraph of the Agriculture Appropria-

3. Gerry E. Studds (Mass.).

tions Bill making appropriations for the Rural Electrification Administration, an amendment was held to be germane which provided that "during the period of the war . . . no part of [the appropriation in the paragraph] shall be expended for administrative services which have to do with the construction of any facilities for the production . . . of electric power in any area now receiving central station service."

In the 77th Congress, during consideration of the Agricultural Appropriations Bill of 1943,[4] an amendment was offered[5] to a paragraph of the bill in an attempt to place restrictions, in the manner described above, on the expenditure of the appropriation in that paragraph. Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane, and that it constituted legislation on an appropriation bill. He stated:[6]

> I call the attention of the Chair to the fact that the duties of the Rural Electrification Administration are already prescribed in existing law. This amendment attempts to change that, which makes it purely legislation on an appropriation bill. Besides, as I pointed out a moment ago, this expense account has nothing whatever to do with the disposition of the money borrowed by the rural electrification cooperatives from the R.F.C. or through the R.F.C. . . .

The following exchange[7] ensued between Mr. Malcolm C. Tarver, of Georgia, who spoke in support of the point of order, and the Chairman:[8]

> MR. TARVER: Mr. Chairman, may I offer an observation in connection with this argument? The limitation which the gentleman seeks to impose upon the administrative expenses cannot be germane to this paragraph of the bill, which has nothing to do with administrative expenses but merely with the item of loans. The item of administrative expenses has already been passed.
>
> THE CHAIRMAN: The Chair would call attention to the fact that the amendment is offered to the total amount for rural electrification, which includes everything for rural electrification.

Subsequently, the Chairman overruled the point of order. He stated:

> The gentleman from Mississippi makes the point of order [that the amendment] is not germane. The Chair feels that the present amend-

4. H.R. 6709 (Committee on Appropriations).
5. 88 CONG. REC. 2445, 77th Cong. 2d Sess., Mar. 13, 1942.
6. *Id.* at pp. 2445, 2446.
7. *Id.* at p. 2446.
8. The Chairman was Robert Ramspeck (Ga.).

ment . . . being limited to the amount proposed to be appropriated for the Rural Electrification Administration, and being a limitation only upon the expenditure of those funds, is in order. . . .

Prior to the above ruling, the Chairman had ruled that a similar amendment, providing that no part of the money appropriated "under this bill" should be expended for the stated purposes, was not germane to the paragraph in question. Inclusion of the quoted language, the Chairman indicated, rendered the amendment improper at that point, "since the amendment is directed to the entire bill." [9]

Funds for Nuclear Regulatory Commission—Amendment Affecting Exports of Uranium

§ 34.31 It is germane to a bill authorizing appropriations for an agency, to prohibit the use of such funds for any purpose to which the funds may otherwise be applied; thus, to a bill authorizing appropriations for all the annual activities of the Nuclear Regulatory Commission, including review and approval of exports of uranium, an amendment prohibiting the use of funds authorized in the bill to review, process or approve exports of certain uranium was held germane.

On Nov. 5, 1981,[10] during consideration of the Nuclear Regulatory Commission authorization bill for fiscal years 1982 and 1983,[11] the Chair overruled a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Markey: Page 16, after line 20, insert the following:

Sec. 14. (a) Except as provided in subsection (b), no part of any funds authorized to be appropriated by the Act may be used by the Nuclear Regulatory Commission to review, process, or approve any application for a license to export uranium enriched to greater than 20 percent U–235.

(b) The prohibition contained in subsection (a) shall not apply to any application for a license to export uranium if such uranium is exported for use in reactors which the Nuclear Regulatory Commission determines cannot feasibly be converted to low enriched uranium. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: . . . Mr. Chairman, I make a point of order against this amendment. I make the point of order against the amendment on the grounds that the amendment is not germane to the bill and the amendment is not germane to the nature of the substitute

9. See the proceedings at 88 CONG. REC. 2445, 77th Cong. 2d Sess., Mar. 13, 1942.

10. 127 CONG. REC. 26715, 26716, 97th Cong. 1st Sess.

11. H.R. 4255.

that is before us and thus is in violation of clause 7 of rule XVI of the rules of the House.

Proceeding further with my argument, I would point out that the measure before us, the purpose is to authorize appropriations through the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act.

In addition, the bill before us makes other changes in the authority of the NRC, granting them rights to issue temporary operating licenses to nuclear-powered electric generating plants and also gives (discretion to the NRC) to report to the Congress on their recommendations for reducing the licensing time for nuclear-powered electric generating facilities.

Now the amendment as proposed by the gentleman from Massachusetts (Mr. Markey) is an amendment to entirely different sections of the act. It sets up new criteria governing the exportation of certain nuclear material. That subject matter is found nowhere in the bill before us.

The bill before us does not address in any way the question of exportation of nuclear matter. In fact, the question of criteria governing the export of nuclear material is found in an entirely different section of the act, section 127. . . .

I would remind the Chair that not only should the fundamental purpose of an amendment be germane to the fundamental purpose of the bill, but also any amendment seeking to restrict the use of funds must be limited to the subject matter and scope of the provision sought to be amended. I do not believe that the amendment meets either test.

I would also question whether an amendment of this nature involving exportation of material to foreign countries might also fall within the jurisdiction of the Committee on Foreign Affairs. Their jurisdiction is over measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

I am questioning whether or not there might be jurisdiction of another committee involved here.

For all these reasons, Mr. Chairman, I feel it is imperative that this amendment is not germane and would urge the Chair to sustain the point of order. . . .

MR. [EDWARD J.] MARKEY [of Massachusetts]: Mr. Chairman, what we have before us at this time is the Nuclear Regulatory Commission authorization. The Nuclear Regulatory Commission is for all purposes, for all funding. This is merely a limitation on the expenditure of those funds from one of those functions.

Clearly, it is germane within the definition of the functions of the Nuclear Regulatory Commission to place a restriction upon the expenditure of funds for these purposes. . . .

THE CHAIRMAN:[12] The Chair is prepared to rule.

The gentleman from North Carolina makes a point of order that the amendment offered by the gentleman from Massachusetts is not germane to the bill and is in violation of clause 7, rule XVI, of the rules of the House.

The bill before the Committee is a general authorization bill for the Nuclear Regulatory Commission which

12. Dan Glickman (Kan.).

provides funds for a variety of functions of the Nuclear Regulatory Commission, including nuclear reactor regulations, instructions and enforcement standards development, nuclear materials safety, safeguards, nuclear regulatory research program, technical support administration and international programs.

The amendment offered by the gentleman from Massachusetts merely limits whatever funds are available under this authorization bill for the issuing of export licenses, that is, those funds that are used by the Nuclear Regulatory Commission to review, process, or approve any application for license to export uranium. If there are no funds authorized to perform those activities, the amendment would not be relevant; but the amendment merely restricts whatever role the NRC has with respect to the export of enriched uranium and it goes no further.

In addition, in the Interior Committee report the chairman of the Foreign Affairs Committee in a letter to the chairman of the Interior and Insular Affairs Committee states, and I read from his letter:

> We have paid particular attention to activities within both the Office of International Programs and the Office of Nuclear Material Safety and Safeguards, both of which have major responsibilities under the Nuclear Nonproliferation Act of 1978 to upgrade international standards, strengthen the export and import licensing process, and explore further international cooperation in the area of nuclear health and safety.

The letter goes on to relate those activities to the operation of the Nuclear Regulatory Commission.

So the Chair finds that the amendment offered by the gentleman from Massachusetts is germane and the point of order is overruled.

Funds for Airport Access Road

§ 34.32 To a bill appropriating funds for an additional Washington airport, an amendment placing a limit on the amount of the appropriation permitted to be used for the construction of an authorized access road was held to be germane.

In the 86th Congress, during consideration of the Supplemental Appropriation Act of 1960,[13] an amendment was offered[14] as described above. Ruling on a point of order raised by Mr. Harold R. Gross, of Iowa, the Chairman[15] stated:

> The gentleman from Texas offers an amendment . . . to which the gentleman from Iowa (Mr. Gross) has made a point of order on the grounds that the amendment is not germane and that it constitutes legislation on an appropriation bill.
>
> The Chair is constrained to hold that inasmuch as the access roads were authorized by legislation creating the airport and that the amount of $400,000 is a limitation on the purposes for which funds may be used, that it is

13. H.R. 7978 (Committee on Appropriations).

14. 105 CONG. REC. 12121, 86th Cong. 1st Sess., June 29, 1959.

15. Paul J. Kilday (Tex.).

germane to the bill and is not legislation.

The Chair overrules the point of order.

Salaries Within Public Housing Administration

§ 34.33 To a general appropriation bill, an amendment providing that no part of an appropriation therein for "defense housing" be used for administrative expenses or salaries within the Public Housing Administration "so long as that agency proceeds with" certain projects was held to be germane.

In the 82d Congress, during consideration of a supplemental appropriation bill,[16] the following amendment was offered:[17]

Amendment offered by Mr. [Gordon L.] McDonough [of California]: On page 14, line 18, after the period, insert the following: "No part of this appropriation may be used for administrative expenses or to pay salaries to any employee within the Public Housing Administration or for any other purposes so long as that agency proceeds with any public-housing project after such project has been rejected or previous approval thereof canceled by the governing body of the locality by resolution or otherwise or by public vote and the governing body has recognized local liability to reimburse the Federal Government for funds, if any, advanced on such project prior to such cancellations."

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

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill, and it introduces new subject matter.

The Chairman,[18] in ruling on the point of order, stated:

. . . The Chair has had opportunity to examine this amendment, and is of the opinion that it is merely a limitation upon the manner in which, and the purpose for which, the money can be used and therefore is germane and overrules the point of order.

Payments to Persons Who Strike Against Government

§ 34.34 To a bill proposing to establish a national housing objective and the policy to be followed in the attainment thereof, an amendment providing that no part of any appropriation, loan, or expenditure authorized in the act be paid to any person who engages in a strike against the government or who seeks the overthrow of the government was held to be germane.

16. H.R. 8370 (Committee on Appropriations).

17. 98 CONG. REC. 8353, 82d Cong. 2d Sess., June 27, 1952.

18. Francis E. Walter (Pa.).

In the 81st Congress, during consideration of the Housing Act of 1949,[19] an amendment was offered[20] as described above. The following exchange[1] concerned a point of order raised against the amendment:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to this bill. . . .
>
> MR. [BEN F.] JENSEN [of Iowa]: Mr. Chairman, a similar provision has been placed in every appropriation bill which this House has passed during this session of Congress. . . . [The provision] is a limitation which is in effect in both appropriation and authorization bills.
>
> MR. PATMAN: Mr. Chairman, this is not an appropriation bill. In an appropriation bill it probably would be in order.
>
> MR. JENSEN: This bill has the effect of an appropriation bill.
>
> THE CHAIRMAN:[2] . . . The legislation before the committee authorizes loans and other funds to be used, consequently the Chair overrules the point of order.

Lease of Property by National Park Service to Concessioners

§ 34.35 For an amendment to a general appropriation bill directing the National Park Service to lease certain land at fair market rental value, a substitute prohibiting the use of funds in the bill for lease of that same property by the National Park Service to concessioners was held germane and a negative limitation on the use of funds which did not add legislation to that permitted to remain in the original amendment.

During consideration of H.R. 14231[3] in the Committee of the Whole on June 25, 1976,[4] the Chair overruled a point of order against the following amendment:

> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Yates: On page 10, line 2, strike the period, insert a semicolon and the following: *Provided*, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.
>
> MR. [GILBERT] GUDE [of Maryland]: Mr. Chairman, I offer an amendment as a substitute for the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gude as a substitute for the amendment

19. H.R. 4009 (Committee on Banking and Currency).

20. 95 CONG. REC. 8659, 8660, 81st Cong. 1st Sess., June 29, 1949.

1. *Id.* at p. 8660.

2. Hale Boggs (La.).

3. The Department of Interior Appropriation bill for fiscal 1977.

4. 122 CONG. REC. 20548–50, 94th Cong. 2d Sess.

offered by Mr. Yates: On page 27, between lines 18 and 19, insert the following:

"Sec. 109. No part of the appropriations made available under this title shall be available for the use of the Federal buildings located at 900 Ohio Drive, Haines Point in the District of Columbia by any concessioner of the National Park Service for any purpose."

MR. YATES: Mr. Chairman, I have a point of order against the amendment offered as a substitute by the gentleman from Maryland (Mr. Gude). . . .

Mr. Chairman, while this amendment has the appearance of a simple limitation, as a matter of fact, it is much more than that. The amendment prohibits the use of funds in the bill for use by a national park concessioner of a National Park Service building. The intent of the amendment is to evict the concessioner from the building. At the present time, the concessioner which occupies the building pays an annual rent and also pays for utilities and routine maintenance. If the concessioner vacates the building, the National Park Service must assume responsibility for maintenance and utility costs. The National Park Service estimates these costs to be about $26,000 per year.

Mr. Chairman, there are ample precedents in the rules of the House and I suggest that on page 551 under the Rules of the House, under section 843, ample precedents are cited to demonstrate that limitations on appropriation bills "must not impose new duties upon an executive officer."

Clearly this amendment imposes additional duties and responsibilities on the National Park Service. . . .

MR. GUDE: Mr. Chairman, I think this amendment provides nothing more than the Park Service merely targets a lease. I do not think it confers any responsibilities on them that they do not already have. I think it is clearly germane and in order. It is no less germane than the amendment offered by the gentleman from Illinois (Mr. Yates).

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

The gentleman from Illinois (Mr. Yates) raises a point of order to the amendment offered as a substitute for the amendment offered by the gentleman from New York.

The question the Chair must decide is whether the substitute amendment is germane to the original amendment and whether it adds additional legislation to that which is already in the amendment of the gentleman from Illinois.

The substitute amendment of the gentleman from Maryland, in the opinion of the Chair, is germane—relating to leasing of the same property, and does not add additional legislation to that which is already in the original amendment. Rather, the substitute is a negative limitation on funds in the bill.

The Chair must, therefore, reluctantly overrule the point of order.

Amendment To Limit Use of Funds by Agency Funded in Previous Title of Bill

§ 34.36 An amendment limiting the use of funds by a particular agency funded in a

5. Walter Flowers (Ala.).

general appropriations bill may be germane to more than one portion of the bill, and so may be offered, for example, to the paragraph carrying such funds or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill; thus, where the last title of a general appropriations bill contains general provisions applying to funds carried throughout the bill, an amendment offered to that title which limits the use of funds by an agency funded in a previous title of the bill may be germane.

On July 16, 1979,[6] during consideration of the Treasury, Postal Service and General Government Appropriations for fiscal 1980,[7] in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment. The Clerk read as follows:
>
> Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:
>
> Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws. . . .
>
> MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .
>
> MR. SYMMS: Mr. Chairman, the amendment does not legislate on an appropriation bill. It is only a limitation of spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.
>
> THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

Parliamentarian's Note: In this bill, there were "general provisions" in the Internal Revenue Service title applicable only to that agency, as well as a general provisions title at the end of the bill containing limitations and legislation applicable to all agencies funded by the bill. Thus in this case the amendment could have been germane at three places in the bill.

6. 125 CONG. REC. 18807, 96th Cong. 1st Sess.

7. H.R. 4393.

8. Richardson Preyer (N.C.).

Application of Separate Substantive Law to Operations of Agency as Nongermane Despite Language Restricting Amendment's Effects to "Use of Funds in the Bill"

§ 34.37 The mere recitation that the application of separate substantive law cited in an amendment is only "with respect to the use of funds in the bill" for an agency does not assure that the amendment is confined in its application to a restriction on the use of funds (and therefore germane to a proposition containing other such funding restrictions), where the laws being applied are not directly related to funding but rather are statutes governing the conduct of individuals and the relationship of government agencies to each other; thus, to a proposal to restrict availability of funds to an agency for a year and amending the organic law as it relates to the internal functions of that agency, an amendment not only placing further restrictions on funding but also applying to the operation of that agency provisions of separate criminal and other law not otherwise applicable thereto is nongermane, even though it is offered "with respect to the use of funds in the bill," as going beyond the limitation on funding and issues of organization to the positive enactment and enlargement of the applicability of those separate laws.

During consideration of H.R. 2991 [9] in the House on Oct. 26, 1989,[10] the Speaker sustained a point of order in the circumstances described above. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[11] The Clerk will designate the next amendment in disagreement.
>
> The text of the amendment is as follows:
>
> > Senate amendment No. 179: Page 19, after line 16, insert:
> >
> > Sec. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:
> >
> > (1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1)

9. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990.

10. 135 CONG. REC. p. __, **101st Cong. 1st Sess.**

11. David R. Nagle (Iowa).

shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census . . . *Provided*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient . . . *Provided further*, That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies . . . *Provided further*, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing . . . *Provided further*, That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further*, That none of the funds appropriated under this Act or under any prior Act for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts . . . subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts, *Provided further*, That the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a)(1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act . . . *Provided further*, That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further*, That, notwithstanding any decision or action of the President of the

Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null or void. . . .

MR. [CHARLES W.] STENHOLM [of Texas]: Mr. Speaker, I offer a preferential motion. . . .

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

Mr. Stenholm moves that the House concur in the Senate amendment No. 179 with the following amendment: In lieu of the matter proposed to be inserted by the Senate, insert the following:

Sec. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census . . . *Provided*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act . . . *Provided further*, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) . . .

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nation-

ality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 202(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso . . .

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act . . . *Provided further,* That if a Presidential Order pursuant to Public Law 100–119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order . . . Provided further, That, with respect to the use of funds appropriated by this Act to the Legal Services Corporation—

(1) for purposes of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(2) for purposes of sections 3729 through 3733 of title 31, United States Code, the term 'United States Government' shall include the Legal Services Corporation;

(3) for purposes of section 3801 of title 31, United States Code, the term "authority" includes the Legal Services Corporation, and the provisions of section 3801 through 3812 of title 31, United States Code, shall apply to all parties with whom the Corporation makes grants or contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) and 2996e(a)(3));

(4) applicants for financial assistance from the Legal Services Corporation shall file applications supported by written declaration pursuant to section 1746 of title 28, United States Code, and such declarations shall be subject to sections 1621(2) and 1622 of title 18, United States Code, relating to perjury;

(5) for purposes of sections 716 and 717 of title 31, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(6) for purposes of section 1516 of title 18, United States Code, as added by section 7078 of the Anti-Drug Abuse Act of 1988 (Public Law 100–680)—

(A) the term "Federal auditor" shall include any auditor employed or retained on a contractual basis by the Legal Services Corporation,

(B) the term "contract" shall include any grant or contract made by the Legal Services Corporation, and

(C) the term "person", as used in subsection (a) of such section, shall include any grantee or contractor receiving financial assistance under section 1006(a)(1) or 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) or 2996e(a)(3)); and

(7) funds provided by the Legal Services Corporation under section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) shall be deemed to be Federal appropriations when used by a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation. . . .

MR. [BRUCE A.] MORRISON of Connecticut: Mr. Speaker, I make a point of order against the motion on the grounds that it violates rule XVI, clause 7, of the rules of the House of Representatives in that the subject matter of the proposed amendment is not germane to the matter under consideration.

The proposed motion deals with eight different issues relevant to the operation of the Legal Services Corporation and funds provided thereunder.

Six of the eight issues are not addressed at all in the underlying amendment. These six issues are as follows: First, prohibition on redistricting activity—the 19th proviso; second, protection against theft and fraud—the 20th proviso; third, procedural safeguards for agricultural litigation—the 21st proviso; fourth, timekeeping—the 22d proviso; fifth, authority of local governing boards—the 23d proviso; and sixth, earmarking of certain funds—the 24th proviso.

With regard to the seventh issue addressed by the motion, that dealing with the regulation of nonpublic resources—also addressed in the 24th proviso—the proposed motion is substantially broader than the provision dealing with nonpublic resources contained in the Senate amendment. The Senate amendment would prevent the Corporation from implementing pro-

posed regulations that would place restrictions on nonpublic resources. The proposed amendment, on the other hand, would amend the Legal Services Act to extend existing restrictions on the use of private funds to "all nonpublic funds and in-kind services used or obtained by that person or entity." Current restrictions in the act apply only to funds provided for the purpose of providing legal services and not other activities for which funds may be received.

The last issue in the proposed amendment is the amendment dealing with competition—the 25th proviso. The underlying Senate amendment would prohibit the implementation of a competitive bidding process unless done under the authority of a confirmed board of directors composed of members named by the current president. The motion under consideration here, however, goes considerably beyond the question of whether the current board may implement a competitive bidding process. In addition, to that question, the proposed amendment would eliminate critical procedural safeguards against termination or defunding or existing LSC grantees within the context of a competitive bidding process.

In addition to the foregoing, the provisions of the motion relating to theft and fraud—the 20th proviso—would criminalize activity not previously subject to Federal criminal statutes. The amendment proposes to do so by applying the provisions of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code to the Legal Services Corporation. In addition, the amendment would make applications for financial assistance subject to section 1746 of title 28, United States Code, and sections 1621(2) and 1622 of title 18, United States Code, relating to perjury. The underlying Senate amendment makes no reference to federal criminal statutes and such conduct is not now covered by such acts.

Also, the theft and fraud provisions—the 20th proviso—would make sections 716 and 717 of title 31, United States Code, relating to audits by the Controller General and the evaluation of programs and activities of the U.S. Government, applicable to the Legal Services Corporation. That section of the amendment also provides that funds provided to the Legal Services Corporation shall be "deemed to be Federal appropriations when used by a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation." Those issues are not dealt with in any way in the underlying Senate amendment and deal with subject matter properly within the jurisdiction of the Committee on Government Operations.

Finally, the 21st provision, which places limits on the ability of employees of Legal Services supported programs to represent farm workers is a substantial intrusion on the jurisdiction of the Committee on Education and Labor in that it would subtantially diminish the ability of farm workers to assert their Federal rights under the Migrant and Seasonal Agricultural Workers Act, and would set up barriers not contemplated in that act for the exercise of such rights. The amendment would require that, before a legal services attorney could file a suit on behalf of such a farm worker to vindicate Federal rights, the farm worker would have to exhaust all administra-

tive remedies and participate in negotiations and in mediation programs, if available. In each case, the name of the farm worker would have to be revealed to the grower. Finally, attorneys could not act without receiving a "documented request from the named worker or employer."

Mr. Speaker, on all these grounds, I ask that the amendment be ruled not in order. . . .

MR. STENHOLM: . . . I would respond to the point of germaneness by simply pointing out that our amendment is germane to the Rudman amendment, which is the purpose for which we offer this amendment.

The Rudman amendment has already had all points of order relating to authorizing in the appropriation bill waived by the rule under which we are being considered today.

The second point that I would make is that every item in our amendment refers to how these appropriations are or are not supposed to be spent. . . .

THE SPEAKER PRO TEMPORE: Do any other Members desire to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Connecticut (Mr. Morrison) makes the point of order that the amendment offered by the gentleman from Texas (Mr. Stenholm) is not germane to the Senate amendment No. 179. As described on pages 82 and 83 of the joint statement of the managers, Senate amendment No. 179 is a comprehensive series of restrictions on Legal Services Corporation activities accomplished by means of funding restrictions on the Legal Services Corporation and its grantees.

In addition to the various funding restrictions in the Senate amendment, changes in the Legal Services Corporation law governing corporation activities, a directive that the Corporation reconstitute its board of directors, are included. The Senate amendment does not, however, incorporate provisions of criminal law, the False Claims Act and other laws requiring the furnishing of information to the General Accounting Office.

The proposed amendment, in addition to the inclusion of additional funding restrictions, attempts to indirectly apply substantive provisions of Federal criminal law and other laws to render the Legal Services Corporation an agency of a department of the U.S. Government for purposes of prosecution of certain activity and the furnishing of information. While these incorporations of provisions of law are prefaced as being "with respect to the use of funds appropriated by this act to the Legal Services Corporation," it appears that these provisions in the amendment go beyond merely a restriction on the use of funds and constitute an application of other Federal law for the period covered by the appropriation in the bill.

On June 16, 1983, the Chair ruled nongermane an amendment conditioning the availability to certain recipients of the funds in an authorization bill upon their compliance with Federal law not otherwise applicable to those recipients and within the jurisdiction of other House committees.

In the opinion of the Chair, that portion of the proposed amendment which incorporates several provisions of law not contained in the Senate amendment and enacts those provisions as positive law applicable to the Legal Services Corporation and its grantees

for the period fiscal 1990 renders the amendment not germane.

The Chair sustains the point of order.

Bill Creating New Department and Transferring Administration of Existing Laws Thereto—Amendments Changing Substantive Laws Being Administered

§ 34.38 Although it is ordinarily germane by way of amendment to limit the uses to which an authorization of appropriations carried in a bill may be applied, that principle normally applies to annual authorization bills reported by the committees having legislative and oversight jurisdiction over the statutes for which the funds are authorized; but where the Committee on Government Operations has reported an organizational bill to create a new department in the executive branch, which transfers the administration of existing statutes and programs to that department without modifying such statutes and programs, and which contains a general authorization of appropriations for the department to carry out its functions under the Act, such a bill is not necessarily open to amendments which change the substantive laws to be administered.

On June 19, 1979, the Committee of the Whole had under consideration H.R. 2444, reported from the Committee on Government Operations, to establish a new Department of Education, and transferring to such Department the administration of federally funded programs within the jurisdiction of other committees. The bill contained an authorization of appropriations to carry out its provisions and to enable the Department to perform the functions transferred to it, subject to existing laws limiting appropriations applicable to any of those functions.[12] An amendment was offered[13] to prohibit the use of any funds appropriated under such authorization to provide for transportation of students or teachers for purposes of establishing racial or ethnic quotas in schools. The amendment was ruled out as not germane, on the grounds that the bill was merely organizational in nature and only transferred the administration of

12. 125 CONG. REC. 14717, 96th Cong. 1st Sess., June 13, 1979.

13. 125 CONG. REC. 15570, 96th Cong. 1st Sess., June 19, 1979.

educational laws to the Department without modifying those laws; and because the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

Amendment offered by Mr. Dornan: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

Sec. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (of for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . . [T]he language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the house.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill. . . .

MR. [ROBERT K.] DORNAN [of California]: . . . Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse discrimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this one section and

not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981. . . .

THE CHAIRMAN:[14] The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them. . . .

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable to infer that the thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as authorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in an organizational bill, be open to amendments which redirect the administration of educational programs in ways

14. Lucien N. Nedzi (Mich.).

not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

E. RELATION OF AMENDMENT OR BILL TO EXISTING LAW

§ 35. Amendments to Bills Which Amend Existing Law

It has been held that the rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend,[15] except where the bill is a continuation or re-enactment of existing law, in which case amendments seeking to modify the law being extended in a germane manner may be germane to the bill,[16] or where the bill so comprehensively or diversely amends an existing law as to permit amendments which are germane to other provisions of that law.[17] Thus, the germaneness of an amendment that proposes to change existing law may depend on the extent to which the bill itself seeks to change the law. A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill.[18] But where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane.[19] As an example, if a bill seeks only to modify the penalty provisions of a law proscribing specified conduct, an amendment will not be germane if it seeks to broaden the scope or alter the applicability of such law.[20] It is generally held, therefore, that, to a bill amending existing law in one particular, an amendment proposing to modify an unrelated section of the law[1] or relating to terms of that law that are not referred to in the bill[2] is not ger-

15. See § 18.7, supra.

16. See 8 Cannon's Precedents § 2941, cited in § 35.7, infra.

17. See §§ 35.49, 35.78, 35.81, 35.93, 35.95, infra.

18. See § 35.78, infra.

19. See, for example, §§ 35.23, 35.48, 41.12, infra.

20. See § 41.12, infra.

1. See § 35.48, 35.69, infra.

2. See §§ 35.16, 35.25, 41.5, infra.

To a bill amending one section of existing law to accomplish a par-

mane. It may be said, then, that, to a bill amending one section of an existing law, an amendment proposing further modification of the law, as by amending another section of that law, is usually not germane.[3]

Similarly, if a bill amends existing law in several respects, but relates to a single subject or has a single purpose, an amendment is not germane that proposes to modify the law further in a manner not related to the purpose of the bill.[4]

To a bill amending existing law in a limited respect, an amendment repealing the law is not germane. Accordingly, to a bill establishing a new office within a government department, an amendment to abolish the department is not germane.[5]

The rule may be broadly stated that, to a bill proposing solely to amend one subtitle of an act, an amendment is not germane which would have the effect of repealing or amending other sections of the act that are not within the purview of the bill.[6]

It has been held that where an amendment to a bill proposes modification of a section of existing law in some respects, an amendment to the amendment may properly propose modification of the same section of the law in other respects.[7] Thus, it is held that, to a substitute amendment modifying a section of existing law, an amendment further modifying that section may be germane.[8]

Similarly, to an amendment in the nature of a substitute, amending several sections of an existing law, an amendment proposing further modification of one of the sections sought to be amended has been held to be germane.[9]

Where a bill amends existing law in two unrelated respects, an amendment proposing a third modification may be germane.[10]

To a bill amending two sections of the Food Stamp Act of 1964, an amendment proposing a change in a third section of the act was held germane.[11]

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ticular purpose, an amendment proposing changes in another section of that law in a manner not within the terms of the bill is not germane. See Sec. 41.14, infra.

3. See §§ 35.6, 35.77, 39.12, 39.13, infra.

4. See §§ 35.80, 35.91, 41.1, 41.2, infra.

5. See § 42.43, infra.

6. See the ruling of Chairman Warren G. Magnuson (Wash.) at 89 CONG. REC. 1158, 78th Cong. 1st Sess., Feb. 19, 1943. Under consideration was H.R. 1605 (Committee on Agriculture), comprising an amendment to the Agricultural Adjustment Act of 1938. The bill is discussed more fully in § 35.2, infra.

7. See § 35.70, infra.

8. See §§ 35.19, 42.7, infra.

9. See § 35.71, infra.

10. See § 35.49, infra.

11. See § 35.8, infra.

To a bill re-enacting an existing law in modified form, an amendment proposing further modification of that law may be germane.[12] And where a bill narrowly amends only one section of existing law, but is broadened by amendment to alter another section of the law, a further amendment to change still other sections of the law may be germane.[13]

But it should be noted that a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof.[14] Even where a bill amends an act in several particulars, an amendment proposing further modification of the act in respects not related to the subject of the bill is not germane.[15] Thus, it has been held that, to a bill amending an act in two particulars, an amendment offered to amend the act in a third particular but in a manner not related to the bill is not germane.[16]

The question for the Chair in such cases is whether the bill amending existing law is of such a general or diverse nature as to fundamentally change the law involved, and thereby open the law generally to amendments.[17]

Where the proposition under consideration was to amend the Defense Production Act of 1950, an amendment proposing to add provisions to such act, "notwithstanding any other provision of this or any other law," was ruled out of order as an attempt to amend other laws not under consideration.[18]

Of course, an amendment must be germane to that title or portion of the bill to which offered.[19] Thus, the test of germaneness to a pending title of a bill is the relationship of the amendment to that title or to the law being amended by that title, and not to other portions of the bill not then pending for amendment.[20]

But in some instances, due to the scope and nature of the subject matter of a title of the bill sought to be amended, amend-

12. See §§ 35.30, 39.24, infra.

13. See § 35.8, infra.

14. See § 18.7, supra.

15. See §§ 35.73, 35.74, infra.

16. See § 35.44, infra.

17. See Sec. 35.44, infra.

18. See the ruling of Chairman Wilbur D. Mills (Ark.) at 97 CONG. REC. 8325, 82d Cong. 1st Sess., July 17, 1951.

19. For discussion, see, for example, § 2; and see §§ 18 et seq., supra.

20. See the proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, discussed in § 4.58, supra.

ments thereto may be allowed which seek to modify laws not directly amended by that title. Thus, where a portion of a bill amended several miscellaneous laws on a general subject, an amendment to another law relating to that subject was held to be germane.[1]

Bill Amending Agriculture Laws—Amendment Providing for Expiration or Repeal of Provisions of Law

§ 35.1 To a bill amending various laws relating to agriculture, an amendment providing that, three years after enactment, provisions of the bill would expire and other specified agricultural legislation be repealed, was held to be germane.

On June 21, 1962,[2] the Committee of the Whole had under consideration the Food and Agricultural Bill of 1962,[3] which provided in part as follows:[4]

TITLE I—LAND-USE ADJUSTMENT

Sec. 101. The Soil Conservation and Domestic Allotment Act (49 Stat. 163), as amended, is further amended as follows:

(1) by repealing subsections (b), (c), (d), (e), (f), and (g) of section 7; . . .

(4) by adding a new subsection at the end of section 16 of said Act to read as follows:

"(e)(1) For the purpose of promoting the conservation and economic use of land, the Secretary, without regard to the foregoing provisions of this Act, except those relating to the use of the services of State and local committees, is authorized to enter into agreements . . . with farm and ranch owners and operators providing for changes in cropping systems and land uses and for practices or measures to be carried out on any lands owned or operated by them for the purpose of conserving and developing soil, water, forest, wildlife, and recreation resources. Such agreements shall include such terms and conditions as the Secretary may deem desirable to effectuate the purposes of this subsection. . . .

Sec. 102. Section 31 and subsection (e) of section 32 of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, are amended to read as follows:

"Sec. 31. The Secretary is authorized and directed to develop a program of land conservation and land utilization, including the more economic use of lands and the retirement of lands which are submarginal or not primarily suitable for cultivation, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, providing

1. See §§ 35.61 and 35.102, infra.
2. 108 CONG. REC. 11314 et seq., 87th Cong. 2d Sess.
3. H.R. 11222 (Committee on Agriculture).
4. 108 CONG. REC. 11205, 11206, 11215–17, 11373, 87th Cong. 2d Sess., June 20 and 21, 1962.

public recreation, preserving natural resources, protecting fish and wildlife . . . and protecting the public lands, health, safety, and welfare. . . .

Sec. 103. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(1) Paragraph (1) of section 4 of said Act is amended by changing the semicolon at the end thereof to a colon and adding the following: "*Provided,* That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed two-thirds of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes. . . .

TITLE III—MARKETING ORDERS

Sec. 301. The Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

Section 8c(2) is amended by—

(1) striking out in (A) thereof "not including vegetables, other than asparagus, for canning or freezing)" and inserting in lieu thereof "(not including vegetables, other than asparagus, for canning or freezing, or potatoes for dehydrating)". . . .

TITLE IV—COMMODITY PROGRAMS

Subtitle A—Feed Grains

Sec. 401. Subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended, is further amended by inserting after part VI a new part VII as follows:

"PART VII—MARKETING QUOTAS—FEED GRAINS

"LEGISLATIVE FINDINGS

"Sec. 360a. The production of feed grains is a vital part of the agricultural economy of the United States. . . .

"Abnormally excessive and abnormally deficient supplies of feed grains on the national market acutely and directly burden, obstruct, and affect interstate and foreign commerce. . . .

"NATIONAL MARKETING QUOTA

"Sec. 360b. (a) Whenever prior to June 20 in any calendar year the Secretary determines that the total supply of feed grains in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for feed grains shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act. . . .

"NATIONAL ACREAGE ALLOTMENT

"Sec. 360c. Whenever the amount of the national marketing quota for feed grains is proclaimed for any marketing year, the Secretary at the same time shall proclaim a national acreage allotment for the crop of feed grains planted for harvest in the calendar year in

which such marketing year begins. . . .

TITLE V—GENERAL PROVISIONS

Sec. 501. The Consolidated Farmers Home Administration Act of 1961 (75 Stat. 307) is amended as follows: . . .

(2) By inserting in section 306(a) after the words "soil conservation practices" the words "shifts in land use including the development of recreational facilities". . . .

Sec. 502. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby. . . .

An amendment was offered which stated in part:[5]

Amendment offered by Mr. [Craig] Hosmer [of California]: On page 89, after line 4, add the following:

Sec. 505. (a) All provisions of this Act except subsections (b) and (c) of this section shall expire three years following date of enactment and at that time the following Acts are hereby repealed:

(1) The Agricultural Act of 1949, as amended (7 U.S.C. 1421 and the following), except sections 410, 411, and 414 thereof, effective with the 1962 crops. . . .

(c) Notwithstanding other provisions of law the Commodity Credit Corporation is directed, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, to sell all agricultural commodities and products thereof, now owned or hereafter acquired by it pursuant to any price support program, at such reasonable prices as will result in the orderly and complete disposition of such agricultural commodities and products.

A point of order was made by Mr. H. Carl Andersen, of Minnesota, based on the contention that the amendment went far beyond the purview of the bill. The Chairman[6] stated:

The Chair feels that the amendment is entirely proper and, therefore, overrules the point of order.

Bill Amending Subtitle of Agricultural Adjustment Act—Amendment Relating to Enforcement of Penalty Provisions of Act

§ 35.2 To a bill proposing to amend one subtitle of the Agricultural Adjustment Act by adding a section relating to methods and procedures of determining acreage allotments for basic commodities, an amendment proposing modification of an existing section of such subtitle and relating to jurisdiction of courts in the enforcement of penalty provisions of the act generally, was held to be not germane.

5. 108 CONG. REC. 11377, 87th Cong. 2d Sess., June 21, 1962.

6. Francis E. Walter (Pa.).

In the 78th Congress, a bill[7] was under consideration which stated in part:[8]

> *Be it enacted, etc.,* That part II of subtitle C of title III of the Agricultural Adjustment Act of 1938, as amended, is amended by inserting at the end thereof the following new section:
>
> Sec. 377. Notwithstanding any other provisions of this act, for any farm . . . which has in 1942 an acreage allotment for any commodity, except wheat, under the provisions of this title, the allotment for any subsequent year shall not be reduced on account of the failure to plant, harvest, or market, in whole or part, the commodity in any of the years beginning February 1, 1943, and ending December 31 of the year in which the President by proclamation or the Congress by concurrent resolution declares that hostilities in the present war have terminated, if such failure was due solely to—
>
> (1) The shifting from the production of the commodity to the production of one or more needed war crops, in accordance with the request of the Secretary; or [other specified causes]. . . .

The following amendment was offered:[9]

> Amendment offered by Mr. [H. Streett] Baldwin of Maryland: On page 1, line 4, after the last word "amended", strike out the balance of the section and insert in lieu thereof "by amending section 376 thereof by adding thereto the following: '*Provided further,* That such jurisdiction shall in no case be exercised as to any crop now planted or planted hereafter between the date of the enactment of this act and the date of the conclusion of peace.'"

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

> MR. [HAMPTON P.] FULMER [of South Carolina]: I do not believe [the amendment] is in line with the real purpose of the bill, and it goes much further than we intended under the bill, so it is not germane to the bill.

In support of the point of order, Mr. Clifford R. Hope, of Kansas, stated:

> Mr. Chairman, I call attention of the Chair to the fact that section 376, which is sought to be amended, deals with one subject, and one only—the jurisdiction of the courts in the enforcement of the penalty provisions of the act. The provision in the bill under consideration, while an amendment to part II of subtitle C, does not in any way go to the enforcement of the act, through the courts or otherwise, but simply provides for a different method of making allotments to individual farms in the case of the basic commodities except wheat, and for making allotments to the counties and States in the case of wheat. It is a new section and does not touch anything at all under this subtitle except the method and procedure of making allotments. I submit that the amendment which the gentleman offers cannot be germane, because it applies only to the subject of

7. H.R. 1605 (Committee on Agriculture).

8. See 89 CONG. REC. 1154, 1155, 78th Cong. 1st Sess., Feb. 19, 1943.

9. *Id.* at p. 1161.

court jurisdiction, which is not in any way involved in the committee provision.

The Chairman[10] in ruling on the point of order, stated:

> The Chair is ready to rule and interprets the amendment of the gentleman from Maryland to involve the question of jurisdiction and enforcement of jurisdiction for the whole act. His amendment provides that such jurisdiction shall in no case be exercised as to any crop. The bill before the Committee restricts itself to certain crops. The amendment of the gentleman from Maryland would in effect suspend jurisdiction to enforcing the entire Agricultural Adjustment Act, because it would do away with the machinery for such suspension, and, therefore, the Chair is inclined to rule that the amendment is too far reaching, and goes beyond the scope of the bill and is not germane, and the Chair sustains the point of order.

Agricultural Price Supports—Amendment Adding Commodity to Those Covered

§ 35.3 To a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane; thus, to a bill temporarily amending for one year an existing law establishing price support levels for several agricultural commodities, an amendment adding another agricultural commodity to be covered by the same provisions of law for that year was held germane.

During consideration of H.R. 4296 (a bill concerning emergency price supports for 1975 crops) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The language of the bill to which the amendment was offered read as follows:[11]

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof the following new section 108:
>
> "Sec. 108. (a) Notwithstanding sections 103, 105, and 107 of this Act, the established price for the 1975 crops of upland cotton, corn, and wheat shall be 48 cents per pound, $2.25 per bushel, and $3.10 per bushel, respectively, and the Secretary shall make available to producers loans and purchases on the 1975 crops of upland cotton, corn, and wheat at 40 cents per pound, $1.87 per bushel, and $2.50 per bushel, respectively; *Provided,* That the rates of interest on commodity loans made by the Commodity Credit Corporation to all eligible producers shall be established quarterly on the basis of the lowest current interest rate on ordinary obligations of the United States: *Provided further,*

10. Warren G. Magnuson (Wash.).

11. See 121 CONG. REC. 7388, 94th Cong. 1st Sess., Mar. 20, 1975.

That the nonrecourse loan for 1975 crop upland cotton as set forth in section 103(e)(1) of the Agricultural Act of 1949, as amended, shall be made available for an additional term of eight months at the option of the cooperator.

"(b) Notwithstanding the provisions of section 301 of this Act, the Secretary shall make available to producers loans and purchases on the 1975 crop of soybeans at such levels as reflect the historical average relationship of soybean support levels to corn support levels during the immediately preceding three years."

THE CHAIRMAN:[12] The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 15, after the word "cooperator" strike the period and insert ", except that for the 1975 crops of upland cotton, feed grains and wheat, the Secretary shall establish, insofar as is practicable, the same terms and conditions relative to storage costs and interest rates on all nonrecourse loans extended on such crops.".

THE CHAIRMAN: The question is on the committee amendment.

The committee amendment was agreed to.

During the proceedings of Mar. 20, 1975,[13] the following amendment was offered:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 2, after line 25, add this new section:

"(c) Notwithstanding the provisions of section 301 of this Act or common sense, the Secretary shall make available to producers loans and purchases on the 1975 crop of fruit nuts at such levels as reflect the historical average relationship of fruit nut support levels to dingleberry support levels during the immediately preceding one hundred and ninety-nine years". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, the chairman of the committee finds it necessary to insist on his point of order.

I know the gentleman who has offered the amendment is a strong supporter of fruit nuts and is in great seriousness in an effort to improve the bill, but the reference in the amendment is to a standard which cannot be administered because the country was not organized, the Congress was not organized at the time he alleges in the amendment the Dingleberry support price was created. But principally because under rule XVI, clause 7, the fundamental purpose of this amendment does not relate to the fundamental purpose of the bill, which is to effect changes in the target prices of loan rates on wheat, feed grain, and cotton.

The nuttiness of an amendment has never been found in the precedents of the House as an argument against germaneness. . . .

MR. CONTE: . . . I feel that this amendment is germane in the context of this bill. The whole bill is nutty, and I am merely institutionalizing what the American people have known all along, that farm subsidies do not grow on trees.

THE CHAIRMAN: The Chair is prepared to rule.

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12. John Brademas (Ind.).

13. 121 CONG. REC. 7652, 94th Cong. 1st Sess.

The Chair would observe that the purpose of this bill as set forth in the report is to establish an emergency price support program in the 1975 crop commodity year for upland cotton, wheat, feed grains, soybeans, and milk.

Under the general proposition that it is in order to add another subject to a proposition containing subjects of the same class, the Chair would point out that the amendment of the gentleman from Massachusetts adds another agricultural commodity to the commodities proposed to be supported under the bill during the same period of time.

The Chair rules, therefore, that the gentleman's amendment is germane and overrules the point of order.

Bill Striking Provisions and Inserting Language—Amendment Adding Language Without Striking Provisions

§ 35.4 To a bill striking out a section of existing law and inserting new language, an amendment adding the new language at the end of the section of law being amended, rather than striking out the section and inserting new language, is germane.

In the 88th Congress, a bill[14] relating to the cotton industry was under consideration. A provision in such bill sought to amend the Agricultural Act of 1949 by striking out a section of that law pertaining to corn price supports and inserting in lieu thereof language creating a new cotton program. An amendment was offered[15] which sought to add the provisions as to the new cotton program at the end of the section of existing law, thereby leaving the existing section of law pertaining to the corn program intact. Mr. John H. Kyl, of Iowa, made the point of order that the amendment was not germane; the Chairman,[16] however, having already stated that, "The purpose of this amendment is to correct the technical references," ruled without further elaboration that the amendment was germane.

Amendment Affecting Different Section of Existing Law

§ 35.5 To a joint resolution to amend a specific section of the Agricultural Adjustment Act of 1938 relating to the national allotment for cotton, an amendment affecting another section of that act relating to allotment of acreage was held to be not germane.

In the 76th Congress, a bill[17] was under consideration which re-

14. H.R. 6196 (Committee on Agriculture).

15. 109 CONG. REC. 23322, 88th Cong. 1st Sess., Dec. 4, 1963 (amendment offered by Mr. Harold D. Cooley [N.C.]).

16. John J. Rooney (N.Y.).

17. H.J. Res. 247 (Committee on Agriculture).

lated to minimum national allotments for cotton and which provided:

> *Resolved, etc.*, That section 343(b) of the Agricultural Adjustment Act of 1938, as amended (relating to the national allotment for cotton), is amended by adding at the end thereof the following new sentence: "The national allotment for any year (after 1939) shall be not less than 11,500,000 bales."

An amendment was offered, as follows:

> Amendment offered by Mr. [Butler B.] Hare [of South Carolina]: At the end of line 8 add the following: "*Provided*, That allotment of acreage to the various States be based upon the ratio of the number of cotton growers and their dependents in each State bears to the total number of such persons in the United States."

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

> MR. [MARVIN] JONES [of Texas]: Mr. Speaker, I desire to make a point of order against the amendment, that it is not germane. This resolution deals with section 343 of the Agricultural Adjustment Act, and this amendment has to do with section 344 of the State allotments.

The Speaker,[18] in sustaining the point of order, stated:

> . . . The Chair has considered the amendment offered by the gentleman from South Carolina and finds upon a careful reading of the amendment that it does not relate to the section of the act that the resolution under consideration seeks to amend and, therefore, cannot possibly be in order.[19]

Bill Affecting Amounts Available for Assistance to Producers of Certain Commodities—Amendment Modifying Portion of Law Addressing Requirements for Eligibility for Funds

§ 35.6 To a bill to amend a section of existing law with respect to amounts available for assistance to producers of certain commodities, an amendment to modify another section of that law with respect to substantive requirements for eligibility for funds under the law was held to be not germane.

In the 76th Congress, a bill[20] was under consideration to increase the credit resources of the Commodity Credit Corporation. The following amendment was offered:[1]

> Amendment offered by Mr. [Orville] Zimmerman [of Missouri]: At the end

18. William B. Bankhead (Ala.).

19. See the proceedings at 84 CONG. REC. 5911, 5912, 76th Cong. 1st Sess., May 22, 1939.

20. S. 3998 (Committee on Banking and Currency).

1. 86 CONG. REC. 9805, 76th Cong. 3d Sess., Aug. 1, 1940.

of line 7, strike out the period and insert a semicolon and add the following: *Provided,* That to obtain a loan on cotton, producer must furnish a certificate of grade and staple signed by a licensed classer whose license is issued by the United States Department of Agriculture.

Mr. Henry B. Steagall, of Alabama, made the point of order that the amendment was not germane to the bill. The Chairman,[2] sustaining the point of order, stated:

The bill now under consideration seeks to amend section 4, which deals with the amount only. The amendment offered by the gentleman from Missouri seeks to add a proposition which might be germane to the original act but which seems to the Chair not to be related to the section of the act here sought to be amended by the pending bill.

Surplus Agricultural Products for Needy—Amendment Providing for Food Stamp Plan

§ 35.7 To a bill to amend the act authorizing the Commodity Credit Corporation to make surplus agricultural products available for needy persons in the United States, an amendment providing a new and comprehensive food stamp plan for the distribution of surplus products was held to be germane.

In the 86th Congress, during consideration of a bill[3] to amend the Agricultural Trade Development and Assistance Act of 1954, an amendment was offered providing in part:[4]

Amendment offered by Mrs. Sullivan: . . . insert the following new section 14 . . . :

Sec. 14. Title III of the Agricultural Trade Development and Assistance Act of 1954, as amended, is further amended by adding at the end thereof the following new section:

"Sec. 306. (a) In order to promote the general welfare, raise the levels of health and of nourishment for persons whose incomes prevent them from enjoying adequate diets, and dispose in a beneficial manner of food commodities acquired by the Commodity Credit Corporation or the Department of Agriculture . . . the Secretary of Agriculture is hereby authorized to . . . put into operation . . . a program to distribute to needy persons in the United States through a food stamp system such surplus food commodities. . . ."

A point of order was raised against the amendment, as follows:[5]

MR. [CHARLES B.] HOEVEN [of Iowa]: Mr. Chairman, I make the point of order that the amendment is not germane to the extension of Public Law 480, as incorporated in the bill H.R. 8609.

The amendment proposes to establish a new distribution system within

2. Graham A. Barden (N.C.).

3. H.R. 8609 (Committee on Agriculture).

4. 105 CONG. REC. 16567, 16568, 86th Cong. 1st Sess., Aug. 20, 1959.

5. *Id.* at p. 16568.

the United States. H.R. 8609 contains no such provision to which this proposed amendment is germane.

In addition, the proposed amendment would suspend the operation of section 416 of the Agricultural Act of 1949, as amended, which is not before us.

The bill, H.R. 8609, contains only one reference to section 416, but this provision deals only with the labeling of surplus foods, not with the system of distributing these commodities. . . .

In defense of the amendment, the proponent, Mrs. Leonor Kretzer Sullivan, of Missouri, stated as follows:

. . . H.R. 8609 is a bill to amend the Agricultural Trade Development and Assistance Act of 1954. . . . The Agricultural Trade Development and Assistance Act of 1954 . . . contains provisions . . . authorizing domestic donations of surplus food to our own needy. This is contained in titles II and III of the law.

The bill before us amends title II and III in several respects. The bill before us furthermore contains language clearly applicable to the domestic distribution of surplus foods. . . .

I make one further point in contesting the point of order. Cannon's Precedents, volume VIII, section 2941, states:

An act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act. . . .

The Chairman[6] agreed with the contentions of Mrs. Sullivan and overruled the point of order, also citing the following statement of the Chair in a prior similar ruling:

The act which the bill proposes to amend and extend contains a provision relating to the subject matter and, as pointed out, is sufficiently broad and does cover the material offered in this amendment. . . .

Formula for State Participation in Food Stamp Program—Amendment Affecting Qualifications of Recipients

§ 35.8 To a bill authorizing funds for the food stamp program for the next fiscal year and changing the formula for state participation in the program, an amendment relating to the qualifications for recipients of aid under the program was held to be germane.

In the 90th Congress, during consideration of a bill[7] amending two sections of the Food Stamp Act of 1964, the following amendment was offered, affecting a third section:[8]

Amendment offered by Mr. [William F.] Ryan [of New York]: Add the following new section at the end of the bill:

6. Richard W. Bolling (Mo.).

7. H.R. 1318 (Committee on Agriculture).

8. 113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967.

Sec. 3. Section 5 of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall issue regulations providing that—

"(1) families with very low money incomes may not be excluded from the program by minimum stamp purchase requirements which exceed their budgetary resources. . . .

"(3) families with very low money incomes may not be required to commit themselves to purchase stamps every month as a condition of participation in the program."

A point of order was raised against the amendment, as follows:[9]

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the purposes or objectives of this bill, that it does not amend any of the sections covered by this bill or the subject matter touched on by this bill.

This bill relates only to sections 15 and 16. The amendment offered by the gentleman from New York relates to section 5 of the Food Stamp Act.

The Chairman,[10] in ruling on the point of order, stated:

The bill, which has been amended, amends two sections of existing law.

The proposed amendment to add another section to the pending bill would amend a third section of existing law.

The Chair rules, therefore, that the amendment is germane.

9. *Id.* at p. 15162.

10. Phillip M. Landrum (Ga.).

Provisions Relating to Importation of Farm Workers—Penalties for Noncompliance With Provisions of Bill

§ 35.9 To a bill to amend the Agricultural Act of 1949 to authorize the Secretary of Labor to recruit and make certain provisions for agricultural workers from Mexico, an amendment providing, in one part, penalties for employing any Mexican alien not duly admitted "under the terms of this act or any other law" was held to be not germane.

In the 82d Congress, a bill[11] was under consideration which provided in part as follows:[12]

Be it enacted, etc., That the Agricultural Act of 1949 is amended by adding at the end thereof a new title to read as follows:

TITLE V—AGRICULTURAL WORKERS

Sec. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico), the Secretary of Labor is authorized—

11. H.R. 3283 (Committee on Agriculture).

12. See 97 CONG. REC. 7168, 82d Cong. 1st Sess., June 26, 1951.

(1) to recruit such workers . . .

(2) to establish . . . reception centers at or near the places of actual entry of such workers into the continental United States. . . .

(3) to provide transportation for such workers. . . .

The following amendment was offered:[13]

Amendment offered by Mr. Polk in the nature of a substitute for H.R. 3283: That the Agriculture Act of 1949 is amended by adding at the end thereof a new title to read as follows:

TITLE V—AGRICULTURAL WORKERS

Sec. 509. Any person who shall employ any Mexican alien . . . not lawfully entitled to enter . . . the United States under the terms of this act or any other law relating to the immigration or expulsion of aliens when such person . . . has reasonable grounds to believe . . . that such alien is not lawfully within the United States . . . shall be guilty of a felony. . . .

A point of order was raised against the amendment, as follows:[14]

MR. [HARRIS] ELLSWORTH [of Oregon]: . . . Section 509 of the proposed substitute deals only with the matter of finding information as to the illegal entry of alien Mexicans into the United States, and imposes a penalty for failure to supply information concerning such illegal entry. That is the sole purpose and the sole effect of this section 509. It does not refer to the employment of farm labor, and it does not go to the purpose of the bill.

Mr. Harold D. Cooley, of North Carolina, in support of the point of order, stated:[15]

Mr. Chairman, I would like to call attention to the fact that if section 509 had been introduced as a separate bill, it would not even have been referred to the Committee on Agriculture. It would have gone to the Immigration Committee.

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

MR. [JAMES G.] POLK [of Ohio]: Mr. Chairman, I call attention to the fact that this bill amends the Social Security Act, and I am speaking now on the bill before the House, H.R. 3283. It also amends the Immigration Act of 1917, and I refer to lines 7, 8, 9, and 10, on page 5. It amends the Internal Revenue Code, and I refer to lines 2, 3 and 4, at the top of page 5. In other words, in several instances the bill which is before the House amends other Federal statutes.

The Chairman,[16] in ruling on the point of order, stated:

As the Chair understands the rule of germaneness, its purpose is to provide for and protect the orderly procedure in the Committee of the Whole and in the House. It is to protect the legislative processes, to protect the membership from hasty, ill-considered, and extraneous subject matter being offered to the proposition under consideration. An amendment, to be germane to a bill under consideration, must be akin to and relative to the subject matter of

13. *Id.* at p. 7169.

14. *Id.* at pp. 7169, 7170.

15. *Id.* at p. 7170.

16. Albert A. Gore (Tenn.).

the bill. The Chair does not feel that the provision of a penalty or the provision for civil relief from a law seeking to be enacted would be a matter unakin or unrelated to the bill. However, there is specific matter in the amendment, to wit, "or any other law relating to the immigration [or] expulsion of aliens" which is to be found in section 509 to which specific objection was made. The Chair has examined the bill before the Committee and is unable to find reference to any other law relating to the immigration or expulsion of aliens.

Therefore, because of the references just cited, the Chair sustains the point of order.[17]

§ 35.10 To a proposition relating to the recruitment of farm laborers from Mexico, an amendment imposing penalties on any person employing Mexican labor not lawfully entitled to enter "under the terms of this act" was held to be germane.

In the 82d Congress, during consideration of a proposition relating to the recruitment of farm laborers from Mexico,[18] the following amendment was offered:[19]

> Amendment offered by Mr. Celler to the amendment offered by Mr. Polk: Add a new section as follows:
>
> Sec. —. Any person who shall employ as a farm laborer any Mexican alien . . . not lawfully entitled to enter . . . the United States under the terms of this act, when such person . . . has reasonable grounds to believe . . . that such alien farm laborer is not lawfully within the United States . . . shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment. . . .

Mr. Harold D. Cooley, of North Carolina, made the point of order that the amendment was not germane to the amendment under consideration. Mr. Emanuel Celler, of New York, in support of his amendment, stated:[20]

> . . . This is a bill concerning the operations of alien labor, what they shall do and what they shall not do, under the terms and conditions that they may or may not come over the border, and my amendment certainly is consistent with the purposes and aims of the bill in general. A penalty for violation of the terms laid down is germane.

The Chairman,[1] in ruling on the point of order, stated:

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17. See § 35.10, infra, for discussion of a similar amendment held to be germane because more narrowly worded.

18. Under consideration was H.R. 3283 (Committee on Agriculture) and an amendment thereto offered by Mr. James G. Polk (Ohio) at 97 CONG. REC. 7171, 82d Cong. 1st Sess., June 26, 1951.

For related proceedings and a description of the bill, see § 35.9, supra.

19. 97 CONG. REC. 7174, 82d Cong. 1st Sess., June 26, 1951.

20. *Id.* at p. 7175.

1. Albert A. Gore (Tenn.).

The Committee has before it a bill to which the gentleman from Ohio has offered an amendment, to which, in turn, the gentleman from New York has offered an amendment providing specific penalties for violation of the provisions of the bill when written into law. The rule of germaneness has been interpreted rather narrowly, but the Chair does not feel that it can declare or hold that the provision of a penalty for the violation of the provisions of the bill is new subject matter or unrelated subject matter.

Therefore, the point of order is overruled.[2]

—*Amendment Relating to Detention of Aliens and Affecting Prior Appropriations*

§ 35.11 To a bill amending the Agricultural Act of 1949 to permit importation of Mexican agricultural workers, an amendment relating to the detention of Mexican aliens generally in the United States and providing that prior appropriations be available to carry out the purposes of the provision was held to be not germane.

In the 82d Congress, during consideration of a bill[3] relating to importation of Mexican agricultural workers, the following amendment was offered:[4]

Amendment offered by Mr. [Emanuel] Celler [of New York]: Add a new section:

Sec. 512. Notwithstanding any other provision of law to the contrary and without regard to section 3709 of the revised statutes, the Attorney General is authorized to purchase, construct . . . and maintain . . . such detention facilities as may be necessary for the apprehension and removal to Mexico of Mexican aliens illegally in the United States. Appropriations made to the Immigration and Naturalization Service shall be available for expenditures to carry out the purposes of this act.

A point of order was raised against the amendment, as follows:[5]

MR. [HAROLD D.] COOLEY [of North Carolina]: [The amendment] broadens the scope of the legislation under consideration. It is not germane, and it actually constitutes an appropriation.

The Chairman,[6] in ruling on the point of order, stated:

. . . As the Chair understands the bill before the committee, H.R. 3283, it applies to certain Mexican aliens as a class and as described in the bill. The amendment offered by the gentleman from New York broadens the group to include Mexican aliens illegally in the United States, beyond the class de-

2. See § 35.9, supra, for discussion of a similar but more broadly worded amendment which was held not to be germane.

3. H.R. 3283 (Committee on Agriculture). See § 35.9, supra, for further discussion of the bill.

4. 97 CONG. REC. 7274, 82d Cong. 1st Sess., June 27, 1951.

5. *Id.* at p. 7275.

6. Albert A. Gore (Tenn.).

scribed in the bill. The amendment also proposes to appropriate funds for a certain purpose described in the amendment.

For these two reasons, the Chair is constrained to sustain the point of order.

—Amendment Affecting Labor Standards Under Different Act

§ 35.12 To a bill amending the Agricultural Act of 1949 to permit importation of Mexican agricultural workers, an amendment providing that notwithstanding the provisions of the Fair Labor Standards Act, "the Secretary of Labor is empowered to authorize . . . the employment in agriculture of employees under the age of 16 years," was held to be not germane.

In the 82d Congress, during consideration of a bill[7] relating to importation of Mexican agricultural workers, an amendment was offered[8] as described above. A point of order was raised against the amendment, as follows:[9]

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . The amendment is obviously not in order, since the author of the amendment clearly indicates it is an effort to amend the Fair Labor Standards Act, which is not before the House at this time at all.

Mr. Eugene J. McCarthy, of Minnesota, in support of the amendment, stated:

Mr. Chairman, I would suggest that there is an amendment to the Fair Labor Standards Act already in the bill, and it would seem to me another amendment to the same effect would not constitute a serious obstacle.

The Chairman,[10] in ruling on the point of order, stated:

The bill H.R. 3283 refers to a certain class of Mexican nationals, as described in the bill. The amendment offered by the gentleman from Texas does not relate to this group described in the bill, but to an entirely different group of individuals—American citizens and residents of the United States. The amendment therefore is beyond the purview of the bill H.R. 3283, and the Chair sustains the point of order.

Common Carrier Rates for Manufactured Products—Amendment Relating to Rates for Farm Commodities

§ 35.13 To a bill to amend the Interstate Commerce Act with respect to those provisions making it unlawful for a common carrier to give un-

7. H.R. 3283 (Committee on Agriculture). See § 35.9, supra, for further discussion of the bill.
8. See 97 CONG. REC. 7275, 82d Cong. 1st Sess., June 27, 1951.
9. *Id.* at p. 7276.
10. Wilbur D. Mills (Ark.).

reasonable preferences and authorizing the Interstate Commerce Commission to investigate rates for manufactured products, an amendment relating to rates for farm commodities and authorizing the Commission to investigate such rates was held to be germane.

In the 76th Congress, a bill[11] was under consideration amending the Interstate Commerce Act. The bill stated in part:[12]

> Sec. 6. (a) Paragraph (1) of section 3 of the Interstate Commerce Act, as amended, is amended to read as follows:
>
> (1) It shall be unlawful for any common carrier . . . to . . . give . . . any undue or unreasonable preference or advantage to any particular person, company, firm, corporation . . . district, territory, or any particular description of traffic, in any respect whatsoever. . . .
>
> (b) The Interstate Commerce Commission is authorized and directed to institute an investigation into (certain) rates on manufactured products. . . .

The following amendment was offered:[13]

> Amendment offered by Mr. Jones of Texas: On page 202, line 12, after the word "ever", strike out the quotation marks; and, after line 12, add the following:
>
> (1a) It is hereby declared to be the policy of Congress that shippers of wheat, cotton, and other farm commodities for export should have substantially the same advantage of reduced rates as compared to shippers of such commodities not for export that are in effect in the case of shipment of industrial products for export as compared with shipments of industrial products not for export, and the Interstate Commerce Commission is hereby directed to institute such investigations, to conduct such hearings, and to issue orders making such revision of rates as may be necessary for the purpose of carrying out such policy.

Mr. Alfred L. Bulwinkle, of North Carolina, raised the point of order that the amendment was not germane to the section of the bill to which offered, and contended that the language to which the amendment was directed was that referring to investigation of rates on manufactured products.[14] Mr. Marvin Jones, of Texas, in responding to the point of order made by Mr. Bulwinkle, pointed out that paragraph (1), to which the amendment was actually directed, related to "all kinds of discrimination in freight rates." The Chairman[15] overruled the point of order.

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11. S. 2009 (Committee on Interstate and Foreign Commerce).

12. See 84 CONG. REC. 9868, 76th Cong. 1st Sess., July 24, 1939.

13. *Id.* at pp. 9868, 9869.

14. *Id.* at p. 9869.

15. R. Ewing Thomason (Tex.).

Free Importation of Commodity—Amendment To Increase Domestic Supply of Commodity by Action of National Production Authority

§ 35.14 To a bill proposing to amend the Tariff Act of 1930 to provide for the free importation of twine used for baling hay, straw and the like, an amendment proposing an increase in the domestic supply of baling twine through allocation by the National Production Authority was held to be not germane.

In the 82d Congress, during consideration of a bill[16] providing as described above, the following amendment was offered:[17]

> Amendment offered by Mr. Edwin Arthur Hall: Page 1, line 7, insert a new section as follows:
>
> The National Production Authority shall take all steps possible to allocate from domestic supplies enough baling twine to meet the needs of American farmers not only for the 1951 purpose but for all subsequent emergencies.

Mr. Jere Cooper, of Tennessee, made the point of order that the amendment was not germane to the bill. In defense of the amendment, the proponent stated as follows:

> MR. EDWIN ARTHUR HALL [of New York]: Mr. Chairman, we are here to try to get baling twine for the farmers of the country. . . . [T]his amendment should be submitted to a vote since it is an honest effort to accomplish the objective which we are all here to try to accomplish.

The Chairman,[18] in ruling on the point of order, stated:

> The gentleman from New York offers an amendment that has for its purpose apparently an increase in the domestic supply of baling twine. The pending legislation is an amendment to the Tariff Act of 1930. It appears from an examination of the gentleman's amendment that it goes far beyond the scope of the bill, in that it applies to different legislation; therefore the Chair sustains the point of order.

Notice to Congress of Curtailment of Agricultural Exports—Payments to Farmers Affected

§ 35.15 To a section requiring notice to Congress of curtailment of export of agricultural commodities, contained in a title of a bill reported from the Committee on International Relations extending and amending the Export Administration Act, an amendment requiring domestic

16. H.R. 1005 (Committee on Ways and Means).

17. 97 CONG. REC. 11281, 82d Cong. 1st Sess., Sept. 13, 1951.

18. Brooks Hays (Ark.).

payments to farmers having in storage commodities for which exports have been suspended was held not germane as beyond the scope and subject matter of the section or title.

On Apr. 20, 1977,[19] during consideration of H.R. 5840[20] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

> Sec. 105. Section 4(f) of the Export Administration Act of 1969, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new paragraph:
>
> "(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. . . .
>
> MR. [KEITH G.] SEBELIUS [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Sebelius: Page 8 after line 21, insert the following:
>
> "(4)(A) Notwithstanding any provision of law, whenever the President of the United States or any other member of the executive branch of the Federal Government suspends or causes a suspension of export sales of corn, wheat, soybeans, grain sorghum, or cotton, the Secretary of Agriculture shall make payments described in subsection (B) and (C) to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended; except that no such payments may be made with regard to any such commodity unless, at the close of the calendar month preceding the calendar month in which the suspension is initiated, the price received by producers of such commodity was less than the parity price.
>
> "(B) The first payment described in subsection (A) shall become payable at the initiation of the suspension of export sales of the commodity concerned. Such payment shall be made at a rate of 10 per centum of the parity price per bushel or bale of the commodity concerned which was produced by the farm owner or operator and which is held in storage by him at the time of the initiation of the suspension. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, apparently the amendment the gentleman from Kansas (Mr. Sebelius) has presented is a parity amendment pending in the part of the bill before the Agriculture Committee.

MR. SEBELIUS: That is right.

MR. ZABLOCKI: It is not germane to section 105, which deals solely with existing authority of the President to

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19. 123 CONG. REC. 11437, 11440, 11441, 95th Cong. 1st Sess.

20. The Export Administration Amendments of 1977.

limit export controls for foreign policy purposes under the Export Administration Act.

Second, the amendment gives the President new authority where export controls are imposed for new purposes under a new act.

And, third, this new authority deals solely with domestic matters which are within the jurisdiction of another country.

As I said, it is a parity amendment.

Lastly, this is a farm subsidy issue, not an issue of foreign affairs.

This bill does not deal with agricultural parity, it does not deal with support controls.

Therefore, Mr. Chairman, I submit that the amendment is not in order. . . .

THE CHAIRMAN:[1] The Chair is ready to rule.

H.R. 5840 is a bill to amend the Export Administration Act of 1969 in order to extend the authorities of that act, improve the administration of export controls under that act, and to strengthen the antiboycott provisions of that act.

Section 105 of the bill as amended amends the procedure by which the Secretary of Commerce can notify the Congress of the exercise of authority curtailing exports of agricultural products. It thereafter gives the Congress a certain period of time within which to disapprove if it so chooses.

The amendment offered by the gentleman from Kansas (Mr. Sebelius) goes beyond the purview of the title and the section to which offered, in that it would require payments by the Secretary of Agriculture to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended.

For the reasons stated by the Chair and the reasons given by the gentleman from Wisconsin, the point of order is sustained.

1. Frank E. Evans (Colo.).

Size of Specified Container Under Standard Container Act—Amendment Delegating Authority to Secretary of Agriculture to Regulate Various Container Sizes

§ 35.16 To a bill amending the Standard Container Act only to provide for one additional size of container, an amendment inserting in the act a new section delegating to the Secretary of Agriculture authority to regulate the size of certain containers was held not germane.

In the 83d Congress, a bill[2] was under consideration to amend the Standard Container Act of 1928. The bill stated in part:[3]

> (bb) The standard three-eighths bushel hamper or round-stave basket shall contain eight hundred and six and four-tenths cubic inches.

2. H.R. 8357 (Committee on Interstate and Foreign Commerce).

3. See 100 CONG. REC. 6408, 83d Cong. 2d Sess., May 11, 1954.

An amendment was offered[4] which stated in part:

> Sec. 3. Whenever in his judgment such action is advisable . . . the Secretary of Agriculture may by regulations—
>
> (1) provide for standard hampers and round stave baskets for fruits and vegetables. . . .

Mr. Joseph P. O'Hara, of Minnesota, made the point of order that the amendment was not germane, stating,[5] "[I]t involves an attempt to change the Constitution of the United States in delegating authority to the Secretary of Agriculture. . . ." Mr. Peter F. Mack, Jr., of Illinois, the proponent of the amendment, stated:

> . . . I believe this amendment merely delegates authority for administration to the Secretary of Agriculture. The Secretary of Agriculture already has, by reason of the act of 1928, authority to establish allowances for various containers. I believe that this amendment merely gives him additional authority to establish containers in addition to the ones already provided for.

The Chairman[6] sustained the point of order, citing the rule that:

> Where a bill proposes to amend a law in one particular . . . amendments seeking to repeal the law or relating to the terms of the law rather than to the bill are not germane.

4. *Id.* at pp. 6408, 6409.
5. *Id.* at p. 6409.
6. Timothy P. Sheehan (Ill.).

Bill To Extend Price Control Act—Amendment To Exempt Livestock Products

§ 35.17 To a bill to extend the Price Control Act, an amendment providing that notwithstanding any provisions of the act no regulation, directive, or allocation should be issued or maintained with respect to livestock or any edible product processed from livestock was held germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[7] the following amendment was offered:[8]

> Amendment offered by Mr. [James W.] Wadsworth [Jr., of New York]: On page 4, after line 25, add a new section to read as follows:
>
> Sec. 4. Section 2 of the Emergency Price Control Act of 1942, as amended, is amended by inserting at the end of such section a new subsection as follows:
>
> "(p) Notwithstanding any provisions of this act no regulation, order, directive, or allocation shall be issued, made, or maintained (including directives for distribution or price schedules) with respect to livestock or any edible product processed in whole or substantial part from livestock."

7. H.R. 6042 (Committee on Banking and Currency).
8. 92 CONG. REC. 3909, 79th Cong. 2d Sess., Apr. 17, 1946.

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

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it goes beyond the scope of the bill and is not germane to either the section or the bill.

The Chairman,[9] in ruling on the point of order, stated:

> . . . The Chair invites attention to the fact that the amendment is confined to the Emergency Price Control Act of 1942 which is sought here to be amended, and the Chair is of the opinion that the amendment is germane.

Section of Price Control Act Extension Relating to Meat Subsidies—Amendment To Eliminate Livestock and Meat Subsidies

§ 35.18 To a section of the Emergency Price Control Act relating to subsidies for meat and other commodities, an amendment seeking to eliminate livestock and meat subsidies was held germane.

The following proceedings in the 79th Congress,[10] during consideration of the Emergency Price Control Act,[11] concerned the germaneness of an amendment offered by Mr. John W. Flannagan, Jr., of Virginia:

> Amendment offered by Mr. Flannagan:
>
> 1. Amend section 5, page 6, line 20, by striking out "meat, $715,000,000."
>
> 2. Amend section 5, page 8, line 2, by inserting a colon in lieu of the period at the end of the sentence and adding the following: "*Provided further*, That no funds . . . shall be used after June 30, 1946, to continue any existing program or to institute any new program for the payment of subsidies on livestock or meat derived from livestock . . . *And provided further*, That in order to prevent the reduction of livestock prices upon the elimination of such livestock and meat subsidy payments, the Administrator shall make corresponding increases in maximum prices of livestock, meat, and meat products. . . ."

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground, first, that it is not germane to the bill, and, second, that it goes far beyond the authorization and scope of this bill. The bill only provides for the extension of the Office of Price Administration and Stabilization and this takes in many other acts and agencies. . . .
>
> MR. FLANNAGAN: The only purpose this amendment would accomplish would be to eliminate entirely meat subsidies.
>
> THE CHAIRMAN:[12] . . . The section relates to the question of subsidies. The amendment offered by the gentleman from Virginia (Mr. Flannagan)

9. Jere Cooper (Tenn.).

10. 92 CONG. REC. 3904, 79th Cong. 2d Sess., Apr. 17, 1946.

11. H.R. 6042 (Committee on Banking and Currency).

12. Jere Cooper (Tenn.).

likewise relates to the question of subsidies. The Chair believes the amendment is germane and overrules the point of order.

Amendment Modifying Definition of "Agriculture" in Fair Labor Standards Act

§ 35.19 To a substitute modifying the definition of the term "agriculture" in the Fair Labor Standards Act of 1938 to include the processing of tobacco, and containing diverse other amendments to that Act, an amendment adding to that definition transportation of fruit and vegetables and transportation of persons employed in harvesting such commodities was held to be germane.

In the 87th Congress, a bill (13) was under consideration to amend the Fair Labor Standards Act of 1938 and to establish a new minimum wage. The following amendment was offered to the bill: (14)

> Amendment offered by Mr. [William H.] Ayres [of Ohio]: Strike out all after the enacting clause and insert the following: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1961.'"
>
> DEFINITIONS
>
> Sec. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended)," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing . . . and bailing, prior to the stemming process,".
>
> (b) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That the cost of board, lodging or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide individual contract or collective bargaining agreement applicable to the particular employee".
>
> (c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs: . . .
>
> "(q) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common retail business purpose . . .
>
> "(r) 'Enterprise engaged in commerce or in the production of goods for commerce' means any enterprise which has five or more retail establishments and which operates such establishment in two or more States.
>
> "(s) 'Retail establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods is not for resale and is recognized as retail sales in the particular industry. . . ."
>
> Sec. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

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13. H.R. 3935 (Committee on Education and Labor).

14. 107 CONG. REC. 4797, 87th Cong. 1st Sess., Mar. 24, 1961. See also § 42.7, infra, for discussion of this ruling.

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter and shall make a full and complete report of his findings and determinations to the President and to the Congress.". . .

Sec. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

Subsequently, the following amendment was offered:[15]

Amendment offered by Mr. [Albert S.] Herlong [Jr.], of Florida, to the amendment offered by Mr. Ayres, of Ohio:

Page 2, line 5, strike out the period and add the following: "and in the case of fruits and vegetables includes transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity."

Mr. Roman C. Pucinski, of Illinois, made a point of order against the Herlong amendment on the ground that it was not germane. In support of the point of order, Mr. James G. O'Hara, of Michigan, stated:

The amendment offered by the gentleman from Florida attempts to amend not the act before us, but Public Law 78, under which migrant labor is brought into the country, and the other act of Congress under which the U.S. Employment Service is established.

An exemption already exists under the Fair Labor Standards Act, exempting agricultural labor from the application of the Fair Labor Standards Act, and this is an attempt to amend not the Fair Labor Standards Act, but other acts passed by various Congresses.

The Chairman,[16] in ruling on the point of order, stated:

This is unquestionably an amendment to the Fair Labor Standards Act. It specifically refers to the Fair Labor Standards Act.

The Chair overrules the point of order.

Bill Broadly Amending National Labor Relations Act—Amendment Providing for Injunctions Against Violation of No-strike Agreements

§ 35.20 To a bill amending several sections of the National

15. *Id.* at p. 4806.

16. Francis E. Walter (Pa.).

Labor Relations Act dealing with procedures and remedies as to labor elections, organization and activities both during and after the initial stage of labor organization, an amendment adding a new section to amend a section of the law, already amended by the bill, to afford a judicial remedy to enjoin violation of no-strike agreements between employers and labor organizations, was held germane.

On Oct. 6, 1977,[17] during consideration of H.R. 8410[18] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

THE CHAIRMAN:[19] Are there amendments to section 10 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

Sec. 11. Section 10(m) is amended by inserting "under circumstances not subject to section 10(l)," after "section 8."

AMENDMENT OFFERED BY MR. ERLENBORN

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

Sec. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, this amendment amends the Norris-LaGuardia Act of 1932 prohibiting Federal courts from issuing injunctions in labor disputes.

It also amends title II, the National emergency dispute provision of the Labor Management Relations Act of 1947. It eliminates the 80-day cooling-off period provided in title II. It re-

17. 123 CONG. REC. 32609, 95th Cong. 1st Sess.

18. The Labor Reform Act of 1977.

19. William H. Natcher (Ky.).

writes the definition of what constitutes an emergency to be any situation in which "the public interest would be served." H.R. 8410 is limited to the subject of remedies and procedures relating to the right of employees to organize and bargain collectively. Amendments to Norris-LaGuardia and Taft-Hartley are not germane. . . .

MR. ERLENBORN: . . . My amendment, as I think the Chair is aware, amends section 10 of the National Labor Relations Act. Section 10 is amended in the bill before us.

This amendment would add section 10(n) to that act. It is remedial, it is procedural, and it is consonant with the bill before us as reported by the committee.

Mr. Chairman, I think it is clearly a remedial, procedural amendment to a section of the act which has been amended by the committee bill and is in order under all of the previous rulings of the Chair.

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from Illinois [Mr. Erlenborn] adds a new section to the bill. The bill as a whole does not deal exclusively with the period of initial organizational activity as it relates to remedies. Certain remedies in the bill go to post-organizational conduct. The amendment adds a new remedy.

In the opinion of the Chair, the amendment is germane to the bill as a whole and the point of order is overruled.

Bill Amending One Section of Labor-Management Relations Act—Amendment Affecting Entire Act

§ 35.21 To a bill amending a section of the Labor-Management Relations Act to permit employer contributions for joint industry promotion of products within the construction industry, an amendment applicable in scope to all industries covered by the act and relating to funds established for political education was held to be not germane.

In the 90th Congress, during consideration of a bill[20] amending the Labor-Management Relations Act of 1947, the following amendment was offered:[1]

> Amendment offered by Mr. [Marvin L.] Esch [of Michigan]: On page 3, line 17, before the period, insert the following:
>
> *Provided further,* That nothing in the Labor-Management Relations Act, 1947, as amended, shall be construed to make unlawful or to prohibit an employer from participating in the joint administration of funds established by a labor organization for purposes of political education.

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20. H.R. 15198 (Committee on Education and Labor).

1. 114 CONG. REC. 23403, 90th Cong. 2d Sess., July 25, 1968.

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

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment on the ground it is not germane. It would establish the joint administration of funds for political purposes, a subject not mentioned in the subject matter of the legislation before us.

The Chairman,[2] in ruling on the point of order, stated:

The bill under consideration amends only section 302(c) of the act, whereas the proposed amendment attempts to amend the entire act and brings in new matter that is not covered in section 302(c) or in the bill.

The Chair rules that the amendment is not germane, and sustains the point of order.

Negotiation of Labor Disputes—Amendment To Empower President To Seize Plants Threatened With Work Stoppages

§ 35.22 To a bill extending and amending a law that provided for settlement of labor disputes primarily through negotiation between the parties to such disputes, an amendment to empower the President to take possession of plants threatened with work stoppages that are considered to endanger the national defense was held not germane.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,[3] the following amendment was offered:[4]

Amendment offered by Mr. [Richard W.] Bolling [of Missouri]: On page 3, line 15, insert the following section:

Sec. 103: Title II of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new section:

"Sec. 202. (a) Whenever the President . . . acting upon the written recommendation of the National Security Council, shall find that the national defense is endangered by a stoppage of production or a threatened stoppage of production in any one or more plants, mines, or facilities, as a result of the present management-labor dispute in the steel industry, the President is . . . authorized to take possession of and to operate such plants, mines, or facilities. . . ."

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

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is out of order on the ground that it is not germane to this section or to this bill; that it is affirmative legislation not within the purview of the jurisdic-

2. Neal Smith (Iowa).

3. H.R. 8210 (Committee on Banking and Currency).

4. 98 CONG. REC. 7654, 82d Cong. 2d Sess., June 19, 1952.

tion covered by the language of this act.

The Chairman,[5] in ruling on the point of order, stated:[6]

> The Chair has had an opportunity to study the amendment offered by the gentleman from Missouri [Mr. Bolling] and it is the opinion of the Chair that the amendment proposes to make basic changes in our labor legislation. The amendment proposes further to amend title II of the Defense Production Act of 1950, which is the authority to requisition property. The amendment goes beyond . . . the mere requisition of property and . . . proposes to make changes in our labor laws.
>
> In view of the fact that it goes beyond the scope of title II of the Defense Production Act of 1950, the Chair is constrained to sustain the point of order. . . .

Bill To Permit Common Situs Picketing—Amendment Relating to Another Section of Law Providing Remedies for Unfair Practices

§ 35.23 Where it is proposed to amend existing law in one particular, an amendment to further amend the law in another respect unrelated to the bill is not germane; thus, to a narrowly drafted bill designed to amend section 8 of the National Labor Relations Act, dealing with unfair labor practices, to permit common situs picketing under certain circumstances, an amendment further qualifying the right to so picket and providing a civil remedy for persons injured by illegal pickets was ruled out as not germane, being beyond the scope of the bill, since the law itself provided remedies for unfair labor practices in another section and the bill was not sufficiently broad to admit as germane amendments relating to that section.

During consideration of H.R. 5900 in the Committee of the Whole on July 25, 1975,[7] the Chair sustained a point of order in the circumstances described above. The section of the bill pending and the amendment offered thereto were as follows:

> The Clerk read as follows:
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8(b)(4) of the National Labor Relations Act, as amended, is amended by inserting before the semicolon at the end thereof "; *Provided further,* That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to

5. Wilbur D. Mills (Ark.).

6. 98 Cong. Rec. 7655, 82d Cong. 2d Sess., June 19, 1952.

7. 121 Cong. Rec. 24819, 24841, 94th Cong. 1st Sess.

perform services or any inducement of any individual employed by any person to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site, and there is a labor dispute, not unlawful under this Act or in violation of an existing collective-bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers and the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry; *Provided further*, Except as provided in the above proviso nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection; *Provided further*, That nothing in the above provisos shall be construed to prohibit any act which was not an unfair labor practice under the provisions of this subsection existing prior to the enactment of such provisos: *Provided further*, that nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin. . . .

MR. [W. HENSEN] MOORE [of Louisiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moore: Page 5, line 3, immediately after "proviso;" add the following: "*Provided further*, That nothing in the above provisos shall be construed to permit picketing of an employer who is not a party to a dispute over an economic matter in cases when picketing is conducted in a manner that would cause that employer's employees to cease work and the employees of that employer have a lower wage scale than that of the aggrieved labor organization; and any employee who ceases work because of a violation of this proviso may bring a civil action against the labor organization in any United States district court of competent jurisdiction to recover the wages lost as a result of such violation, and the court shall award costs and reasonable attorneys' fees to the prevailing plaintiff.". . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . I make the point of order that the amendment offered by the gentleman from Louisiana (Mr. Moore) is not germane to the purposes of the bill before us.

The bill before us is a very narrowly drawn piece of legislation that affects only 8(b)(4)(B) of the act. It affects only the question of construction workers picketing a construction site, and it goes very narrowly to that point.

On the other hand, the amendment offered by the gentleman from Louisiana (Mr. Moore) goes ahead and sets up a cause of action against labor organizations in Federal district courts, recovering lost wages and so forth.

It might be a germane provision to the National Labor Relations Act, but it is not a germane amendment to this particular section of the act or to the bill that is now before us. . . .

MR. MOORE: Mr. Chairman, I oppose the point of order on the ground that

this bill takes away this power under the appropriate section of this act. All this does is exempt this proviso of this particular action as it applies to these particular employees, and this exemption to such a provision in this bill is germane. The fact that it gives the right of civil action means nothing more than to strengthen the abilities of this particular proviso. Therefore, Mr. Chairman, I submit that it is indeed very much germane.

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

The gentleman from Michigan (Mr. O'Hara) makes the point of order that the amendment offered by the gentleman from Louisiana (Mr. Moore) is not germane.

The gentleman from Louisiana (Mr. Moore) has been kind enough to submit a copy of his amendment in advance, and the Chair has had the opportunity to study the amendment and to read the report of the committee, and the bill.

The Chair would state that the fundamental purpose of the bill is to permit under certain conditions situs strikes which are, as the result of a Supreme Court decision, considered to be unfair labor practices under section 8(b) of the National Labor Relations Act.

The Chair notes that the amendment provides a civil remedy for violation of the provisions of the amendment. The act itself, in another section, provides remedies for unfair labor practices. The remedy proposed here might be germane to that section of the act containing such remedies, however that section of the act is not before the Committee, and the specific amendment to section 8(b)(4) of the act contained in this bill is not such an inclusive amendment to existing law as to open the entire act to amendment under the precedents of the House.

The Chair therefore finds that the provision for civil remedies for unfair labor practices is not germane to the portion of the act defining those practices, and sustains the point of order.

Requirement of Certification of Elections Involving Labor Unions—Amendment Containing Additional Circumstances in Which Certification Required

§ 35.24 While an amendment narrowly amending one portion of existing law does not necessarily open up the entire law to amendment, such an amendment may be amended by adding exceptions and definitions modifying its effect on that portion of law if related to the same subject; thus, to an amendment amending sec. 10(e) of the National Labor Relations Act to require NLRB certifications of employee elections of unions as exclusive bargaining agents only where there has been a secret ballot, a substitute amendment containing the same requirement with ex-

8. William H. Natcher (Ky.).

ceptions where an employer has been shown to have undermined the election or is otherwise estopped from challenging the election was held germane as a restatement of the original amendment with related exceptions.

During consideration of H.R. 8410[9] in the Committee of the Whole on Oct. 6, 1977,[10] the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

THE CHAIRMAN:[11] If there are no additional amendments to section 8, the Clerk will read.

The Clerk read as follows:

Sec. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end therof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection". . . .

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c).". . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan as a substitute for the amendment offered by Mr. Ashbrook: Amend section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive: *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with subsection (c) of section 9 or has been determined to be a representative defined in subsection (a) of section 9 by the Board in an order entered pursuant to subsection (c) of this section: *Provided*, That no such order shall be entered where the employer has not engaged in conduct, unlawful under this Act, which undermines a

9. The Labor Reform Act of 1977.

10. 123 CONG. REC. 32607, 32608, 95th Cong. 1st Sess.

11. William H. Natcher (Ky.).

free and fair election under subsection (c) of section 9: . . . *provided further*, That where the employer agrees to recognize an individual or labor organization as a representative defined in subsection (a) of section 9 on the basis of proof of majority support other than a Board certification and such support is in fact demonstrated, the individual or labor organization so chosen shall be considered to be a representative for purposes of subsection (a) of section 9. . . .

MR. ASHBROOK: Mr. Chairman, I raise the point of order on the basis of the Chair's previous construction of H.R. 8410 and amendments offered thereto.

I point out to the Chair the amendment offered by the gentleman from Michigan (Mr. Ford) is not within the scope of the bill. It refers in three places to section 9(a) of the National Labor Relations Act. Section 9(a) is not opened up, as the Chair can determine, by H.R. 8410. It is nongermane to my amendment. It goes beyond the scope of my amendment. The gentleman from Michigan himself has indicated that what he is trying to do is codify a principle in case law. That in effect is a substantive effort. . . .

MR. FORD of Michigan: . . . Mr. Chairman, I agree with the gentleman that I am attempting to codify the case law, but I thought that I was agreeing with his attempt to codify the case law because we are both citing the same case as authority for the language we would now have as a part of the statute.

As to that part of the change in the amendment that is common to both his amendment and mine, the basis of the case law we have cited is exactly the same. Mine certainly could not be found not to be germane, inasmuch as we rely on exactly the same basis for the language. Moreover, there is nothing in my substitute that makes substantive changes in the law with respect to the rights of employers and employees. It has to do only with procedural practices in keeping with the entire thrust of this bill to improve and streamline and codify for that purpose past practices and procedures.

With respect to section 9 of the act, while it might be said that these procedures refer to section 9 of the act, for that matter they refer to all of the act. But they are limited, and this amendment is limited to affecting the method by which these improvements achieve the end of the act and not intended in any way to effect a substantial change in the sections of the act that are subject to this procedure. . . .

MR. ASHBROOK: Mr. Chairman, I would merely want to reiterate that the gentleman's amendment clearly refers to section 9(a). Section 9(a) has not been opened up by this act. It is not a proper substitute. The Chair on several occasions has taken a very strict interpretation of H.R. 8410 as it relates to the National Labor Relations Act, and I do not believe it can be opened up at this point inconsistent with those rulings.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Michigan (Mr. Ford) as to how his substitute would affect section 9(a) of the act.

MR. FORD of Michigan: 9(a) of the bill?

THE CHAIRMAN: In a manner not affected by the amendment offered by

the gentleman from Ohio (Mr. Ashbrook). . . .

MR. FORD of Michigan: Mr. Chairman, I do not believe that I do. I believe that the gentleman limits the method by which a collective bargaining arrangement can come into being, and we simply return to the existing law.

If the gentleman would make a change in existing law, we stay with the existing law.

THE CHAIRMAN: The Chair is ready to rule.

The question, of course, pertains to the germaneness of the amendment offered by the gentleman from Michigan (Mr. Ford) as a substitute for the amendment offered by the gentleman from Ohio (Mr. Ashbrook). That is the test.

The substitute amendment offered by the gentleman from Michigan (Mr. Ford), down to section 9, in the middle of the first page, contains the same language of the amendment offered by the gentleman from Ohio (Mr. Ashbrook). From that point in the substitute, the Chair is of the opinion that the substitute sets forth exceptions to the Ashbrook amendment and incorporates definitions contained in section 9(a) of the act without amending other sections of the law, and it seems to be related to and is germane to the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

Therefore, the Chair overrules the point of order.

Procedural Rules Governing Labor Organization and Elections—Amendment Relating to Unfair Labor Practices

§ 35.25 Where the pending section of a bill proposes to amend existing law in one particular, an amendment to further amend the law in another respect unrelated to the pending portion of the bill and to the portion of existing law which it amends is not germane; thus, to a section of a bill amending that section of the National Labor Relations Act relating to procedural rules governing labor elections and organization, an amendment changing the same section of existing law to require the promulgation of rules defining certain conduct as grounds for voiding a labor election was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices as dealt with in another section of existing law.

During consideration of H.R. 8410 [12] in the Committee of the Whole on Oct. 5, 1977,[13] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

12. The Labor Reform Act of 1977.

13. 123 CONG. REC. 32500, 32501, 95th Cong. 1st Sess.

Amendment offered by Mr. Ashbrook: Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.". . .

MR. [WILLIAM D.] FORD [of Michigan]: Mr. Chairman, I insist upon my point of order. . . .

Mr. Chairman, the amendment offered is to section 3 of the bill, which in its present form amends section 6 of the National Labor Relations Act, which is the rulemaking authority of that act. Under section 3, the Board is directed to make rules that: First, affect union actions during representation campaigns; second, define classes of representation cases; and third, schedules governing the holding of elections.

The amendment proposed effectively changes section 8(c) of the National Labor Relations Act, not before us in this bill, which deals with unfair labor practices. As such, it is not directed at the limited subject and scope of this bill in dealing with rulemaking amendments, as H.R. 8410 directs.

It is not in keeping with the act, and the bill, which provides broad discretion to the Board in its rulemaking capacity. Rather, it restricts absolutely the nature and substance of the rule the Board is directed to make.

The amendment deals not only with organization campaign and representation cases, which is the subject matter of this bill, but with strikes, lockouts, and other labor disputes which are not within the parameters of H.R. 8410, or section 3 of the committee bill.

Mr. Chairman, the amendment is therefore nongermane. . . .

MR. ASHBROOK: Mr. Chairman, on page 17 of the bill, starting with line 1 of this act, it says:

> The Board shall within 12 months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And it goes on, as a matter of fact, on lines 3 through 15 in the subject matter we just dispensed with a few moments ago. We specifically dealt with the subject matter of both employers and employees attempting free speech, speaking to those employees, I think, going back again to page 16 and talking about making the regulations, referring to rules and regulations as may be necessary to carry out the provisions of this act.

Mr. Chairman, in the very preamble of this act it says:

> To amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

Mr. Chairman, I feel that this amendment, calling upon the Board to issue rules, in addition to the rules that are in H.R. 8410, is within the parameters of the debate and therefore the point of order should be overruled.

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair has carefully followed the remarks of both gentlemen. The Chair is of the opinion that the point of order made by the gentleman from Michigan (Mr. Ford) should be sustained.

The Chair would like to state that under section 3 of the committee bill that is now before the Committee it amends section 6 of the National Labor Relations Act and restates the existing authority of the NLRB to promulgate rules and regulations to carry out the provisions of the act, specifically including certain authority to make procedural rules governing elections and governing the period of initial stages of organizational activity. The section of the bill does not go to newly mandated directions to the Board to promulgate regulations to implement section 8 of the act.

The amendment offered by the gentleman from Ohio (Mr. Ashbrook), while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations, and the amendment would by its terms elevate those regulations to a position of substantive law, which regulations would conclusively pronounce what conduct shall or shall not constitute grounds for setting aside an election.

In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of whether conduct, for the first time, would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

14. William H. Natcher (Ky.).

Therefore, the point of order is sustained.

§ 35.26 To a section of a bill narrowly amending one section of existing law dealing with procedural rules governing labor elections and organization, an amendment to require promulgation of rules defining unfair labor practices, a subject covered in another section of the law but not addressed in the pending section of the bill, was held to be not germane.

During consideration of H.R. 8410[15] in the Committee of the Whole on Oct. 5, 1977,[16] the Chair, in sustaining a point of order against the amendment described above, reiterated the proposition that an amendment must be germane to the section of the bill to which it is offered. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to imple-

15. The Labor Reform Act of 1977.

16. 123 CONG. REC. 32507, 32508, 95th Cong. 1st Sess.

ment the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. Ashbrook), although in some ways meritorious, is offered to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

The amendment offered, in effect, changes section 8 of the act relating to unfair labor practices. It is directed, therefore, at a subject not contemplated in the bill and establishes a new unfair labor practice, and is not germane to the committee bill or to section 3. . . .

MR. ASHBROOK: . . . I believe this does come under the general rulemaking. It is in section 6. Furthermore, when we refer to willful violations, on page 22, in section 7, this bill does refer to unfair labor practices, and I think under the previous precedents established, where we open up a section referring to unfair labor practices, it is now not timely for the chairman to say that this bill does not amend unfair labor practices. Section 7 clearly refers to unfair labor practices, as does my amendment to section 3, and I would hope the Chair would overrule the point of order.

THE CHAIRMAN:[17] The Chair is ready to rule.

The gentleman from Ohio (Mr. Ashbrook) has offered an amendment that, while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations. The amendment would really reach issues of substantive law, since the regulations would conclusively pronounce that certain union conduct shall constitute an unfair labor practice under section 8. In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of conduct which for the first time would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

The reference of the gentleman from Ohio to the provisions of section 7 does not alter the fact that an amendment must be germane to the pending section.

For that reason, the Chair must sustain the point of order.

Provisions Affecting Ceiling Prices Applicable to Certain Personal Services—Amendment Affecting Prices Applicable to Manufacturers

§ 35.27 To a committee amendment making price and wage

17. William H. Natcher (Ky.).

ceilings inapplicable to services of barbers and beauticians, an amendment to govern ceiling prices "applicable to manufacturers or processors for any item of material derived . . . from an agricultural commodity," was held to be not germane.

In the 82d Congress, a bill[18] was under consideration comprising amendments to the Defense Production Act of 1950. To a committee amendment as described above, the following amendment was offered:[19]

> Amendment offered by Mr. [William R.] Poage [of Texas]: Page 18, after line 4, insert the following:
>
> (j) Section 402 of the Defense Production Act of 1950 is hereby amended by adding at the end thereof a new subsection reading as follows:
>
> "It shall be unlawful to establish or maintain any ceiling price applicable to manufacturers or processors for any item of material derived in whole or in substantial part from an agricultural commodity if such ceiling price for any such item of material is fixed and maintained at less than the sum of the following:
>
> "(1) The current cost of the material used . . .
>
> "(2) All costs currently incurred in the processing or manufacturing operation and distribution of such item . . .
>
> "(3) A reasonable profit. . . ."

Mr. Wright Patman, of Texas, having raised a point of order against the amendment, the Chairman[20] ruled as follows:

> The Chair feels that the purpose of the amendment is not germane to the committee amendment and therefore the Chair sustains the point of order.

Persons Eligible for Disaster Loans—Amendment Adding "Freeze" to Types of Disaster Included Within Terms

§ 35.28 To a bill enlarging the class of persons eligible under existing law for loans necessitated by "floods or other catastrophes," an amendment modifying the title of the existing act expressly to include "freeze" as one form of disaster to be included within the terms of the bill was held to be not germane.

In the 75th Congress, a bill[1] was under consideration to extend the lending authority of the Disaster Loan Corporation. The purposes of the bill were explained as follows:[2]

> MR. [HENRY B.] STEAGALL [of Alabama]: . . . It will be remembered

18. H.R. 3871 (Committee on Banking and Currency).
19. 97 CONG. REC. 8322, 82d Cong. 1st Sess., July 17, 1951.
20. Wilbur D. Mills (Ark.).
1. H.J. Res. 251 (Committee on Banking and Currency).
2. 81 CONG. REC. 3353, 75th Cong. 1st Sess., Apr. 9, 1937.

that on February 11, 1937, we passed an act for the establishment of the Disaster Loan Corporation to be officered by officials of the Reconstruction Finance Corporation for the purpose of making loans to sufferers from disasters during the year 1937. . . .

The provisions of the pending resolution extend the benefits of the act of February 11, 1937, to sufferers from disasters during the year 1936, so that anybody who was not taken care of under the former act will be eligible for loans under the recent legislation. Victims of disasters in 1936 will share in the benefits of the recent act. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. [Thomas F.] Ford of California: On page 1, line 4, after the word "floods", add a comma and the word "freeze."

Mr. Steagall having raised a point of order against the amendment, the Speaker[3] ruled as follows:

The amendment offered by the gentleman from California [Mr. Ford] proposes to amend the title of an existing law. The Chair is of the opinion that an amendment to the title of an existing act is not germane to the substantive matter of the proposed joint resolution, and, therefore, sustains the point of order.

Mutual Security Act—Amendment Modifying Provisions Affecting Use of Surplus Agricultural Commodities

§ 35.29 To a bill amending the Mutual Security Act of 1954, an amendment, offered for purposes of modifying that part of the act relating to the use of surplus agricultural commodities, which sought to give the President the authority to furnish surplus agricultural commodities to the United Nations for certain purposes was held to be germane.

In the 86th Congress, during consideration of a bill[4] to amend the Mutual Security Act of 1954, the following amendment was offered:[5]

Amendment offered by Mr. [Leonard G.] Wolf [of Iowa]: On page 8, line 16, strike out the quotation mark and immediately below line 16 insert the following:

Sec. 401A. (a) In keeping with the purpose and objective of the Mutual Security Act, to assist in stabilizing economies . . . and to help eliminate famines and hunger in ways that will promote economic development, the President is authorized . . . to furnish, without charge, to the United Nations or to any agency thereof, from stocks of the Commodity Credit Corporation, commodities which are surplus, as determined by the Secretary of Agriculture. . . .

Mr. John Taber, of New York, made the point of order that the amendment was not germane to

3. William B. Bankhead (Ala.).

4. H.R. 7500 (Committee on Foreign Affairs).

5. 105 CONG. REC. 11297, 86th Cong. 1st Sess., June 17, 1959.

the bill. The Chairman,[6] in ruling on the point of order, stated:[7]

> The Chair has had an opportunity to examine the amendment, also the Mutual Security Act of 1954, as amended, particularly title IV thereof, which has to do with special assistance and other programs, and calls attention to the fact that in title IV there is specific mention of surplus agricultural commodities pursuant to the Agricultural Trade, Development, and Assistance Act of 1954.
>
> The Chair feels that this amendment is germane to the bill now before the Committee, and, therefore, overrules the point of order made by the gentleman from New York.

—*Additional Sense of Congress Expression*

§ 35.30 Where a bill under consideration reenacted and amended the Mutual Security Act of 1954, an amendment adding to the statements of congressional policy contained in the act a further statement of policy which related to treaties affecting jurisdiction over American military personnel in foreign countries was held to be germane.

In the 85th Congress, a bill[8] was under consideration to amend the Mutual Security Act of 1954. To such bill, the following amendment was offered:[9]

> Amendment offered by Mr. [Omar T.] Burleson [of Texas]: On page 1, after line 4, insert: Section 2 of the Mutual Security Act of 1954, as amended, which expresses a statement of policy, is amended by the addition of the following paragraph at the end of the statement:
>
> (a) It is the sense of the Congress . . . that in order to . . . maintain the rights and privileges for our citizens who are serving with our Armed Forces in other countries . . . the President should forthwith address to the North Atlantic Council . . . a request for revision of article VII of (the NATO Status of Forces Agreement) for the purpose of eliminating or modifying article VII so that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of parties to the treaty. . . .

A point of order against the amendment was raised by Mr. Albert S. J. Carnahan, of Missouri, who stated:[10]

> Mr. Chairman, the Mutual Security Act of 1954, which the bill S. 2130 seeks to amend, states in its statement of policy among other things that the Congress of the United States "declares it to be the policy of the United States to continue as long as such danger to the peace of the world and to the security of the United States persists to make available to free nations and

6. Wilbur D. Mills (Ark.).

7. 105 Cong. Rec. 11298, 86th Cong. 1st Sess., June 17, 1959.

8. S. 2130 (Committee on Foreign Affairs).

9. 103 Cong. Rec. 12007, 12008, 85th Cong. 1st Sess., July 17, 1957.

10. *Id.* at p. 12008.

peoples upon request, assistance of such nature and in such amounts as the United States deems advisable, compatible with its own stability, strength, and other obligations, and as may be needed and effectively used by such free nations and peoples to help them maintain their freedom."

This legislation does not provide for the conduct, management, or regulation of American forces abroad. Consequently, the amendment is not germane.

Speaking in support of the point of order, Mr. John M. Vorys, of Ohio, stated:[11]

Mr. Chairman, on page 407 of the Rules of the House of Representatives on the matter of germaneness appears the statement that to a bill modifying an existing law as to one specific particular an amendment relating to the terms of the law other than those dealt with by the bill is not germane. Volume V, page 806, of Cannon's Precedents is cited and there are other citations as well.

Mr. Chairman, this amendment attempts to amend the purpose clauses of the mutual security law, which is a part of the bill which is not amended by the amendment contained in the bill, S. 2130, which is now before the House. . . . In addition, the amendment . . . would amend the Uniform Code of Military Justice. Article 14 of the code provides that under such regulations as the Secretary concerned may prescribe, a member of the Armed Forces accused of an offense against civil authority may be delivered upon request to the civil authority for trial. Article 5 of the same code says:

"This chapter applies in all places."

So that this would purport to amend the Uniform Code of Military Justice. . . .

Other Members spoke on the point of order, as follows:[12]

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, certainly in the first place the method of trial of United States troops stationed abroad is not germane in an economic and military aid bill for foreign countries.

Secondly, attention should be called to the statement that has been made by the gentleman from Ohio that the revision of United States treaties or executive agreements in this type of a bill is clearly not germane to the purpose of the bill.

Thirdly, as stated by the gentleman from Texas, the sponsor of the particular amendment, if his purpose is directly or indirectly to have a reduction effect upon the number of armed United States forces abroad or the number of military people in our military installations, that policy is clearly a matter of jurisdiction of the House Armed Services Committee, and is not in any way connected with or germane to this legislation. . . .

MR. [FRANK T.] BOW [of Ohio]: . . . This amendment merely amends the purpose clauses of the act of 1954, in which there are other purposes other than the ones which have been referred to. This does not attempt to amend the treaty. . . . It simply expresses the sense of the Congress that the President take some action to at-

11. *Id.* at pp. 12008, 12009.

12. *Id.* at p. 12009.

tempt to renegotiate and place no mandatory provisions at all upon the President. It simply expresses the will of the Congress under the purpose clauses of this legislation, as a matter of policy. . . .

MR. [WINSTON L.] PROUTY [of Vermont]: . . . I think if we look at the proposed amendment we will find it deals with a different subject matter. The subject matter of the bill S. 2130 is mutual security. The subject matter of the amendment is qualification of treaties or other international agreements. . . .

Mr. Vorys further observed:

. . . The fact that it is a policy statement rather than a direct amendment does not make it any the more germane.

The Chairman,[13] in ruling on the point of order, stated:[14]

Attention is . . . invited to the fact that the amendment does not seek to amend the treaty-making powers, it does not seek to amend the Code of Military Justice. It simply expresses the sense of Congress that the President should forthwith address to the North Atlantic Council, and so forth. It is an expression of the sense of Congress going one step further than the expressions of the sense of Congress provided in the Mutual Security Act of 1954. . . .

. . . [T]he Chair is of the opinion that the amendment is an additional expression of the sense of Congress in line with the expressions of the sense of Congress contained in the Mutual Security Act of 1954, it is germane to the pending bill, and, therefore, overrules the point of order.

Bill Amending Foreign Assistance Act—Amendment to Law Referred to in Act

§ 35.31 To a bill amending the Foreign Assistance Act of 1961, which had authorized the use of funds generated under the Agricultural Trade Development and Assistance Act of 1954, an amendment offered as a new section which sought to amend the Agricultural Trade Development and Assistance Act of 1954 by adding further provisions relating to agreements with foreign nations under which such funds were generated, specifically with respect to the power of the President to negotiate agreements with foreign nations for sale of surplus commodities in exchange for foreign currencies, was held to be germane.

In the 87th Congress, during consideration of a bill[15] amending the Foreign Assistance Act of 1961, the following amendment was offered which related to the

13. Jere Cooper (Tenn.).

14. 103 CONG. REC. 12010, 85th Cong. 1st Sess., July 17, 1957.

15. H.R. 11921 (Committee on Foreign Affairs).

power of the President to negotiate agreements for the sale of surplus commodities in exchange for foreign currencies:[16]

> Amendment offered by Mr. Barry: On page 16, after line 15 insert the following:
>
> Sec. 404. Section 101(f) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended to read as follows:
>
> "(f) obtain rates of exchange applicable to the sale of commodities in European countries under such agreements which are not less favorable than the highest of exchange rates legally obtainable from the Government or agencies thereof in the respective countries."

In regard to the amendment, the proponent, Mr. Robert R. Barry, of New York, stated:

> Mr. Chairman, the amendment which I am proposing is intended to assure that our surplus farm commodities are sold on best possible terms—specifically, at rates of exchange not less favorable than the highest rates legally obtainable from the governments, or governmental agencies, of the purchasing countries.

A point of order against the amendment was explained as follows:

> MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, the amendment here is to Public Law 480, which is the Agricultural Act, and the particular section to which it is addressed is section 101(f) of Public Law 480. That is not now before the House. The gentleman's amendment is not germane to any section of the bill. I therefore insist on the point of order.

The following exchange[17] related to the point of order:

> THE CHAIRMAN:[18] The burden of proof is always on the person who proposes an amendment. . . .
>
> MR. BARRY: I believe it is germane. Therefore, I am asking for a ruling to sustain my belief.
>
> THE CHAIRMAN: The bill before the Committee, H.R. 11921, to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, refers, of course, to the act of 1961. In the act of 1961 itself specific provision was made for amendment of the Agricultural Trade Development and Assistance Act of 1954, to which the amendment offered by the gentleman from New York refers.
>
> The Chair believes that the subject matter of the Agricultural Trade Development and Assistance Act of 1954 is included within the purview of the Foreign Assistance Act of 1961, which is the bill before the Committee and, therefore, feels that the amendment offered by the gentleman from New York [Mr. Barry] is germane to the bill. The Chair overrules the point of order.

—Amendment Relating To Subject Matter Stricken From Bill

§ 35.32 To a bill amending the Foreign Assistance Act of

16. 108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962.

17. *Id.* at pp. 13431, 13432.

18. Wilbur D. Mills (Ark.).

1961 and other general laws related to the mutual security program, an amendment relating to the appointment of Members to attend the NATO Parliamentary Conferences, which had been the subject matter of a provision stricken from the bill, was held to be not germane.

In the 87th Congress, the Foreign Assistance Act of 1962 (19) was under consideration, containing the following provision: (20)

PART IV—AMENDMENTS TO OTHER LAWS

Sec. 403. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union," approved June 28, 1935, as amended (22 U.S.C. 276), is amended by adding at the end thereof the following: "Not less than two of the principal delegates to each of the Conferences of the Interparliamentary Union shall be members of the House Committee on Foreign Affairs, and not less than two of such delegates shall be members of the Senate Committee on Foreign Relations."

The above provision having been stricken, the following amendment was offered to the bill: (1)

Amendment offered by Mr. [Robert R.] Barry [of New York]: On page 16, after line 15, insert the following:

Sec. 404. The first section of the Act entitled "An Act to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization," approved July 11, 1956, is amended by adding at the end thereof the following: "Of the appointments made by the Speaker of the House not less than two shall be members of the Foreign Affairs Committee."

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

MR. [WAYNE L.] HAYS [of Ohio]: . . . [The amendment] deals with an act of Congress which is a separate act, and which is not contained in this bill. Since section 403 has been stricken, there is nothing in this bill about any interparliamentary group whatever. Therefore it is not germane to the bill.

The Chairman,(2) in ruling on the point of order, stated:

. . . Just a moment ago section 403 was stricken from the bill. That section was the only section that had anything to do with any international group. This amendment refers to parliamentary conferences of the North Atlantic Treaty Organization. The bill itself has the purpose of further amending the Foreign Assistance Act of 1961, as amended, and for other purposes.

The Chair is of the opinion that the amendment offered by the gentleman from New York [Mr. Barry] under the circumstances goes beyond the purport of the bill, and therefore sustains the

19. H.R. 11921 (Committee on Foreign Affairs).

20. See 108 CONG. REC. 13428, 87th Cong. 2d Sess., July 12, 1962.

1. *Id.* at p. 13431.

2. Wilbur D. Mills (Ark.).

point of order raised by the gentleman from Ohio [Mr. Hays].

Amendments to Other Acts

§ 35.33 To a bill amending the Foreign Assistance Act of 1961, amendments to the Mutual Security Act of 1954 and the Legislative Appropriation Act of 1961, were conceded to be not germane.[3]

Foreign Assistance—Amendment Relating to Committee Expenses for Foreign Travel

§ 35.34 To a bill authorizing general foreign assistance programs, an amendment relating to reports on committee expenditures for foreign travel was conceded to be not germane.

During consideration of the Foreign Assistance Act of 1961,[4] the following amendment was offered as a new section:[5]

> Sec. 404. (a) Subsection (b) of section 502 of the Mutual Security Act of 1954 is amended by inserting immediately before the last sentence thereof the following new sentences: "No such report shall contain any miscellaneous item or other item grouping together under a general heading expenditures for dissimilar purposes but shall specify, item by item, each individual expenditure. . . ."
>
> (b) Subsection (b) of section 105 of the Legislative Branch Appropriation Act, 1961, is amended by inserting immediately before the last sentence thereof the following new sentences:
>
> "No such report shall contain any miscellaneous item. . . ."

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

> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make a point of order against the amendment on the ground again that there is nothing in this bill relating to the expenditure of committee funds, of select or special committees, or traveling committees and, therefore, the amendment is not germane to the bill.

The following exchange then occurred:

> MR. [HAROLD R.] GROSS [of Iowa]: Mr. Chairman, I concede the point of order.
>
> THE CHAIRMAN:[6] The gentleman from Iowa concedes the point of order. . . .

Military Assistance to Foreign Nations—Transfer of Military Equipment to Israel

§ 35.35 To a bill authorizing foreign assistance and

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3. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962. See Sec. 35.34, infra, for fuller treatment of this precedent.

4. H.R. 11921 (Committee on Foreign Affairs).

5. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962.

6. Wilbur D. Mills (Ark.).

amending several provisions of the basic law relating to military assistance, an amendment authorizing the President to negotiate with Israel concerning the sale to that nation of certain military equipment was held to be germane.[7]

§ 35.36 To a bill amending those provisions of the Foreign Assistance Act of 1961 relating to military assistance to foreign nations, an amendment authorizing the transfer of military planes to Israel under conditions and procedures compatible with the basic law was held to be germane.

In the 90th Congress, during consideration of the Foreign Assistance Act of 1968,[8] the following amendment was offered:[9]

> Amendment offered to the committee amendments offered by Mr. [Lester L.] Wolff [of New York]: on page 11, line 9, after the Conte amendment insert:
>
> (d) The President shall take such steps as may be necessary . . . to negotiate an agreement with the Government of Israel providing for the sale by the United States of not less than 50 military planes. . . .

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

> MR. [WAYNE L.] HAYS [of Ohio]: I raise a point of order against the amendment because it would order the President to make an affirmative determination. It has been ruled here many times that one cannot do that.
>
> In addition, it is not germane to the bill because we are coming up with a military sales bill, and this bill has nothing about military sales in it. The amendment may be germane to the military sales bill.

The Chairman,[10] in ruling on the point of order, stated:

> . . . Part II of chapter 2 of the Foreign Assistance Act of 1961, section 503, designating the general authority, states the President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance.
>
> The Chair will hold that the amendment offered by the gentleman from New York further authorizes the President to take such steps as may be necessary to negotiate an agreement with the Government of Israel providing for the sale of military planes, and is a condition in keeping with the authority

7. 114 CONG. REC. 22098, 90th Cong. 2d Sess., July 18, 1968. See § 35.36, infra.

8. H.R. 15263 (Committee on Foreign Affairs).

9. 114 CONG. REC. 22098, 90th Cong. 2d Sess., July 18, 1968.

10. Charles M. Price (Ill.).

already given to the President in section 503 of the Foreign Assistance Act of 1961, as amended, and therefore holds the amendment to be germane. The Chair overrules the point of order.

Bill Amending Mutual Security Act of 1954—Amendment Authorizing Librarian of Congress To Use Foreign Currencies in Acquisitions

§ 35.37 To a bill relating to military and economic assistance to foreign countries and amending the Mutual Security Act of 1954, an amendment was held to be not germane which authorized the Librarian of Congress to use designated foreign currencies in connection with programs for the evaluation and acquisition of certain foreign books and materials.

In the 85th Congress, a bill (11) was under consideration amending the Mutual Security Act of 1954. The following amendment was offered to the bill: (12)

> Amendment offered by Mr. [John D.] Dingell [Jr., of Michigan]:
>
> (m) Add a new section as follows:
>
> Sec. 519. Overseas programs relating to scientific and other significant works (a) The Librarian of Congress, in consultation with the National Science Foundation and other interested agencies, is authorized to establish programs outside of the United States for (1) the analysis and evaluation of foreign books . . . and other materials to determine whether they would provide information of technical or scientific significance in the United States . . . and the acquisition of such books. . . .
>
> . . . [T]he Librarian of Congress may, in carrying out the provisions of this section . . . use currencies, or credits for currencies, of any foreign government (1) held or available for expenditure by the United States and not required by law or agreement with such government to be expended or used for another purpose. . . .

The following exchange concerned a point of order raised against the amendment:

> MR. [JOHN] TABER [of New York]: Mr. Chairman, this amendment is not germane to the bill or at this place in the bill. . . .
>
> Mr. Chairman, this amendment sets up an outfit in the Library of Congress which is not mentioned anywhere else to review a great bunch of books. . . .
>
> THE CHAIRMAN: (13) . . . The Chair is not, of course, passing on the merits of the amendment offered by the gentleman from Michigan. The amendment is obviously not germane to the purposes of the pending bill. The Chair sustains the point of order.

A subsequent exchange concerned the timeliness of Mr. Taber's point of order:

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11. H.R. 12181 (Committee on Foreign Affairs).

12. 104 CONG. REC. 8751, 85th Cong. 2d Sess., May 14, 1958.

13. Hale Boggs (La.).

MR. [WAYNE L.] HAYS of Ohio: Mr. Chairman, I make the point of order that the gentleman from New York [Mr. Taber] was much too late in making his point of order, inasmuch as the amendment had already been read and debate had started.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] was on his feet at the time and was recognized by the Chair as soon as the Chair saw the gentleman on his feet. The point of order of the gentleman from Ohio comes too late.

Foreign Assistance to Certain Nations—Amendment Requiring Reports on Human Rights Violations by Any Nation

§ 35.38 To a bill amending existing law to authorize foreign economic assistance to nations qualifying as recipients under that law, but not addressing foreign relations with countries not receiving such assistance, an amendment to that law to require reports on human rights violations by all foreign countries, not merely those receiving aid under the law, was conceded to be broader in scope and was ruled out as not germane.

During consideration of H.R. 12222 [14] in the Committee of the Whole, a point of order against the amendment described above was conceded and sustained. The proceedings of May 12, 1978,[15] were as follows:

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Michel: On page 48, immediately after line 15, insert the following new subsection:

"(e) Section 116(d)(1) of such Act is amended by inserting immediately before the semicolon "and in all other foreign countries (except those countries with respect to which a report is transmitted pursuant [to another section])."

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I reserve a point of order against the amendment. . . .

MR. MICHEL: . . . [I]f the gentleman insists on his point of order, I would concede it in the interests of time.

Mr. Chairman, in the interest of time I will concede the point of order and will offer another amendment.

THE CHAIRMAN:[16] The point of order is conceded and sustained.

Laws Concerning State Department and Foreign Relations—Guidelines for Acceptance of Foreign Gifts

§ 35.39 To a House bill containing diverse amendments

14. The International Development and Food Assistance Act of 1978.

15. 124 CONG. REC. 13499, 13500, 95th Cong. 2d Sess.

16. Elliott Levitas (Ga.).

to existing laws within the jurisdiction of the Committee on International Relations, relating to foreign relations and the operation of the Department of State and related agencies, a portion of a Senate amendment thereto contained in a conference report, amending the Foreign Gifts and Decorations Act (within the jurisdiction of the same committee) to provide guidelines and procedures for the acceptance of foreign gifts by United States employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane when a point of order was raised against a portion of the conference report under Rule XXVIII, clause 4.

The proceedings of Aug. 3, 1977, relating to the conference report on H.R. 6689, the Foreign Relations Authorization Act for fiscal 1978, are discussed in § 26.28, supra.

General Sanctions Offered to Specific Sanctions

§ 35.40 To a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment permitting the president to suspend all economic relations and communications between the United States and any other country, on the basis of human rights violations as determined by the president, was held to be not germane.

On Mar. 14, 1977,[17] the Committee of the Whole had under consideration H.R. 1746, amending the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome. The bill permitted the president to enforce United States compliance with United Nations Security Council sanctions against trade with Rhodesia particularly with reference to the importation of Rhodesian chrome. The proceedings were as follows:

> *Be it amended by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) is amended—
>
> (1) by adding at the end of subsection (a) the following new sentence: "Any Executive order which is issued under this subsection and which applies measures against Southern Rho-

17. 123 CONG. REC. 7432, 7446, 7447, 95th Cong. 1st Sess.

desia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law; and

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

"(c)(1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

"(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

"(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin. . . .

The Clerk read as follows:

Amendment offered by Mr. [Elliott] Levitas [of Georgia]: Strike out all after the enacting clause and insert in lieu thereof the following:

That section 5(a) of the United Nations Participation Act of 1945 is amended—

(1) by inserting "(1)" immediately after "(a)"; and

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

"(2)(A) Subject to the conditions prescribed in subparagraph (B), if the President determines that the government of a foreign country is engaged in a consistent pattern of gross violations of internationally recognized human rights (including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person), the President may, through any agency which he may designate and under such orders, rules, and regulations as may be prescribed by him, suspend (in whole or in part) economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between that foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I make the point of order the amendment is not germane.

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

The bill deals only with United Nations sanctions against importation of chrome, while the amendment offered by the gentleman from Georgia deals with embargoes and other economic sanctions on any material or commercial transaction. Also, the bill deals only with sanctions against Rhodesia, both in the title and in the body of the bill. The amendment offered by the gentleman from Georgia permits U.S. rather than U.N. sanctions to be imposed on products or communications from any foreign country. It is the opinion of the Chair that the amendment is not germane, and the Chair sustains the point of order.

§ 35.41 To a bill amending existing law for limited pur-

18. Neal Smith (Iowa).

poses, an amendment further changing that law but affecting programs beyond the scope of the bill and the law being amended and waiving other inconsistent provisions of law is not germane.

On Sept. 23, 1977,[19] the Committee of the Whole had under consideration a bill[20] jointly reported from the Committees on Ways and Means and Interstate and Foreign Commerce to enable the Department of Health, Education and Welfare to investigate and prosecute fraud and abuse in the medicare and medicaid health programs within their respective jurisdictions. An amendment was recommended by the Committee on Ways and Means to prohibit any federal officer or employee from disclosing any identifiable medical record in the absence of patient approval. The amendment was held not germane, as exceeding the scope and subject matter of the bill. The proceedings were as follows:

THE CHAIRMAN:[1] The Clerk will report the second amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by the Committee on Ways and Means: Page 66, strike out line 22 down through and including line 5 on page 70 and insert in lieu thereof:

(l)(1) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"Sec. 1125. (a)(1) Notwithstanding any other provision of this Act except paragraph (2) of this subsection, no officer, employee, or agent of the United States, or any office, agency, or department thereof, or any Professional Standards Review Organization or any person acting or purporting to act on behalf of such Organization, may inspect, acquire, or require the disclosure of, for any reason whatever, any individually identifiable medical record of a patient, unless the patient has authorized such inspection, acquisition, or disclosure in accordance with subsection (b). . . .

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable

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19. 123 CONG. REC. 30532–34, 95th Cong. 1st Sess.

20. H.R. 3, Medicare-Medicaid Antifraud and Abuse Amendments.

1. Gerry E. Studds (Mass.).

> medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records. . . .

MR. [RICHARDSON] PREYER [of North Carolina]: Mr. Chairman, I raise a point of order against the amendment. . . .

[T]his amendment in its scope would apply far beyond the purpose of the bill and the jurisdiction of the committee. The jurisdiction of the committee and the purpose of the bill is to deal with the Department of Health, Education, and Welfare and increase the Department's ability to investigate and prosecute medicare and medicaid fraud and abuse.

However, the amendment covers not only the Department of Health, Education, and Welfare but all the officers, employees, and agents of the United States. The committee report specifically states, "Under the bill PSRO's and employees or agents of the Federal Government may not inspect, acquire or require the disclosure of individually identifiable medical records." The Ways and Means Committee does not have jurisdiction, for example, over the employees of the Department of Defense, the Veterans' Administration, or the Federal courts.

In addition this amendment clearly conflicts with the Deschler precedent in chapter 28, section 8.1, which states that—

> To a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane.

Finally, Mr. Chairman, I note the amendment attempts to supersede all other laws and regulations of the United States in conflict with this amendment. This violates the principle of the Deschler precedent in chapter 28, section 29.4 which states that—

> To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane. . . .

MR. [PHILIP M.] CRANE [of Illinois]: . . . Mr. Chairman, I rise in opposition to the point of order. The Ways and Means amendment, set forth as section 5(l) of H.R. 3 as reported by that committee, is clearly germane to the original bill and the bill in its current form.

In the first place, Mr. Chairman, H.R. 3 ostensibly has as its purpose the prevention of fraud and abuse in the medicare and medicaid programs. To achieve that objective, a very complex set of provisions were put into the original bill, including provisions in section 5, that greatly strengthen the investigatory and enforcement roles of professional standards review organizations (PSRO's).

These organizations do not simply acquire and inspect records only of medicare and medicaid patients, or of doctors and other health professionals who treat only those patients. Quite the contrary is true. PSRO's are required to compile statistically valid "profiles" of patients and providers, in order to identify, among other things, patterns of suspected unnecessary services and treatment that does not conform to "appropriate" medical standards. In so doing, they not only

may—they must—inspect, acquire, and require the disclosure of the records of private patients and their doctors. . . .

Mr. Chairman, I am well aware of the precedents of this body—and I am certain that my colleagues on the Ways and Means Committee are as well—that would not allow section 5(l) of H.R. 3 to be broader in scope than the original bill. The fact is, however, that section 5(h) of the bill now before us clearly extends the specter of unauthorized violations of patients' rights to confidentiality to all patients, by all Federal agencies and departments. There is no way for Congress to know, in advance, precisely who will seek to inspect, acquire or require the disclosure of the data and records gathered by a PSRO and mandated to be shared with others by the original language of H.R. 3. Furthermore, a private patient's medical record can be transformed into a medicare or medicaid patient's record simply by a change in the status of the patient—his becoming eligible, for example, through disability, age, or poverty. The medicare and medicaid programs have much to fear if the kinds of safeguards provided for in the Crane-Stark amendment are not extended to all records of patients and all Federal officials.

The Crane-Stark amendment most certainly relates to the fundamental purpose of H.R. 3, and applies only to those individuals, agencies and departments that are within the scope of the original bill. To decide otherwise would, I respectfully submit, significantly and adversely affect the very patients who are the intended beneficiaries of this important legislation. It would create potential barriers between patient and doctor by inhibiting free communication, since there would be no guarantees that their jobs would be secure or their friends and families would be free from interrogation and investigation by the Federal Government. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from North Carolina makes the point of order against the amendment recommended by the Committee on Ways and Means printed on page 66, line 22, through page 70, line 5, on the grounds that it is not germane to the bill H.R. 3.

The bill amends several titles of the Social Security Act to correct fraudulent activities under the medicare and medicaid programs by strengthening penalty sanctions, increasing disclosure of information requirements, improving the professional standards review program, and by proposing certain administrative reforms.

The amendment recommended by the Committee on Ways and Means, while addressing the role of professional standards review organizations in permitting disclosure of confidential medical records of patients under medicare and medicaid programs, goes beyond that issue and encompasses a prohibition against any officer or employee of the Federal Government from disclosing any identifiable medical record absent specific authorization from the patient. As drafted, the amendment would supersede any other provision of law which would otherwise permit Federal officials to disclose medical records, and would appear to affect health programs which are not medicare or medicaid related which do

not involve PSRO participation and which are not established under the Social Security Act.

For this reason, the Chair holds that the amendment recommended by the Committee on Ways and Means is not germane to H.R. 3 and sustains the point of order.

Bill Amending One Title of Social Security Act—Amendment to Different Title

§ 35.42 To a bill to amend one title of the Social Security Act to provide a national program for war mobilization and reconversion, an amendment offered to amend another title of the act and relating to military pay and allowances was held not germane.

In the 78th Congress, during consideration of the War Mobilization and Reconversion Bill of 1944,[2] the following amendment was offered:[3]

> Amendment offered by Mr. [H. Jerry] Voorhis of California: On page 39, line 24, add the following new title, Title 4, section 401:
>
> Title II of the Social Security Act, as amended, is amended by adding at the end thereof the following new section:
>
> "MILITARY SERVICE BENEFITS
>
> "Sec. 210. (a) For the purposes of this title, an individual who is engaged in military service within the period beginning with October 1, 1940, and ending 1 year after the termination of the emergency declared by the President on May 27, 1941, shall be deemed to have been paid for each month in which he performs any military service within such period wages equal to [a specified amount]. . . ."

A point of order was raised against the amendment, as follows:[4]

> MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California (Mr. Voorhis) that it is not germane to this bill or any part of it. It relates to military pay and allowances, which is certainly not within the scope of anything in this bill. . . .
>
> . . . I submit further that the gentleman's amendment is to title II of the Social Security Act, which is not . . . dealt with in the pending bill at all. The only amendment to the Social Security Act in this bill relates to title III.

The Chairman,[5] adopting the reasoning of Mr. Cooper, sustained the point of order.[6]

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2. S. 2051 (Committee on Ways and Means).

3. 90 CONG. REC. 7465, 78th Cong. 2d Sess., Aug. 31, 1944.

4. *Id.* at pp. 7465, 7466.

5. Fritz G. Lanham (Tex.).

6. 90 CONG. REC. 7466, 78th Cong. 2d Sess., Aug. 31, 1944.

Continuing Appropriations and Imposing Conditions on Availability—Amendment To Change Law Governing Eligibility

§ 35.43 To a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of certain recipients was conceded to go beyond the scope of the categories of legislative changes contained therein and to be nongermane.

The proceedings of Dec. 10, 1981, relating to House Joint Resolution 370, continuing appropriations for fiscal 1982, are discussed in § 23.4, supra.

Bill Relating to Exchange Value and Gold Content of Dollar—Amendment Affecting Purchase of Foreign Gold

§ 35.44 To a bill amending the Gold Reserve Act to extend certain powers of the President with respect to use of the stabilization fund for purposes of stabilizing the exchange value of the dollar, and with respect to altering the gold content of the dollar, an amendment was held to be not germane which referred to another part of the act and related to terms upon which foreign gold could be purchased by the Secretary of the Treasury.

In the 76th Congress, during consideration of a bill[7] as described above, the following amendment was offered:[8]

> Amendment offered by Mr. August H. Andresen [of Minnesota]: On page 2, at the end of section 3, add a new section, as follows:
>
> Sec. 4. That section 3700 of the Revised Statutes (U.S.C., title 31, sec. 734, as amended by section 8 of the Gold Reserve Act of 1934 (73d Cong., H.R. 6976), is further amended to read as follows:
>
> "Sec. 3700. With the approval of the President, the Secretary of the Treasury may purchase gold . . . at home or abroad . . . upon such terms . . . as he may deem most advantageous to the public interest: *Provided*, That no payments for gold so purchased shall be made . . . to any foreign vendor (including foreign governments) . . . unless and until such vendor . . . shall guarantee to the Secretary of the Treasury as a condition precedent to receiving such payment: (1) That [a specified amount] shall be used exclusively for the purchase of commodities or articles produced, grown, or manufactured in the United States. . . ."

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7. H.R. 3325 (Committee on Coinage, Weights, and Measures).

8. 84 CONG. REC. 4628, 76th Cong. 1st Sess., Apr. 21, 1939.

Mr. Howard W. Smith, of Virginia, made the point of order that the amendment was not germane to the bill. He argued that, where only one amendment to existing law is contained in the bill, no other amendments to the law can be proposed by way of amendment of the bill; and that, where more than one amendment is proposed in the bill, the question for the Chair is whether the bill is a general amendatory bill and thus open to amendments further modifying the law. The Chairman,[9] in ruling on the point of order, stated:[10]

> The bill picks out two powers granted in the Gold Reserve Act of 1934, from a number of other powers in that act, and it extends the date of expiration of those powers vested in the President and also in the Secretary of the Treasury, and continues those powers for an additional period.

Chairman McCormack then cited prior instances in which, "to a bill amending the Federal Reserve Act in a number of particulars an amendment relating to the Federal Reserve Act, but to no portion provided for in the pending bill, was held not to be germane"; and in which it was held that, "to a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill" was not germane.

A further ruling of the Speaker in a prior situation was quoted, as follows:[11]

> It does not seem to the Chair that this bill brings the whole National Defense Act before the House. It only brings before the House a very limited portion of it, and not the portion affected by the amendment offered by the gentleman from South Carolina. The Chair is disposed to sustain the point of order. The point of order is sustained.

The Chair sustained the point of order.

Penalties Under Export Administration Act—Amendment Relating to Different Class of Penalties

§ 35.45 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee is not germane; thus, to a title of a bill reported from the Committee on Foreign Affairs comprehensively amending the Export Administration Act, and addressing

9. John W. McCormack (Mass.).

10. 84 Cong. Rec. 4629, 76th Cong. 1st Sess., Apr. 21, 1939.

11. *Id.* at p. 4630.

penalties for violating export controls within that committee's jurisdiction, such as revocation of export licenses and forfeiture of property interests and proceeds related to exports, an amendment authorizing the President to control imports by persons violating export controls was held to be not germane because it was a penalty not within the class covered by the title and by the Export Administration Act, and was a matter within the jurisdiction of another committee (Ways and Means).

The proceedings of Sept. 29, 1983, relating to H.R. 3231, the Export Administration Amendments Act of 1983, are discussed in § 4.55, supra.

Bill Affecting Gold Reserve Requirements—Amendment Relating to France's War Debt to United States

§ 35.46 To a bill eliminating the gold reserve requirements for certain United States currencies, an amendment providing that no redemption in gold be made to France until agreement is reached respecting payment of France's World War I debt to the United States was held to be not germane.

The following ruling[12] of the Chair was made with respect to the germaneness of an amendment offered by Mr. Lester L. Wolff, of New York, to a bill[13] eliminating certain gold reserve requirements:

> THE CHAIRMAN:[14] . . . The bill before the House, H.R. 14743, deals only with the question of eliminating reserve requirements for Federal Reserve notes and for U.S. notes and Treasury notes of 1890. The amendment offered by the gentleman from New York, while put in the form of an amendment to the same section of the Gold Reserve Act amended by section 8 of the bill before the Committee, has to do with war debts, a matter within the jurisdiction of the Committee on Ways and Means and a matter not involved in the subject before the Committee of the Whole.
>
> The Chair, therefore, sustains the point of order.

Contributions to International Financial Organization—Restriction on Uses of Funds

§ 35.47 To a bill continuing authority under existing law to make contributions to an international financial orga-

12. See 114 CONG. REC. 3687, 90th Cong. 2d Sess., Feb. 21, 1968.
13. H.R. 14743 (Committee on Banking and Currency).
14. James G. O'Hara (Mich.).

nization and authorizing appropriations for those contributions, an amendment adding a further restriction on the use of United States contributions to those already contained in that law is germane.

On July 2, 1974,[15] during consideration of a bill continuing United States participation under the International Development Association Act (H.R. 15465), an amendment prohibiting the use of United States contributions as loans for the purchase of nuclear weapons or materials was held germane as a restriction on the use of loans by recipient nations which added to several restrictions already contained in the Act:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

Sec. 14. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of $375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

"(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of $375,000,000 each for payment by the Secretary of the Treasury.".

THE CHAIRMAN:[16] Are there any amendments to this section? There being no amendments the Clerk will read.

The Clerk read as follows:

Sec. 2. Subsections 3 (b) and (c) of Public Law 93–110 (87 Stat. 352) are repealed and in lieu thereof add the following:

"(b) No rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad. . . .

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 2, immediately after line 9, insert the following new section:

Sec. 2. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 15. No moneys contributed by the United States to the Association may be loaned to, or utilized by, any country for the purpose of purchasing nuclear materials, or nuclear energy technology or for the purpose of developing nuclear explosive devices or nuclear weapons.". . .

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I make the point of order against the amendment that it is not germane. It purports to amend subsections 3 (b) and (c) of Pub-

15. 120 CONG. REC. 22026, 22028, 93d Cong. 2d Sess.

16. John Brademas (Ind.).

lic Law 93–110 (87 Stat. 352). Public Law 93–110 is the Par Value Act which affected the gold value of the dollar. The amendment offered by the gentleman from New York (Mr. Biaggi) attempts to amend the International Development Association Act, this has to do with nuclear materials, it is, therefore, entirely nongermane to the act which it seeks to amend. . . .

MR. BIAGGI: . . . Mr. Chairman, my amendment simply seeks to add a new section to this bill, section 15. This section would condition any of the moneys to be spent in the event IDA is successful this afternoon, or any of the moneys to be loaned, and I use that as a euphemism because, in fact, it is an outright grant in its nature, and we have recognized it as such, and I do not think anyone thinks that we will ever have the money returned, but it represents a condition under which the money can be loaned.

The fact of the matter is, the money, if it is to be loaned, cannot be used to provide nuclear technology or nuclear material in any of the proposed countries, and it is my judgment that the appropriate manner in which to do that is to add an additional section, and we do that in my amendment by creating section 15.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Wisconsin (Mr. Reuss).

The bill is drafted as a continuation of the U.S. Governor's authority to agree to make U.S. money available to IDA under terms of the International Development Association Act. That statute already contains several restrictions on the Governor's authority to cast dissenting votes for loans to nations lacking certain qualifications. Therefore an amendment to further restrict the use of funds for loans under IDA, part of which are authorized by the bill, would be germane, and the point of order is overruled.[17]

Extending Authorization for Contributions to International Monetary Fund—Amendment Restricting Total Budget Outlays of Government

§ 35.48 An amendment must be germane to the pending bill, and where the bill amends one portion of an existing law, an amendment that affects another provision of that law, not related to the subject of the bill, is not germane; thus, to a title of a bill amending that portion of an existing law to extend the authorization for United States contributions to the International Monetary Fund, amendments affecting another section of that law by mandating, or affirming congressional commitment to mandate, that the total budget outlays of the federal gov-

17. In response to a further point of order, the Chair ruled that the Biaggi amendment came too late, because section 2 of the bill had already been read.

ernment shall not exceed its receipts were held not germane, as addressing issues of federal spending and revenue beyond the scope of the title and amending or referencing a section originally added to the law as a nongermane Senate amendment.

During consideration of H.R. 2957[18] in the Committee of the Whole on Aug. 3, 1983,[19] the Chair sustained points of order in the circumstances described above. The proceedings were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 28, after line 8, add the following:

Sec. 308. Consistent with the objective of sustaining worldwide economic growth and recovery set forth in this title, section 3 of Public Law 96–389, the Bretton Woods Agreements Act Amendments of 1980, is amended by striking it in its entirety and inserting in lieu thereof the following: Beginning in fiscal year 1985, the total budget outlays of the Federal Government shall not exceed its receipts. . . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Chairman, I make a point of order against the amendment. . . .

[M]y point of order is that it relates to a balanced budget for the United States and is therefore not germane to that part of the legislation before us.

Title III of the legislation provides for U.S. contributions to the IMF, as well as certain conditions and restrictions of those contributions and on lending by U.S. banks. The title does not address the far broader issues of overall Federal Government spending and taxing raised by this amendment.

The amendment also has a different fundamental purpose from title III, in that it seeks to impose limitations on aggregate receipts and expenditures of the Federal Government, which has nothing to do with the purposes of the IMF legislation.

The mere fact that previous nongermane amendments dealing with budget outlays and receipts have been attached to IMF legislation in past Congresses does not make the amendment germane. The amendment must be germane to the bill, not to the underlying law being amended in the bill.

Deschler's Procedure, chapter 28, section 27.

I ask the Chair to rule the amendment out of order. . . .

MR. WALKER: Mr. Chairman, the amendment that I have placed before the House relates precisely to the law to which this particular piece of legislation speaks. And let me also cite Deschler's Procedure. Deschler's Procedure, 28.55, says that a bill amending several sections of an existing law may be sufficiently comprehensive to permit amendments which are germane to other sections of that law.

That is precisely what I am doing here. The language of this amendment

18. International Recovery and Financial Stability Act.

19. 129 CONG. REC. 22678, 22679, 98th Cong. 1st Sess.

relates to balanced budget language that is in the present law. This bill amends several sections of that law. So, therefore, this particular amendment is entirely germane to that which is before us.

Deschler's Procedure also says, in section 28.57, to a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane.

This again is the same subject area. We have balanced budget language which exists in the present law. This is in the same class. So, therefore, it seems to me that under precedents of the House it is entirely germane to the bill that we are considering.

THE CHAIRMAN:[20] The Chair is prepared to rule on the point of order.

Although the balanced budget provision of law which would be amended by this amendment was originally added to the Bretton Woods Agreement Act as a nongermane Senate amendment in the 95th Congress and was subsequently amended in a similar bill in the 96th Congress, the pending bill does not relate to the entire Federal budget.

The Chair rules that the amendment must be germane to the pending bill, it not being sufficient that the amendment relate to a nongermane provision of a law being amended by the pending bill.

Therefore, the Chair sustains the point of order.

Mr. Walker then offered a further amendment:

MR. WALKER: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 28, after line 8, add the following:

Sec. 308. Consistent with the objective of sustaining worldwide economic growth and recovery set forth in this title, Congress reaffirms its commitment to the mandates required under section 7 of Public Law 95–435, the Bretton Woods Agreements Act Amendments of 1978. . . .

MR. ST GERMAIN: Mr. Chairman, I raise a point of order against the amendment. . . .

[T]he amendment relates to a balanced budget for the United States and is therefore not germane to that part of the legislation before us. Title III of the legislation provides for U.S. contributions to the IMF, as well as certain conditions and restrictions on those contributions and on lending by U.S. banks. The title does not address the far broader issues of overall Federal Government spending and taxing raised by this amendment.

The amendment also has a different fundamental purpose from title III, in that it seeks to impose limitations on aggregate receipts and expenditures of the Federal Government, which has nothing to do with the purposes of the IMF legislation.

The mere fact that previous nongermane amendments dealing with budget outlays and receipts have been attached to IMF legislation in past Congresses does not make this amendment germane. The amendment must be germane to the bill, not to the underlying law being amended in the bill.

Deschler's, chapter 28, section 27.

I ask the Chair to rule the amendment out of order. . . .

20. Donald J. Pease (Ohio).

MR. WALKER: Mr. Chairman, in the case of this amendment, it does two things. No. 1, it speaks to exactly the same kinds of issues that were involved in amendment language that was added in the committee to the bill dealing with apartheid. This particular language simply says that consistent with the objectives sustaining worldwide economic growth and recovery set forth in the title—so it relates directly to the title of the bill under consideration. We are reaffirming the process of the law that was previously decided by this Congress. This simply reaffirms section 7 of Public Law 95-435 which already exists. This is a different amendment from the previous one. The precedent cited by the gentleman—I could agree with the Chair—applied to the previous amendment. In this case, though, the amendment language is specifically consistent with the title under consideration, and I think that the amendment is entirely germane to the bill that we are considering.

THE CHAIRMAN: The Chair rules that the issues raised with this amendment are fundamentally the same as those raised by the previous amendment. The issues are not germane to the bill at hand, and the point of order is sustained.

Bill and Amendment Affecting Definitions of Terms in Bank Holding Company Act

§ 35.49 To a bill amending two sections of the Bank Holding Company Act to, first, redefine "bank holding company" to include companies having actual control of any bank and, second, exempt from the definition of such term certain institutions controlling banks engaged primarily in foreign business, an amendment to a third section of the act to change the definition of the word "company" to include partnerships was held to be germane.

In the 91st Congress, a bill[1] was under consideration amending the Bank Holding Company Act of 1956. During consideration of the bill, an amendment had been offered as follows,[2] and subsequently adopted: G5(3)

Amendment offered by Mr. [Thomas L.] Ashley [of Ohio]: Page 12, strike lines 18 through 21 and insert in lieu thereof the following:

(b) Section 2(a) of the Bank Holding Company Act of 1956 is amended to read as follows:

"Sec. 2. (a)(1) Except as provided in paragraph (5) of this subsection, 'bank holding company' means any company that has control over any bank or over any company that is or becomes a bank holding company by virtue of this Act.

"(2) Any given person has control.

"(A) over any company which is a corporation if the person . . . has power to vote 25 percent or more of any class of voting securities of that corporation.

1. H.R. 6778 (Committee on Banking and Currency).
2. 115 CONG. REC. 33141, 91st Cong. 1st Sess., Nov. 5, 1969.
3. *Id.* at p. 33142.

"(B) over any company which is a corporation or trust if the person controls in any manner the election of a majority of its directors or trustees. . . ."

(c) Section 4(c) of the Bank Holding Company Act of 1956 is amended by adding at the end thereof the following new paragraph:

"(12) . . . activities conducted by any company organized under the laws of a foreign country the greater part of whose business is conducted outside the United States, if the Board . . . determines that . . . the exemption would not be substantially at variance with the purposes of this Act. . . ."

In explaining the amendment, the proponent had stated: (4)

Mr. Chairman, this amendment is concerned with the criteria for determining whether or not a company is a bank holding company for purposes of the 1956 act, as amended. The bill before us, H.R. 6778, defines a bank holding company as any company that directly or indirectly owns or controls 25 percent or more of the voting shares of any bank. . . .

Testimony before our committee indicated that in some instances companies might seek to avoid coverage of the act by keeping their stock ownership at less than 25 percent. My amendment simply modifies H.R. 6778 by providing that actual control of any bank, even at less than 25 percent, is sufficient to require the controlling company to register as a bank holding company. . . .

Second, Mr. Chairman, my amendment makes it clear, subject to action by the Federal Reserve Board, that no foreign institution will be a bank holding company by virtue of its ownership or control of any bank the greater part of whose business is conducted outside the United States. . . .

After adoption of the Ashley amendment, the following amendment was offered to the bill: (5)

Amendment offered by Mr. [Chalmers P.] Wylie [of Ohio]: Page 12, immediately after line 21, insert the following:

(c) Section 2(b) of the Bank Holding Company Act of 1956 is amended (A) by inserting "partnership," immediately after "corporation,", (B) by striking "(1)", and (C) by striking ", or (2) any partnership". . . .

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

MR. [THOMAS M.] REES [of California]: Mr. Chairman, the amendment is out of order as it is not germane to the bill now before us. The bill before us is in the form of one committee amendment. The committee amendment deals with section 2(a) of the Bank Holding Company Act. It then on line 22 proceeds to jump to section 4(c) of the Bank Holding Act. The amendment offered by the gentleman from Ohio goes to 2(b) and there is no mention in the bill before us of section 2(b) of the Bank Holding Company Act.

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

MR. WYLIE: Mr. Chairman, the principle is well established that in passing on the germaneness of an amendment,

4. *Id.* at p. 33141.

5. *Id.* at p. 33142.

the Chair considers the relationship of the amendment to the bill as modified by the Committee of the Whole at the time the amendment is offered, and not as originally referred to the committee—Cannon's Procedure, page 200.

Mr. Chairman, in the light of this principle, the attention of the Chair is respectfully directed to the present status of the committee amendment, which under the rule is considered as an original bill for the purpose of amendment. The Committee of the Whole has adopted, among others, the Ashley amendment, which completely rewrites the definition of "bank holding company" in the Bank Holding Company Act.

It is obvious that the legal significance of the definition of "bank holding company" depends in turn on the definition of "company." It is equally obvious that a change in the definition of "company" will, to that extent, modify the definition of "bank holding company."

My amendment, Mr. Chairman, amends the definition of "company" so as to include partnerships. I think it is clear, Mr. Chairman, that my amendment thereby modifies the definition of "bank holding company"—indeed, Mr. Chairman, this is its principal purpose. By adopting the Ashley amendment, the Committee of the Whole necessarily made in order any amendment proposing a germane modification of the bill as so amended, in accord with the principle which I stated at the beginning of my remarks. . . .

The Chairman,[6] in ruling on the point of order, stated:

. . . The fact that there was no point of order raised to the Ashley amendment allowed the Ashley amendment to be considered and adopted by the committee and that changed the tenor of the bill to the extent that the language therein be changed, and the committee amendment now under consideration amends sections 2(a) and 4(c) of the act. These two sections, and the amendment proposed to them, are unrelated. The committee report on the pending bill discloses that the committee amendment does two things: Subjects single bank holding companies to the 1956 act and changes the existing law with respect to what particular nonbanking activities are prohibited to them.

It is a well-established principle of the germaneness rule that where a bill amends existing law in two or more unrelated respects, other amendments to that law may be germane. . . .

Section 2(b) of existing law . . . defines the word "company" as it is used in the term "bank holding company" and elsewhere in the act. . . .

Since the committee amendment amends two provisions of existing law and opened up for consideration the meaning of the term "bank holding company," . . . words within or dependent upon that term, even if defined elsewhere in the act, are also subject to interpretation and definition.

The Chair holds the amendment germane and overrules the point of order.

Bill Amending Federal Reserve Act—Amendment To Permit National Banks To Purchase Certain Banks Under Another Law

§ 35.50 To a bill amending an existing law to accomplish a

6. Chet Holifield (Calif.).

particular purpose, an amendment to another law not related to the same subject is not germane; thus, to a bill amending several sections of the Federal Reserve Act to expand the authority of the Federal Reserve Board to manage the national monetary supply by providing mandatory reserve requirements and by imposing other requirements on member banks, an amendment to another law to permit national banks to purchase small banker-owned banks was conceded to be nongermane since unrelated to the Federal Reserve Act.

During consideration of H.R. 7[7] in the Committee of the Whole on July 20, 1979,[8] a point of order was conceded and sustained against the amendment described above. The proceedings were as follows:

> Sec. 3. (a) Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended (1) by changing "member bank" to read "depository institution" each place it appears therein, and (2) by adding at the end thereof the following: "The Board shall exercise its authority to define the term 'deposit' when applicable to reserve requirements of nonmember depository institutions after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.". . .

MR. [JAMES A.] MATTOX [of Texas]: Mr. Chairman, I offer an amendment.

> The Clerk read as follows:
>
> Amendment offered by Mr. Mattox: Add a new section:
>
> Sec. 8. Section 5136 of the Revised Statutes (12 U.S.C. 24(7)) is amended by inserting before the period at the end thereof the following: ": *Provided further,* That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank". . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: . . . The amendment is clearly not germane to this bill. I might say I have some sympathy with the gentleman's amendment, but it is a rather complicated amendment which ought to be debated more fully than we have time here today to do, in my judgment. This bill we have before us today is a bill to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions.

The gentleman's amendment would establish a new bank. It would estab-

7. The Monetary Control Act of 1979.

8. 125 CONG. REC. 19673, 19674, 19688–90, 96th Cong. 1st Sess.

lish a whole new concept and it is obviously not within the purview of the bill before us today.

THE CHAIRMAN:[9] Does the gentleman wish to be heard against the point of order?

MR. MATTOX: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The gentleman concedes the point of order.

The point of order is sustained.

Deposit Insurance Coverage—Amendment Imposing Maximum Interest and Dividend Rates Payable

§ 35.51 To a proposition to amend existing law in one particular, an amendment to further change that law in another respect not covered by the bill is not germane; thus, to a bill limited in scope to the amount and extent of deposit insurance coverage in various savings institutions, an amendment imposing uniform maximum interest or dividend rates which may be paid by those savings institutions was held not germane.

On Feb. 5, 1974,[10] during consideration of H.R. 11221 (amending the Federal Deposit Insurance Act) in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [ALBERT W.] JOHNSON of Pennsylvania: Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Johnson of Pennsylvania: On page 3, strike the quotation mark at the end of line 17, and insert the following after line 17:

"(C) In order to provide for the equality of interest or dividend rates, terms and conditions on deposits or investments in insured banks or insured institutions made by any depositor referred to in subparagraph (A) of this paragraph, the Corporation, the Board of Governors of the Federal Reserve System, and the Federal Home Loan Bank Board, shall, in the event that limitations on interest or dividend rates are imposed on such deposits or investments, issue uniform regulations specifying maximum interest or dividend rates which may be paid on such deposits or investments made under the same terms and conditions.". . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: . . . Mr. Chairman, I make a point of order against the so-called Johnson amendment to H.R. 11221.

This section merely provides full Federal insurance on such funds placed in financial institutions, and restricts itself to that.

The amendment before us speaks to the question of what interest rates may be offered to such funds and, therefore, is not germane since it is beyond the scope of the legislation contained in H.R. 11221, as well as this particular section.

9. John P. Murtha (Pa.).

10. 120 CONG. REC. 2064–66, 93d Cong. 2d Sess.

MR. JOHNSON of Pennsylvania: . . . Mr. Chairman, I rise to defend the amendment against the point of order raised by the gentleman from Rhode Island. The amendment is indeed germane to the fundamental purpose of the bill before us today. On its face, the bill provides full insurance of the deposits of public units in all insured banks and institutions. As such, it is designed and intended to make a basic change in the relationships between the financial institutions which are regulated by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board—the intention is to redistribute the deposits among these institutions.

In the bill, the primary method for achieving this redistribution is through the provision of insurance. Whereas, public deposits are presently limited for all practical purposes to commercial banks, which can supplement their account insurance with the protection afforded by the pledging of collateral to secure these public deposits—and this pledging is required in most instances by State law—the thrust of the pending legislation is to enable thrift institutions, savings and loan associations, and mutual savings banks in particular, to accept these public deposits.

My amendment would only serve to modify these terms and conditions under which the deposits of public funds would be accepted by the financial institutions involved. The same fundamental purpose would be sought by amendment as by the bill itself, that of regulating the flow of public funds between these institutions. . . .

It is claimed that the difference in terms on its face makes my amendment nongermane, since the bill deals with insurance of deposits, and my amendment deals with the interest or dividends payable on those deposits. However, I must insist that the purpose and thrust be examined, rather than just the language.

The reason for extending full insurance of these deposits is to influence the custodians of these public funds in their decisions as to where they will be deposited—that is the stated purpose of this bill, as reported by the Banking and Currency Committee and as discussed here on the House floor today.

In no way does my amendment depart from this same fundamental purpose—it seeks to use the powers of the same regulatory agencies to influence the same deposits of the same public depositors in the same institutions. . . .

THE CHAIRMAN:[11] The Chair is prepared to rule.

The gentleman from Rhode Island (Mr. St Germain) makes the point of order that the amendment offered by the gentleman from Pennsylvania (Mr. Johnson) is not germane to the bill H.R. 11221. . . .

The pending bill provides for full deposit insurance coverage for deposits of public funds in various types of savings institutions without regard to the existing $20,000 ceiling, and provides for an increase in the present $20,000 ceiling on deposit insurance for individual accounts to $50,000. The bill is thus limited in scope to the question of amount and extent of deposit insurance.

The proposed amendment provides that in order to assure equality of in-

11. Spark Matsunaga (Hi.).

terest or dividend rates, terms and conditions in the savings institutions covered by the bill, the regulatory authorities of those institutions must issue uniform regulations, specifying maximum interest or dividend rates which may be paid on deposits or investments made under the same terms and conditions.

On September 8, 1966, Chairman Boland, the gentleman from Massachusetts, held that to a substitute amendment amending several banking acts relating to interest rates, and amending one subsection of the Federal Deposit Insurance Act, an amendment proposing further modifications to the latter act to increase the insurance coverage on deposits was not germane. In that case, the Chair, citing "Cannon's Precedents" (VIII, 2937), stated that where it is proposed to amend existing law in one particular, an amendment to amend the law in another respect not covered by the bill is not germane.

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

Bill Amending Internal Revenue Code To Provide Tax Credits—Senate Amendment Authorizing Payments to Social Security Recipients

§ 35.52 To a House bill containing several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was deemed not to be related to tax benefit provisions in the Internal Revenue Code and was held to be not germane.

On Mar. 26, 1975,[12] during consideration of the conference report on H.R. 2166,[13] it was held that to a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was not germane. The proceedings were as follows:

SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled . . . to—

(1) a monthly insurance benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension payment under the Railroad Retire-

12. 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess.

13. The Tax Reduction Act of 1975.

ment Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .

(c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report on page 55. . . .

There is clearly nothing in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this . . . is clearly outside the scope of the House bill. . . .

MR. [AL] ULLMAN [of Oregon]: . . . In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill. . . .

THE SPEAKER:[14] The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

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14. Carl Albert (Okla.).

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

—Senate Amendment Providing Unemployment Compensation Benefits

§ 35.53 To a House bill amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute contained in a conference report providing certain unemployment compensation benefits—a matter not within the class of tax benefits contained in the House bill—was conceded to be not germane.

On Mar. 26, 1975,[15] during consideration of the conference report on H.R. 2166,[16] a point of order against a Senate matter in the report was conceded and held to be not germane. The proceedings were as indicated below:

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain Unemployment Compensation.

(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and

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

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including the dependents" allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(i)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."

(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to

15. 121 CONG. REC. 8911, 8933, 94th Cong. 1st Sess.

16. The Tax Reduction Act of 1975.

section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with section 701, providing certain unemployment compensation benefits. . . .

I have looked over the House bill, and I can find no reference therein to unemployment compensation benefits. As nearly as I can figure it, this particular section came from a Senate nongermane amendment and has no relation whatsoever to anything that was contained in the House bill.

I, therefore, say the point of order should be sustained.

THE SPEAKER:[17] Does the gentleman from Oregon desire to be heard upon the point of order?

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I concede the point of order.

THE SPEAKER: The gentleman from Oregon concedes the point of order, and the point of order is sustained.

—*Senate Amendment Limiting Use of Foreign Tax Credits*

§ 35.54 Where a bill amends existing law relating to a certain subject in several diverse respects, additional amendments germane to that subject may be germane to the bill.

To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report, which added a new section to the House bill and which dealt with earnings and profits of controlled foreign corporations and included limitations on the use of foreign tax credits from foreign oil-related income was held germane. The proceedings of Mar. 26, 1975,[18] were as follows:

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISIONS.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

17. Carl Albert (Okla.).

18. 121 CONG. REC. 8909, 8915, 8933, 8934, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included.". . .

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

Conference substitute.—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with taxation of earnings and profits of controlled foreign corporations and their shareholders in section 602 as reported by the committee of conference. . . .

As the Speaker well knows, I am sure, from listening carefully to the explanations regarding previous points of order, at no point during the consideration of the House-passed bill is there any mention of foreign taxation and the dealings of foreign taxes insofar as American corporations and their subsidiaries are concerned.

Title I of the 1975 tax bill dealt with the refund for 1974 taxes. Title II dealt with reductions in individual income taxes. Title III dealt with certain changes in business taxes, the title which dealt with the investment tax credit or income tax total, particularly as related to small businesses.

This particular provision, Mr. Speaker, in no way deals with a matter that was covered, mentioned, or dealt with by the bill that is presented to the House, or voted upon by the House. . . .

MR. [AL] ULLMAN [of Oregon]: . . . Mr. Speaker, the bill that the House passed had a great many diverse sections in it; it had credits. The matter that has been raised is an amendment to the Internal Revenue Code very clearly, and much of it is in the way of a credit. We have dealt with credits here both for individuals and for corporations in the bill that the House passed.

It seems to me that in a bill of this scope and in a bill that deals as broadly with tax credits and matters such as this that does involve an amendment to the Internal Revenue Code, it is very clearly within the province of the bill, and should be ruled germane.

THE SPEAKER:[19] The Chair is prepared to rule.

For the reasons stated in the opinion of the Chair on a similar point of order made by the gentleman from New York (Mr. Conable) and for the reasons stated by the gentleman from Oregon, the Chair overrules the point of order.

Qualifications for Entering Armed Forces—Amendment To Allow Noncitizens To Volunteer

§ 35.55 To a proposition that within certain limits persons of prescribed ages be given an opportunity to enter the armed forces, an amendment providing that within certain limits any person, whether a citizen of the United States or of any friendly nation, be given an opportunity to enter the armed forces was held to be germane.

In the 82d Congress, a bill[20] was under consideration comprising amendments to the Universal Military Training and Service Act. The following amendment was offered to the bill:[1]

> Amendment offered by Mr. Poage: Page 30, strike out all of line 10 through 17, inclusive, and insert in lieu thereof the following:
>
> (2) Within the limits of the overall military manpower needs of the United States and notwithstanding any other provision of law any person whether a citizen of the United States or of any friendly nation and any national of Western Germany or Japan who meets all the other qualifications for service in the Armed Forces of the United States . . . shall be afforded an opportunity to volunteer for induction for service in the Armed Forces of the United States. . . .

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

> MR. [W. STERLING] COLE [of New York]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Texas upon the ground that it indirectly affects the naturalization laws of the country which are not a part of the pending measure.

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

> MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, this amendment simply changes the provisions under which persons may be taken into the armed services of the United States. The bill now provides that within certain limits persons of prescribed ages shall be given an opportunity to come into the service of the United States. We change those conditions and one of the limitations we impose is to say that no one shall become a citizen of the United States simply by virtue of this act. That in no wise changes or any manner affects the present immigration laws of the United States because there is no immigration law of the

19. Carl Albert (Okla.).

20. S. 1–1951 (Committee on Armed Services).

1. 97 CONG. REC. 3889, 82d Cong. 1st Sess., Apr. 13, 1951.

United States that says that anyone who serves under the terms of this bill shall or shall not become a citizen of the United States. . .

The Chairman[2] ruled:[3]

The Chair is inclined to think that on the face of the amendment, as it appears, it would be germane to the pending bill, and overrules the point of order.

Bill To Amend Selective Service Act To Provide for Induction of Medical Specialists—Amendment Relating to Induction of Aliens

§ 35.56 To a bill to amend the Selective Service Act of 1948 to provide for special registration, classification, and induction of certain medical and dental and "allied specialists," an amendment relating to induction of aliens was held to be not germane.

In the 81st Congress, during consideration of a bill[4] to amend the Selective Service Act of 1948, the following amendment was offered:[5]

Amendment offered by Mr. [Mike] Mansfield [of Montana]: Page 8, line 22, insert a new section 7 as follows:

That the second sentence of section 4 (a) of the Selective Service Act of 1948, as amended, is hereby amended to read as follows:

Any citizen of a foreign country, who is not . . . exempt from . . . service under the provisions of this title . . . shall be relieved from liability for . . . service . . . if . . . he has made application to be relieved from such liability in the manner prescribed by . . . rules and regulations prescribed by the President; but any person who makes such application shall thereafter be debarred from becoming a citizen of the United States. . . .

A point of order against the amendment was reserved, as follows:[6]

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I reserve a point of order on the amendment on the ground that the amendment is not germane to the bill which is to provide for special registration of certain medical, dental, and allied specialist categories and does not embrace the subject matter which the gentleman is seeking to add to the bill by his amendment.

The Chairman[7] sustained the point of order. He stated:[8]

It is true that the bill mentions the Selective Service Act of 1948; however, it amends it in a certain specific manner and in certain specific categories.

The Chair is inclined to believe that the amendment offered by the gen-

2. Jere Cooper (Tenn.).
3. 97 CONG. REC. 3890, 82d Cong. 1st Sess., Apr. 13, 1951.
4. H.R. 9554 (Committee on Armed Services).
5. 96 CONG. REC. 13866, 13867, 81st Cong. 2d Sess., Aug. 30, 1950.
6. *Id.* at p. 13867.
7. Porter Hardy, Jr. (Va.).
8. 96 CONG. REC. 13867, 13868, 81st Cong. 2d Sess., Aug. 30, 1950.

tleman from Montana goes far beyond the scope of the bill now before us and therefore sustains the point of order.

Bill Amending Various Education Acts—Amendment Making Principles of Civil Rights Act Applicable in Administration of Programs

§ 35.57 To a bill amending various education acts and providing new authorizations for education grants to states, an amendment designed to insure that administration of programs authorized by the bill or amended acts conform to principles established by the Civil Rights Act of 1964 was held to be germane.

In the 90th Congress, during consideration of the Elementary and Secondary Education Act Amendments of 1967,[9] the following amendment was offered:[10]

> Amendment offered by Mrs. [Edith S.] Green of Oregon: On page 44, after line 8, insert the following:
>
> ADMINISTRATION
>
> Sec. 2. Rules . . . guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education . . . affecting . . . administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules . . . citations to the . . . statutory law upon which such provision is based. All such rules . . . guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

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

> MR. [BYRON G.] ROGERS [of Colorado]: Mr. Chairman, I make a point of order against the amendment which has been offered by the gentlewoman from Oregon [Mrs. Green], based upon the proposition that the gentlewoman makes references to rules and regulations promulgated pursuant to titles IV and VI of the Civil Rights Act.
>
> And then she goes into a question of guidelines. . . . [T]he reference to guidelines is not an amendment to any piece of legislation that is being considered by us at this time, and therefore is out of order and not germane.

The Chairman,[11] in ruling on the point of order, stated:

> The Chair would like to point out that this amendment is specifically, by the language contained therein, directed toward the administration of programs authorized by this act, or by any act amended by this act. The Chair therefore overrules the point of order.

9. H.R. 7819 (Committee on Education and Labor).

10. 113 CONG. REC. 13582, 90th Cong. 1st Sess., May 23, 1967.

11. Charles M. Price (Ill.).

Bill Amending Higher Education Laws—Amendment To Prohibit Student Admission Quotas in All Schools

§ 35.58 To a bill amending the General Education Provisions Act in one narrow respect relating to higher education, an amendment to that Act prohibiting the imposition of student admission quotas not only in institutions of higher education but also in public preschool, elementary and secondary programs was held more general in scope and not germane.

On May 12, 1976,[12] during consideration of H.R. 12851[13] in the Committee of the Whole, the Chair, in sustaining a point of order against an amendment, held that to a bill amending and extending various laws relating to higher education, an amendment imposing restrictions on preschool, elementary and secondary education policy broadened the scope of the bill and was not germane.

Amendment offered by Mr. Eshleman: On page 86, line 25, insert "(a)" immediately after "Sec. 202".

On page 87, immediately after line 7, insert the following new subsection:

(b) Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) It shall be unlawful for the Secretary to require the imposition of quotas, goals, or any other numerical requirements on the student admission practice of a State or local educational agency or institution of higher education, community college school, agency offering a pre-school program, or other educational institution receiving Federal funds, whether directly or indirectly, under any provision of law, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements." . . .

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make the point of order—I respectfully regret that I must do so, I will say to my friend from Pennsylvania—that the amendment is nongermane.

Mr. Chairman, this is a higher education bill. While a very few of these provisions may have an impact on secondary schools, it is entirely indirect. The great majority of the bill, more than 90 percent, is in higher education. As a matter of fact, 100 percent of it is. This can only be characterized as a higher education bill.

The gentleman's amendment deals with the admissions practices of elementary and secondary schools, and even preschools. That subject matter is completely foreign to the subject matter of the bill. I repeat, it is a higher education bill.

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12. 122 CONG. REC. 13529, 13530, 94th Cong. 2d Sess.

13. A bill to amend the Higher Education Act of 1965.

The gentleman's amendment, by reaching out to admissions policies of preschool, elementary and secondary schools, goes too far and is, therefore, not germane. There is one amendment in the bill, Mr. Chairman, of the General Education Provision Act which the gentleman's amendment attempts to amend. Here too, however, the committee bill is exclusively a higher education bill.

The committee amendment to the General Education Provisions Act proposes a 1-year extension of the "fund for the improvement of postsecondary education." This is the only way the committee bill amends the general education provisions at all.

Further, Mr. Chairman, the amendment deals with the institution for receiving Federal funds directly or indirectly under any provision of law. Mr. Chairman, I repeat that under any provision of law, this is beyond the limited scope of the bill. . . .

MR. [EDWIN D.] ESHLEMAN [of Pennsylvania]: Mr. Chairman, I would just point out to the Chair that I submitted this amendment under section 202, which is opening section 404 of the General Education Provisions Act, which I think we have amended on occasion before in this House, because we are under the provision of general education. . . .

THE CHAIRMAN:[14] The Chair is prepared to rule.

The committee amendment clearly refers to higher education and, with only extremely narrow exceptions, contains no matter that would substantially relate to other programs.

On the other hand, the amendment offered by the gentleman from Pennsylvania (Mr. Eshleman) contains a prohibition against certain requirements with respect to admission policies by the language of the amendment, ". . . a State or local educational agency," or further by the language of the amendment, ". . . agency offering a pre-school program," or, in even broader language contained in the amendment, ". . . other educational institution receiving Federal funds—under any provision of law."

Under the circumstances, the Chair is persuaded that the amendment as drafted is not germane to the bill before the committee and, therefore, the Chair sustains the point of order.

—*Amendment To Prohibit Student Admission Quotas in Higher Education Programs*

§ 35.59 To a bill amending and extending various laws relating to higher education, a further amendment to one of those laws prohibiting the imposition of student admission quotas in applicable higher education programs was held germane as within the category of laws being amended by the bill.

During consideration of H.R. 12851[15] in the Committee of the Whole on May 12, 1976,[16] the Chair, in overruling a point of

14. James C. Wright, Jr. (Tex.).

15. A bill to amend the Higher Education Act of 1965.

16. 122 CONG. REC. 13530, 94th Cong. 2d Sess.

order against an amendment to that bill, demonstrated that, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that same class is germane.

MR. [EDWIN D.] ESHLEMAN [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eshleman: On page 86, line 25, insert "(a)" immediately after "Sec. 202".

On page 87, immediately after line 7, insert the following new subsection:

(b) Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) It shall be unlawful for the Secretary to require the imposition of quotas, goals, or any other numerical requirements on the student admission practice of an institution of higher education, community college receiving Federal funds, whether directly or indirectly, under any applicable programs, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the fact is that there remains language in the gentleman's amendment which says, ". . . under any provisions of law, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements."

The fact that the entire scope of the act is quoted, and ". . . any provision of law" still remains in, I would insist, Mr. Chairman, makes it not germane to the legislation to which it is addressed. . . .

MR. ESHLEMAN: Mr. Chairman, I would first point out, respectfully, that the gentleman from New Jersey (Mr. Thompson) is incorrect. I did not leave in "under any provision of law." I changed it to "under any applicable programs." And that original terminology is not in there, as the gentleman stated. I have attempted—maybe, let me say, in Pennsylvania Dutch—to limit this to institutions of higher education. . . .

THE CHAIRMAN:[17] The Chair is prepared to rule.

The Chair has very carefully reviewed the changes made by the gentleman from Pennsylvania (Mr. Eshleman) in the language contained in the amendment as originally offered. The Chair observes that the amendment presently before the Committee is limited in its scope to institutions of higher education or community colleges, and that it applies only to those institutions of higher education and community colleges which receive Federal funds under any applicable program.

The Chair believes that the amendment as presently drafted before the Committee is germane to the bill, and the point of order is overruled.

The Chair recognizes the gentleman from Pennsylvania (Mr. Eshleman) in support of his amendment.

17. James C. Wright, Jr. (Tex.).

Administration of Federally Funded Educational Programs—Remedies for Denial of Equal Educational Opportunity

§ 35.60 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

The proceedings of Mar. 26, 1974, during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education Act, are discussed in Sec. 3, supra.

Amendments to Diverse Educational Assistance Laws—Amendment Affecting Type of Assistance Covered in Another Title .

§ 35.61 To a portion of a bill amending several miscellaneous laws on a general subject, an amendment to another law relating to that subject is germane; thus, to a title of an amendment in the nature of a substitute amending several diverse educational assistance laws, an amendment affecting laws relating to federal impact school assistance was held germane, even though that subject matter had been contained in another title already passed in the reading for amendment.

On Mar. 27, 1974,[18] during consideration of H.R. 69[19] in the Committee of the Whole, the proceedings were as follows:

THE CHAIRMAN:[20] The Clerk will read.

The Clerk read as follows:

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18. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess.

19. A bill to amend and extend the Elementary and Secondary Education Act.

20. Charles M. Price (Ill.).

TITLE X—MISCELLANEOUS AMENDMENTS

AMENDMENT OF EMERGENCY SCHOOL AID ACT

Sec. 901. (a) Section 706(a) of the Emergency School Aid Act is amended (1) by striking out paragraph (3), (2) by striking out the period at the end of paragraph (1)(D) and inserting, "; or" and (3) by adding at the end of such paragraph (1) the following:

"(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

"(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

"(ii) has agreed to apply for an equal amount of assistance under subsection (b).". . .

Sec. 902. (a)(1) Sections 134(b) (as redesignated by sections 109 and 110(h) of this Act), 202(a)(1), and 302(a)(1) of the Act are each amended by striking out "Puerto Rico,". . . .

(b)(1) Section 612(a)(1) of the Education of the Handicapped Act is amended by striking out "Puerto Rico,".

(2) Sections 612(a)(2) and 613(a)(1) of the Education of the Handicapped Act are each amended by striking out "the Commonwealth of Puerto Rico,". . . .

MR. [ROBERT J.] HUBER [of Michigan]: Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

Amendment offered by Mr. Huber to the committee substitute: Page 131, immediately after line 15, insert the following new section:

AMENDMENT TO PUBLIC LAW 874

Sec. 906. Section 403(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"(3) The term 'parent' means any parent, stepparent, legal guardian, or other individual standing in loco parentis, whose income from employment on Federal property is more than 50 percent of the total combined income of such individual and the spouse of such individual.".

Points of order against the amendment were reserved and subsequently discussed by Mr. Carl D. Perkins, of Kentucky, and Mr. Gerald R. Ford, of Michigan:

MR. PERKINS: I insist on the point of order. This is an impact amendment and we have already passed that title.

THE CHAIRMAN: Is that the position of the gentleman from Michigan?

MR. FORD: Yes, Mr. Chairman. I insist on the point of order. I did not press the point of order before the gentleman had an opportunity to explain what he was trying to do. I think his motives are fine, but I disagree with the result it would have. I wanted him to have an opportunity to do that; but clearly his amendment comes too late, since we have already concluded title III of the act which dealt with impact aid.

The amendment the gentleman now offers is not a peripheral or general amendment. It is a substantive amendment of the definition of a child qualifying for impact aid under the basic act covered in title III of this bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair holds that while an examination of the amendment shows it

would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as Miscellaneous Amendments and it amends several other acts, the Emergency School Aid Act, the Education of the Handicapped Act and others; so in view of these circumstances, the Chair is constrained to overrule the point of order.

Amendment Not Confined to Law Under Consideration; Restrictions Imposed Under "This or Any Other Act"

§ 35.62 To a bill amending an existing law, an amendment prohibiting assistance under that Act or under any other Act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was ruled out as not germane.

On May 11, 1976,[1] during consideration of H.R. 12835[2] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Conlan: On page 190, between lines 3 and 4, add the following new subsection:

"Sec. 302. (g) The General Education Provisions Act is amended by adding the following new section:

"'Sec. ( ). No grants, contracts, or support are authorized under this or any other Act for any purpose in connection with the *Man: A Course of Study* (MACOS) curriculum program or materials, or in connection with the high school sequel to MACOS, *Exploring Human Nature*.'". . . .

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I make a point of order against the amendment because it is not germane.

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

MR. PERKINS: It is funded by the National Science Foundation, Mr. Chairman. It affects the National Science Foundation; therefore, it is not germane. . . .

MR. [JOHN B.] CONLAN [of Arizona]: . . . Mr. Chairman, the National Institute for Education, which is a part of this bill, has the educational resource information clearing houses—18 of them—across the Nation, including the one at the University of Indiana, which is totally computerized and which disseminates information in this area. So I do think the matter is germane.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Kentucky makes a point of order against the amendment offered by the gentleman from Arizona on the basis of germaneness. The Chair in a quick examination of the amendment notes that the amendment reads:

No grants, contracts, or support are authorized under this or any other Act. . . .

1. 122 CONG. REC. 13419, 13427, 94th Cong. 2d Sess.
2. The Vocational Education Act amendments.
3. B.F. Sisk (Calif.).

And on that basis the Chair is going to sustain the point of order because of the fact that the amendment goes beyond the scope of this pending bill.

The Chair sustains the point of order.

§ 35.63 To a title of a bill primarily amending the Foreign Assistance Act reported from the Committee on Foreign Affairs to authorize assistance for Africa (containing one reference to another law, the Export-Import Bank Act, not directly amended and also within the jurisdiction of another committee), an amendment restricting the availability of funds in that bill "or any other Act" to support the activities of the African National Congress was held to be not germane.

During consideration of H.R. 3100[4] in the Committee of the Whole on Dec. 9 and 10, 1987,[5] it was held that to a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other Act is not germane. The proceedings were as follows:

TITLE VIII—AFRICA

PART A—AFRICA FAMINE RECOVERY AND DEVELOPMENT

SEC. 801. SHORT TITLE.

This part may be cited as the "Africa Famine Recovery and Development Act". . . .

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—AFRICA FAMINE RECOVERY AND DEVELOPMENT

"SEC. 476. OTHER ASSISTANCE PROGRAMS.

"To the maximum extent practicable, resources allocated for sub-Saharan Africa under chapter 4 of part II (relating to the Economic Support Fund), title IV of chapter 2 of this part (relating to the Overseas Private Investment Corporation), the Export-Import Bank Act of 1945, the Peace Corps Act, and the African Development Foundation Act shall be used to provide assistance which meets the criteria specified in section 472(b). To the maximum extent practicable, the agency primarily responsible for administering this part should use resources and authorities available under the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, and the Food for Progress Act of 1985 to complement the assistance provided under section 472. . . .

MR. [DAN] BURTON of Indiana: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 201, after line 5, insert the following:

SEC. 830. PROHIBITION ON ASSISTANCE TO THE AFRICAN NATIONAL CONGRESS.

4. International Security and Development Cooperation Act of 1987.

5. 133 CONG. REC. 34592, 34595, 34675, 34676, 100th Cong. 1st Sess.

(a) Prohibition.—None of the funds authorized to be appropriated by this or any other Act may be used to support, directly or indirectly, activities of the African National Congress.

(b) Waiver.—Subsection (a) may be waived by the President if he certifies to the Congress that—

(1) the National Executive Committee of the African National Congress has taken a stand publicly and officially opposing the practice of "necklacing", the practice of execution by fire, used against South African blacks. . . .

(3) the African National Congress no longer receives its primary financial, military, and training support from the Soviet Union or other Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961. . . .

MR. [MICKEY] LELAND [of Texas]: Mr. Chairman, I raise a point of order against the amendment. . . .

The point of order has to do with germaneness, Mr. Chairman. The gentleman's amendment goes a lot farther beyond the purview of the responsibility of the Foreign Affairs Committee, and thus also the parameters of the bill itself that we are debating here. It reaches the interest of other agencies that are not within the jurisdiction of the consideration of this legislation at this time, and therefore it is nongermane to the arguments that we pursue here today.

Also, Mr. Chairman, the amendment that the gentleman has offered goes a lot farther than any other amendment that has been offered here today. It is much broader, the scope of which is too far reaching to be relevant to the discussions we have here today under the foreign aid bill. . . .

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

The Chair would state that according to the Procedures of the House, and quoting from section 8, chapter 28, the following:

> . . . a bill authorizing appropriations for a particular program for 10 fiscal years, an amendment restricting authorizations under any act of Congress for any fiscal year contingent upon implementation of a plan to reduce spending under the bill was held not germane as not confined to the bill under consideration.

The Chair would note in reading that amendment of the gentleman from Indiana that the gentleman provides a prohibition on funds appropriated by this or any other act, and the Chair can find in no other instance in title VIII as amended where there is any similar prohibition.

For that reason, the Chair would rule that the gentleman's amendment goes beyond the scope of title VIII and is not germane. Therefore, the point of order is sustained.

Entities Subject to Penalties of Antidiscrimination Laws—Amendment To Redefine Nature of Sex Discrimination

§ 35.64 To a bill amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the single subject of the bill is not germane; thus, to a bill narrowly amending an anti-discrimination provision in the Education

6. Les AuCoin (Ore.).

Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties, an amendment redefining one class of discrimination (sex discrimination) was ruled non-germane as beyond the scope of the bill.

On June 26, 1984,[7] during consideration of H.R. 5490 (the Civil Rights Act of 1984), the Chair sustained a point of order against an amendment as described above:

The Clerk read as follows:

Sec. 2. (a) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) For the purpose of this title, the term 'recipient' means—

"(A) 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

"(B) 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. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: On page 3, line 10, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 3, line 25, strike out the close quotation marks and the period at the end thereof.

On page 3, after line 25, insert the following:

"(3) For the purpose of this title, the term 'sex' does not include sexual preference or orientation.".

MR. [PAUL] SIMON [of Illinois]: . . . The point of order is that this is not germane to this bill. The classifications that historically have been considered and have been considered under this bill are race, national origin, sex, handicapped, and aged.

The gentleman from California is attempting to add a new clarification here that is not germane to the legislation pending before this body. . . .

MR. DANNEMEYER: . . . I am not seeking to add a new term. The term "sex" is in the law.

All I am seeking to do by this amendment is to make clear that we

7. 130 CONG. REC. 18842, 18846, 18847, 98th Cong. 2d Sess.

do not, as the policymaking body of this country, in terms of law, choose to take our society down the road where someone sooner or later is going to argue that the term "sex" in the law includes sexual preference or orientation. I am not adding anything. I am just clarifying what that term means today as it is used in the law.

THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order.

The Committee's report indicates that the purpose of this legislation is to reaffirm the scope and the application of four civil rights laws to an interpretation which was generally accepted before the Grove City College decision. It does not seek to define what is a discriminatory act.

In other words, the bill deals with the definition of "potential discriminators," in this instance, recipients of Federal financial assistance. It does not deal with the definition of "discrimination."

Because the gentleman's amendment would address the definition of what constitutes discrimination, his amendment would not be in order.

The Chair would cite Deschler's Procedure, 28.2:

> To the proposition amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the subject of the pending proposition is not germane.

And in 28.4, Deschler continues:

> Similarly, if a bill seeks only to modify the penalty provisions of a law prescribing specific conduct, an amendment is not germane if it seeks to broaden the scope or alter the applicability of such law.

Therefore, the Chair finds the gentleman's amendment not in order.

—Amendment To Expand Definition of Persons Who Are Subjects of Discrimination

§ 35.65 To a bill amending a general law but only with respect to a specific issue, an amendment relating to terms of the law not amended by the bill, rather than to the issues contained in the bill, is not germane; thus, to a section of a bill amending the Age Discrimination Act only to clarify the definition of a discriminating entity subject to the penalties under that statute, an amendment to expand the definition of persons who are the subject of discrimination (to include the unborn) was ruled nongermane as beyond the scope of the bill.

During consideration of the Civil Rights Act of 1984 (H.R. 5490) in the Committee of the Whole on June 26, 1984,[9] the Chair sustained a point of order against the amendment described

8. Al Swift (Wash.).

9. 130 CONG. REC. 18856, 18857, 98th Cong. 2d Sess.

above. The proceedings were as follows:

The Clerk read as follows: . . .

(e) Section 309 of the Act is amended by— . . .

(3) by adding at the end thereof the following new clause:

"(4) the term 'recipient' means—

"(A) 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

"(B) 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. [MARK] SILJANDER [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander: Page 6, after line 18, insert the following:

(1) by inserting after "person", "(including unborn children, from the moment of conception)". . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I make a point of order against the amendment.

Again it is the same point of order that I made earlier. It is an attempt to add a totally new definition. Again we are dealing with the traditional definitions of race, national origin, sex, handicapped, and aged.

This is a very legitimate issue to be brought before this body, but this is not the vehicle by which to do it. This is not the intent of it, and it does not fall within the germaneness of this particular bill. . . .

MR. SILJANDER: Mr. Chairman, one of the differences is that the word, "person," is mentioned in the bill several times, whereas in the other point of order the word, "sex," was not at all mentioned in the specific bill.

THE CHAIRMAN:[10] The Chair is prepared to rule on the point of order.

This amendment amends a part of the Age Discrimination Act of 1975 that is not before the committee. The bill has a very narrow purpose, and the gentleman's amendment does not fall within that purpose.

The Chair would refer the gentleman to clause 7, rule XVI, the annotation of which reads:

> To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane; thus a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof, and where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane. Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended.

The Chair finds the amendment not germane and, therefore, not in order.

10. Al Swift (Wash.).

—Amendment To Extend Coverage of Laws to Members of Congress

§ 35.66 To a bill narrowly amending several civil rights statutes only to clarify the circumstances under which any institution currently 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,[11] the Chairman of the Committee of the Whole, in 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.". . . .

11. 130 CONG. REC. 18857–62, 18864, 98th Cong. 2d Sess.

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:[12] 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.

Parliamentarian's Note: On a roll call vote of 277 yeas to 125 nays, the Committee of the Whole sustained on appeal the ruling of the Chair on the question of germaneness of the amendment.

—*Amendment To Define "Person" as Used in Bill To Include Unborn*

§ 35.67 An amendment defining a term in a bill may be germane so long as it relates to the bill and not to portions of laws being amended which are not the subject of the bill; thus, to a bill clarifying the definition of persons or institutions which may have federal financial assistance terminated under several civil rights statutes because of discrimination, an amendment providing that the term "person" for the purpose of the bill shall include unborn children was held germane.

On June 26, 1984,[13] the Committee of the Whole had under consideration H.R. 5490, the Civil Rights Act of 1984. The bill amended several laws for purposes of clarifying the definition of recipients of federal financial assistance (including persons) who engage in discrimination so as to become subject to the penalties of those laws. The amendment expanded the definition of recipient persons to include unborn children from the moment of conception, but did not effectively expand the definition of persons who are the objects of discrimination, whatever its intent may have been, a point which was noted in the remarks of Mr. Williams of Montana, below. Had the amend-

12. Al Swift (Wash.).

13. 130 CONG. REC. 18865, 18866, 98th Cong. 2d Sess.

ment effectively defined the unborn as possible objects of discrimination and thus changed existing laws in a manner not contemplated by the bill, the amendment would not have been germane.

MR. [MARK] SILJANDER [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander: Page 10, after line 22, insert the following:

Sec. 6. For the purposes of this act, the term "person" shall include unborn children from the moment of conception.

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I make a point of order against the amendment. . . .

It is an attempt to expand with a new definition beyond the scope of this act. It is not germane as the previous amendment was not germane. . . .

MR. SILJANDER: Chapter 28 of the procedures of the House, section 9.12, says ". . . to a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane.

On page 3, on page 6 and page 8 and page 10 the word "person" is used, which is substantially different from the former amendment.

I yield to the chairman.

THE CHAIRMAN:[14] The Chair is prepared to rule.

On page 8, line 24, the bill uses the term "person."

In the gentleman's amendment he says for the purposes of this bill the term "person" shall, and defines the term "person" and, therefore, the amendment is germane. . . .

MR. [PAT] WILLIAMS of Montana: Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Thank you, Mr. Chairman. If my information is correct, the term "person" appears four times in this act and each time it appears, it refers to a person receiving or distributing Federal funds.

Now, if I understand the gentleman's amendment, he is including children at the moment of conception as those receiving or distributing Federal funds. What is the purpose of the amendment? The amendment is moot. Unborn children do not receive or distribute Federal funds. The amendment has no meaning.

Bill Authorizing Programs To Increase Understanding of Foreign Languages and Cultures—Amendment To Prohibit Programs Promoting Secular Humanism

§ 35.68 To a bill narrowly amending the National Defense Education Act of 1958 to authorize programs to increase understanding of foreign languages and cultures, an amendment prohibiting any assistance under that Act to any education program offering the "religion of secular humanism" was con-

14. Al Swift (Wash.).

strued as a restriction on other programs under that Act not amended by the pending bill and was held to be not germane.

On May 12, 1976,[15] during consideration of H.R. 12851[16] in the Committee of the Whole, the Chair sustained a point of order against an amendment holding that to a bill amending various laws relating primarily to higher education, an amendment to a law being amended by the bill, but affecting programs under that law dealing with other levels of education was beyond the scope of the pending bill and in violation of Rule XVI clause 7.

MR. [JOHN B.] CONLAN [of Arizona]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conlan: On page 86, between lines 6 and 7, add the following new subsection:

"(d) No grant, contract, or support is authorized under this Act for any educational program, curriculum research and development, administrator-teacher orientation, or any project involving one or more students or teacher-administrator involving any aspect of the religion of secular humanism. . . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . The amendment as offered says, "grant, contract, or support is authorized under this act," and in the context in which it is offered the gentleman from Arizona would apply it to all of the parts of the National Defense Education Act because he inserts it on page 86 between lines 6 and 7, which is all of it, as an amendment of section 603 of the National Defense Education Act. So he goes very considerably beyond the scope of the provisions of the section he offers to amend or, for that matter, he goes beyond the scope of the higher education laws that are amended by this particular bill. Therefore, his amendment is not germane. . . .

MR. CONLAN: . . . I think the gentleman is construing it in a very unnecessary and narrow area, Mr. Chairman. We are dealing here with the National Defense Education Act. We are dealing with an enlargement of it. We are dealing with a whole broadened area of financing as part of that whole act. I think the amendment is quite germane, and legal counsel has advised us that it is.

THE CHAIRMAN:[17] The Chair is prepared to rule.

The amendment offered by the gentleman from Arizona appears in section 201, all of which consists of an amendment to the National Defense Education Act of 1958. The material contained in the bill amends that act very narrowly only to the extent of providing for specialists and persons trained in languages and foreign cultures. By contrast, the amendment offered by the gentleman from Arizona would appear to amend the totality of the National Defense Education Act of 1958 and impose its restrictions upon

15. 122 CONG. REC. 13531, 13532, 94th Cong. 2d Sess.

16. A bill to amend the Higher Education Act of 1965.

17. James C. Wright, Jr. (Tex.).

any grant or contract or funds under that act which under other titles of that law could go to schools of secondary and other levels of education.

For this reason the Chair believes that the amendment as drafted and offered by the gentleman from Arizona (Mr. Conlan) expressly making reference to "no grant, contract, or support as authorized under this act", thereby referring to the National Defense Education Act of 1958 and not to the pending bill, is beyond the scope of the bill and, therefore, not germane to the language of the bill.

Fair Prices for Housing—Amendment To Prohibit Discrimination

§ 35.69 To a bill adding a new title to the National Housing Act to insure availability of housing at fair prices, amendments to add a section to the act to prohibit, in the administration of the act, any discrimination on account of race, creed, or the like were held not germane.

In the 79th Congress, during consideration of a bill[18] relating to housing stabilization, the following amendment was offered:[19]

Amendment offered by Mr. Dirksen: On page 17, after line 6, insert a new section, as follows:

Sec. 711. In the administration of the National Housing Act as amended and the United States Housing Act of 1937 as amended and in making available the benefits of said acts as amended, there shall be no discrimination on account of race, creed, color, or national origin, and in addition thereto maximum preferences and priorities shall be secured to veterans of World War II and their immediate families.

Mr. Brent Spence, of Kentucky, made the point of order that the amendment was not germane to the bill. The Chairman,[20] in ruling on the point of order, stated:

. . . Obviously, the gentleman's amendment is much too broad to come within the purview of the pending bill. The amendment relates to the National Housing Act as amended, the United States Housing Act of 1937, as amended. The point of order is sustained.

Mr. Everett M. Dirksen, of Illinois, then offered the amendment, deleting the reference to the United States Housing Act of 1937.[1] Mr. Spence again raised a point of order. In defense of the amendment, Mr. Dirksen stated:

Clearly, Mr. Chairman, the bill before us is nothing more than an additional developing of the National Housing Act, it amends the entire act in many particulars. So the amendment before us now relates only to the Housing Act which is presently covered by

18. H.R. 4761 (Committee on Banking and Currency).

19. 92 CONG. REC. 1990, 79th Cong. 2d Sess., Mar. 6, 1946.

20. Jere Cooper (Tenn.).

1. 92 CONG. REC. 1991, 79th Cong. 2d Sess., Mar. 6, 1946.

the bill and is very definitely before the Committee of the Whole.

The Chairman then stated:

The gentleman's amendment would take in entirely different provisions of the Housing Act than that contained in the pending bill.

The point of order is sustained.

Amendment and Amendment Thereto Modifying Same Section of Law

§ 35.70 Where an amendment to a bill proposes modification of a section of existing law in some respects, an amendment to the amendment may properly propose modification of the same section of the law in similar respects.

In the 85th Congress, during consideration of a bill[2] to extend and amend laws relating to improvement of housing, an amendment was offered[3] which in part related to authorization of payments to parties in lieu of those moving expenses occasioned by certain urban projects. The amendment stated in part:[4]

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Such rules and regulations may include provisions authorizing payment to individuals and families of fixed amounts (not to exceed $100 in any case) in lieu of their respective reasonable and necessary moving expenses."

An amendment offered to such amendment stated as follows:[5]

Amendment offered by Mr. [Barratt] O'Hara of Illinois to the amendment offered by Mr. Talle: Amend section 302 to read as follows:

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended (1) by striking out $2,000 and inserting in lieu thereof $3,000; and (2) by adding at the end thereof the following sentence: Such rules and regulations may include provisions authorizing the payment to individuals, families, and business concerns of fixed amounts not to exceed $100 in the case of an individual or family, or $3,000 in the case of any business concern in lieu of the respective reasonable and necessary moving expenses.

The purpose of the amendment was explained as follows:

MR. O'HARA [of Illinois]: . . . It happens that in the district that I represent we have in the operation of the urban-renewal program the displacement of many long-established merchants. . . . It is not right that these small-business tenants should be forced to assume this burden when their moving is not for their own profit or convenience, but to the contrary. . . . The present law calls for moving expenses up to $2,000. In some cases

2. H.R. 6659 (Committee on Banking and Currency).

3. See the Talle amendment at 103 CONG. REC. 6621–23, 85th Cong. 1st Sess., May 8, 1957.

4. *Id.* at p. 6622.

5. *Id.* at p. 6629.

that is ruinously inadequate. We are asking that the amount be increased to $3,000 to be paid only in cases where the circumstances warrant. . . .

The following point of order was raised by Mr. Henry O. Talle, of Iowa, against the amendment:

Mr. Chairman, the amendment of the gentleman from Illinois [Mr. O'Hara] is not germane to my amendment. As I understand his amendment . . . it refers to basic law. His amendment, in order to be germane, would have to be germane to my amendment which is under consideration.

The Chairman,[6] in ruling on the point of order, stated:

Section 302 is an amendment of existing law contained in section 106(f)(2) of the Housing Act of 1949. That language presumably is germane to section 106(f)(2). That being the case, the amendment opens the entire section of the basic law, section 106(f)(2), to amendment, which is the purpose, in part, of the amendment offered by the gentleman from Illinois [Mr. O'Hara].

Therefore, it is the opinion of the Chair that the amendment offered by the gentleman from Illinois is germane. The Chair overrules the point of order.[7]

§ 35.71 To an amendment in the nature of a substitute, proposing, in part, modification of a section of the Housing Act of 1949 relating to payments for certain expenses occasioned by urban renewal projects, a proposition to further amend such section by limiting specified construction to that needed for relocation of families displaced by urban renewal projects was held to be germane.

In the 85th Congress, during proceedings relating to a bill[8] to extend and amend laws concerned with the improvement of housing, an amendment in the nature of a substitute was under consideration which contained the following provision:[9]

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Such rules and regulations may include provisions authorizing payment to individuals and families of fixed amounts (not to exceed $100 in any case) in lieu of their respective reasonable and necessary moving expenses."

The following amendment was offered to such amendment:[10]

Amendment offered by Mr. [O. Clark] Fisher [of Texas] to the substitute offered by Mr. [Edmond A.]

6. Wilbur D. Mills (Ark.).
7. For a similar ruling during proceedings relating to H.R. 6659, see Sec. 35.71, infra.
8. H.R. 6659 (Committee on Banking and Currency).
9. 103 Cong. Rec. 6703, 85th Cong. 1st Sess., May 9, 1957.
10. *Id.* at p. 6706.

Edmondson [of Oklahoma]: Page 11, in line 12 insert "(a)" after "sec. 302." and after line 18 insert the following:

(b) Section 106 of such act is further amended by adding at the end thereof the following new subsection:

"(g) No new contract . . . or other arrangement regarding low-rent housing provided for under section 305 of the Housing Act of 1949 shall be entered into . . . except with respect to low-rent housing projects to be undertaken in a community in which the local governing body certifies that such low-rent housing project is needed for the relocation of families to be displaced as a result of Federal, State, or local governmental action in such community: *And provided further*, That no such new contracts . . . or other arrangements shall be entered into . . . for additional dwelling units in excess of the total number of such units which the Housing and Home Finance Administrator determines to be needed for the relocation of families to be displaced as a result of Federal, State, or local governmental action in the communities where such units are to be located."

A point of order was raised against the Fisher amendment, as follows:[11]

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I make a point of order against the amendment, that it is not germane to the amendment before the House or the bill before the House or any part of the bill or the pending amendment. . . .

The amendment deals with public housing. There is no public housing in any part of this bill or in any part of the amendment to the bill.

The Chairman[12] overruled the point of order, citing the principle that, "an amendment to a particular section may perhaps make in order another amendment to the section."[13]

Committee Jurisdiction as Test Where Amendments to Law Are Within Jurisdiction of Different Committees

§ 35.72 Committee jurisdiction is a relevant test of germaneness where the pending portion of the bill amends a law entirely within one committee's jurisdiction and the proposed amendment amends a law within another committee's jurisdiction; thus, to a title of an omnibus housing bill amending a law within the jurisdiction of the Committee on Banking, Finance and Urban Affairs to reauthorize rural housing loan and grant programs, an amendment to another law within the jurisdiction of the

11. *Id.* at pp. 6706, 6707.

12. Wilbur D. Mills (Ark.).

13. 103 CONG. REC. 6707, 85th Cong. 1st Sess., May 9, 1957. For a similar ruling during proceedings relating to H.R. 6659, see §35.70, supra. It should be noted that in both rulings the text being amended was a comprehensive amendment of one or more sections of existing law.

Committee on Agriculture authorizing the pooling of federally guaranteed rural housing loans was held not germane as amending a law not amended by the pending title and within the jurisdiction of another committee.

The proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, are discussed in § 4.58, supra.

Amendment Modifying Same Section of National Housing Act in Unrelated Respects

§ 35.73 To that part of a bill amending a section of the National Housing Act by adding a paragraph relating to the power of the administrator to dispose of securities held by him, an amendment proposing to modify such section of the act in other respects was held not germane.

In the 74th Congress, a bill (14) was under consideration to amend a title of the National Housing Act. The bill stated in part: (15)

> Be it enacted, etc., That title I of the National Housing Act, as amended, be further amended as follows:
>
> Section 1 of title I is amended by adding at the end of said section the following paragraph:
>
> "Notwithstanding any other provision of law, the Administrator shall have the power, under and subject to regulations prescribed by him and approved by the Secretary of the Treasury, to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract claim, property, or security assigned to or held by him, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of insurance under section 2 of this title, until such time as such obligations may be referred to the Attorney General for suit or collection."

The following amendment was offered: (16)

> Amendment offered by Mr. [Carl E.] Mapes [of Michigan]: Page 1, after line 4, strike out after the word "compensation", in the second sentence of section 1 of title I, the rest of the sentence and insert in lieu thereof the following: "said officers and employees to be appointed in accordance with the civil-service laws and rules thereunder and their compensation fixed as provided in the Classification Act of 1923, as amended". . . .

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

> MR. [T. ALAN] GOLDSBOROUGH [of Maryland]: Mr. Chairman, I make a point of order against the amendment that it is not germane. . . .
>
> Mr. Chairman, the matter desired to be inserted by the gentleman from

14. H.R. 11689 (Committee on Banking and Currency).

15. See 80 CONG. REC. 4439, 74th Cong. 2d Sess., Mar. 26, 1936.

16. *Id.* at p. 4444.

Michigan does not refer in any way to the subject matter of the legislation. It has no possible reference to the subject matter of the legislation.

The Chairman[17] stated, "section 1 of this bill deals with the sale and handling of securities." Mr. Mapes responded that, "[S]ection 1 of the law relates to appointment of employees and the fixing of their compensation, which is the section I am trying to amend." The Chairman then cited a prior ruling by Speaker Frederick H. Gillett, of Massachusetts, that, "to a bill amendatory of an act in several particulars an amendment proposing to modify the act, but not relating to the bill (is not) germane," and held as follows:

> It seems very clear to the Chair that the amendment offered by the gentleman from Michigan does attempt to modify a section of the existing law, but it is not germane to this particular section of the bill. The point of order, therefore, is sustained.

Bill Amending National Foundation for the Arts and Humanities Act—Amendment To Establish Office of Poet Laureate

§ 35.74 To a bill amending several sections of the National Foundation for the Arts and Humanities Act to extend the authorization for appropriations and redefine certain powers of the Foundation, an amendment proposing to further amend the act to establish an office of Poet Laureate of the United States was held to be not germane.

In the 90th Congress, during consideration of a bill[18] amending the National Foundation for the Arts and Humanities Act of 1965, the following amendment was offered:[19]

> Amendment offered by Mr. [Spark M.] Matsunaga [of Hawaii]: . . .
>
> Sec. 7. The National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:
>
> POET LAUREATE OF THE UNITED STATES
>
> Sec. 15. (a) There is hereby established the Office of Poet Laureate of the United States. . . .
>
> (b) The Poet Laureate . . . who shall be appointed by the President after consideration of the recommendations of the National Council on the Arts, shall be a poet whose works reflect those qualities . . . associated with the historical heritage, present achievement, and future potential of these United States.

Mr. Frank Thompson, Jr., of New Jersey, made the point of

17. Emmet O'Neal (Ky.).

18. H.R. 11308 (Committee on Education and Labor).

19. 114 CONG. REC. 4348, 90th Cong. 2d Sess., Feb. 27, 1968.

order that the amendment was not germane to the bill. The Chairman,[20] without elaboration, sustained the point of order.[1]

Bill To Amend Federal Aid Road Act—Amendment To Create Corporation With Authority Affecting Road Construction

§ 35.75 To a bill to amend and supplement the Federal Aid Road Act, an amendment proposing the creation of a corporation with authority to issue bonds to finance road construction was held not germane.

In the 84th Congress, during consideration of a bill[2] to amend and supplement the Federal Aid Road Act, the following amendment was offered:[3]

> Amendment offered by Mr. [Charles A.] Halleck [of Indiana]: Page 8, after line 6 insert:
>
> Sec. 2 (G) (a) There is hereby created, subject to the direction and supervision of the President, a body corporate to be known as the Interstate and Defense Highway Finance Corporation. . . .
>
> (c) It shall be the duty of the Corporation (a) to receive and borrow funds, (b) to provide and make available to the Secretary such sums as are necessary to permit him to make the payments or advances to the States, through the established channels of the Bureau of Public Roads of the Federal share of the cost of construction of projects on the Interstate System, and such other costs or expenses as are permitted or required to be paid or advanced by him in connection with the Interstate System under the terms of this act, and (c) to perform such other duties as may be required in the performance of its functions and the exercise of its powers under this act. . . .

Mr. Robert E. Jones, Jr., of Alabama, made the point of order against the amendment that it was not germane to the bill. The Chairman,[4] in ruling on the point of order, stated:[5]

> It is . . . the opinion of the Chair that the amendment offered by the gentleman from Indiana, seeking as it does to create an entirely different body, a body corporate, is not germane to the provisions of the pending bill.

—Amendment To Prohibit Funds for States Where Segregation is Practiced

§ 35.76 To a bill to amend and supplement the Federal Aid Road Act, an amendment providing that no funds col-

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20. John A. Young (Tex.).

1. 114 Cong. Rec. 4349, 90th Cong. 2d Sess., Feb. 27, 1968.

2. H.R. 7474 (Committee on Public Works).

3. 101 Cong. Rec. 11709, 84th Cong. 1st Sess., July 27, 1955.

4. Eugene J. Keogh (N.Y.).

5. 101 Cong. Rec. 11710, 84th Cong. 1st Sess., July 27, 1955.

lected under the act may be available to any state or locality in which segregation is practiced in restaurants, restrooms, or in road construction was held to be germane.

In the 84th Congress, during consideration of a bill[6] to amend and supplement the Federal Aid Road Act, an amendment was offered as described above.[7] Mr. Robert E. Jones, Jr., of Alabama, made the point of order against the amendment that it was not germane. In defending the amendment, the proponent, Mr. Earl Wilson, of Indiana, stated:

> . . . The Court has ruled against segregation. Here we are authorizing this great appropriation, under which we are going to spend billions of dollars in every State in the Union. Yet, there are some States in which the Negroes are not going to have a chance to work and earn part of this money to pay the taxes to build the highways. . . .
>
> . . . I think these Negroes should be given the opportunity to help build the highways because they are going to help to pay the taxes. I think they should be able to use the facilities, the restaurants, and the comfort stations, and so forth, that appear along the highways.

The Chairman,[8] in ruling on the point of order, stated:

> It is the opinion of the Chair that since the amendment refers to and touches upon the funds collected under this act, limiting their use, the amendment is germane, therefore, the Chair overrules the point of order.

Funds for Alaska and Hawaii Under Federal Airport Act—Funds for Puerto Rico and Virgin Islands

§ 35.77 To a bill amending one section of the Federal Airport Act to provide that the new States Alaska and Hawaii be eligible for certain funds under the act, an amendment to make Puerto Rico and the Virgin Islands similarly eligible and to amend other provisions of the Act was held to be not germane.

In the 86th Congress, a bill[9] was under consideration to provide that Alaska and Hawaii be eligible for participation in the distribution of discretionary funds under a particular section of the Federal Airport Act. An amendment was offered by Mr. John B. Bennett, of Michigan. The bill with a committee amendment,

6. H.R. 7474 (Committee on Public Works).

7. See 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955.

8. Eugene J. Keogh (N.Y.).

9. S. 2208 (Committee on Interstate and Foreign Commerce).

and Mr. Bennett's amendment in the form of a substitute for the committee amendment, were as follows: [10]

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 6(b) of the Federal Airport Act (69 Stat. 442, 49 U.S.C. 1105) is amended to read as follows:

"(2) Such discretionary fund shall be available for such approved projects in the several States, Alaska, and Hawaii as the Administrator may deem most appropriate. . . ."

With the following committee amendment:

Strike out all after the enacting clause and insert: "That paragraph (2) of section 6(b) of the Federal Airport Act (49 U.S.C. sec. 1105(b)(2)) is amended to read as follows:

"'(2) Such discretionary fund shall be available for such approved projects in the several States, Alaska, and Hawaii as the Administrator may deem most appropriate for carrying out the national airport plan, regardless of the location of such projects. The Administrator shall give consideration, in determining the projects for which such fund is to be so used, to the existing airport facilities in the several States, Alaska, and Hawaii, and to the need for or lack of development of airport facilities in the several States, Alaska, and Hawaii.'"

MR. BENNETT of Michigan: Mr. Chairman, I offer a substitute amendment, which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Bennett of Michigan as a substitute for the committee amendment: Page 2, strike out lines 6 through 18, inclusive, and insert in lieu thereof the following: "That section 2(a) of the Federal Airport Act, as amended (49 U.S.C., sec. 1101(a)), is amended as follows:

"(1) In paragraph (7), strike out 'Alaska, Hawaii, or Puerto Rico and' and insert in lieu thereof 'Puerto Rico, or'. . . .

"Sec. 3. Section 5 of such Act, as amended (49 U.S.C., sec. 1104), is amended as follows: . . .

"(2) In subsection (b), insert '(1)' immediately after '(b)'. . . .

"(5) At the end of such subsection (b), add the following new paragraph:

"'(2) For the purpose of carrying out this Act with respect to projects in Puerto Rico and the Virgin Islands, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of $900,000 for each of the fiscal years ending June 30, 1960, and June 30, 1961. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized and shall continue to be so available until so obligated. Of the sum of $900,000 authorized by this paragraph for each of the fiscal years ending June 30, 1960, and June 30, 1961, the sum of $600,000 shall be available for projects in Puerto Rico and the sum of $300,000 shall be available for projects in the Virgin Islands.'"

A point of order against the amendment having been raised by Mr. Oren Harris, of Arkansas, the following ruling was made by Chairman John A. Blatnik, of Minnesota:

10. 105 CONG. REC. 18840, 18841, 86th Cong. 1st Sess., Sept. 9, 1959.

The bill before the House deals with paragraph 2 of section 6(b). The substitute deals with other portions of the act and also deals with Puerto Rico and the Virgin Islands, which are not in the present act. The point of order is well taken, and the Chair sustains the point of order.

Diverse Amendments to Airport and Airway Development Act—Amendment Adding New Title to Bill

§ 35.78 A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill; thus, to a bill containing several titles amending the Airport and Airway Development Act in diverse respects, including provisions relating to aircraft noise reduction grants, regulation and funding, general airport development projects, and general research, development and demonstration grants, an amendment adding a new title amending the Act to extend the authorization for State Airport Demonstration Grants was held germane.

On Sept. 14, 1978,[11] during consideration of H.R. 8729[12] in the Committee of the Whole, Chairman Gerry E. Studds, of Massachusetts, overruled a point of order against the following amendment:

MR. [WILLIAM H.] HARSHA [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harsha: At the end of the bill, add the following new title:

TITLE VI

Sec. 601. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980". . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I just heard about this amendment a few minutes ago. While I support what they want to do in this, it is a different program that comes out of different legislation. It is an innovative program that we started last year for demonstration projects for, I believe it was, four States to handle the State money themselves rather than going through FAA with a direct funding to the States. They make all the decisions. They set all the criteria. It is a program that is not dealt with in this bill in any way, shape, or form, and in my opinion is not germane to this bill. . . .

MR. HARSHA: Mr. Chairman, I believe it is germane to the issue. It is a

11. 124 CONG. REC. 29487, 29488, 95th Cong. 2d Sess.

12. The Aircraft Noise Reduction Act.

section that is in the Airport and Airway Development Act. We already have other titles in this bill dealing with the Airport and Airway Development Act, the so-called AADA. This deals with that part of the program and I think it is germane to the title of the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The bill before us amends the Airport and Airway Development Act in several respects and with some depth and breadth. It deals not only with noise control, but planning, grants and research, and in other ways.

Therefore, the Chair feels the amendment of the gentleman from Ohio (Mr. Harsha) is germane to the bill as a whole and the point of order is overruled.

Tax Consequences of Sale of Property by Air Carriers—Determination of Subsidies for Air Carriers

§ 35.79 To a bill amending the Civil Aeronautics Act of 1938 in part to exclude from specified tax computations those gains from the sale of property of an air carrier that are subsequently reinvested in similar property, an amendment was held to be not germane which sought to relate such accounting procedures to the determination of certain subsidies for air carriers.

In the 84th Congress, the following proposition[13] was under consideration:[14]

> . . . That section 406(b) of the Civil Aeronautics Act of 1938, as amended (49 U.S.C. 486), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:
>
> (2) In determining "all other revenue" of an air carrier for the purposes of paragraph (1), the Board—
>
> (A) shall not take into account any loss on the sale or other disposition of property, and
>
> (B) shall not take into account any gain on the sale or other disposition of property, if the net gain (after applicable taxes) is (within a reasonable time to be fixed and determined by the Board) reinvested in other property similar or related in service or use.
>
> For the purposes of this paragraph, the term "property" means depreciable property used or useful in the carrier's normal operations. . . .

The following amendment was offered:

> Amendment offered by Mr. [John W.] Heselton [of Massachusetts]: Page 2, line 11, strike out all of lines 11 through 22, inclusive, and insert in place thereof the following: . . .
>
> (3) Hereafter in determining that portion of the carrier's mail rate which is payable by the Board (which portion is hereinafter referred to as "subsidy") the Board shall com-

13. Committee amendment to H.R. 8902 (Committee on Interstate and Foreign Commerce).

14. See 102 CONG. REC. 14868, 84th Cong. 2d Sess., July 26, 1956.

pute such carrier's depreciation expense and return on investment after first deducting the net gains not taken into account in determining all other revenue of such carrier from the original cost to such carrier of the flight equipment in which such net gains have been reinvested. . . .

Mr. Oren Harris, of Arkansas, in making a point of order against the amendment, stated, "The amendment . . . goes far beyond the scope of this bill." In defending the amendment, the proponent, Mr. Heselton stated:

> . . . I would like to refer . . . to a ruling . . . found in Cannon's Precedents, section 2993. . . . It is as follows:
>
> > An amendment to a section which is relevant to the subject matter and which may be said to be properly and logically suggested in the perfecting of the section and the carrying out of the intent of the bill would be germane to the bill and thus is in order.

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

> The amendment offered by the gentleman from Massachusetts extends beyond the scope of the language contained in section 406(a) at lines 13 and 14 of the committee amendment.
>
> The language therein contained is very narrow in its scope and applies to one specific phase of the operation.
>
> The amendment offered by the gentleman from Massachusetts extends beyond loss on the sale of property, the matter contained in the amendment; therefore, the entire amendment offered by the gentleman from Massachusetts is not germane and the Chair sustains the point of order. . . .

Federal Funding of Railroads—Amendment Affecting Freight Rate Regulations

§ 35.80 A proposal which may amend existing law in several respects but which is confined to the issue of federal financial assistance does not necessarily permit, as germane, amendments to other sections of that law which involve federal regulations governing the entities being financed by the bill; thus, to a proposition amending existing laws in several respects but limited in scope to the issue of federal funding of railroads, an amendment to one of those laws to require any railroad to maintain certain freight rate practices and waiving provisions of antitrust laws to permit enforcement of those rate practices was held not germane as addressing regulatory authorities in law and not confined to the issue of federal financial assistance.

During consideration of H.R. 12161[16] in the Committee of the

15. Francis E. Walter (Pa.).

16. The ConRail Authorization Act.

Whole on Oct. 14, 1978,[17] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [FRED B.] ROONEY [of Pennsylvania]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Rooney: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

Sec. 2. (a) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(b) Section 216(b)(2) of such Act (45 U.S.C. 716(b)(2)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(c) Section 216(f) of such Act (45 U.S.C. 726(f)) is amended by striking out "$2,100,000,000" and inserting in lieu thereof "$3,300,000,000".

Sec. 3. Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is further amended by redesignating subsection (f) thereof as subsection (g) and by inserting immediately after subsection (e) thereof a new subsection as follows:

"(g)(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied. . . .

MR. [JOHN M.] MURPHY of New York: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York: Page 2, after line 6 insert the following and renumber the remaining paragraphs as appropriate.

"Sec. II. Section 3 of the Interstate Commerce Act (49 U.S.C. 3) is amended by adding at the end thereof the following new paragraph:

"(6)(a) It shall be the duty of any Class I of common carrier by railroad which handles or controls more than 75 per centum of the rail freight traffic to and from a port to establish and maintain equal rates, charges, tariffs, and classifications to and from all points served by rail within such port, and to establish and maintain equal joint routes, rates, charges, tariffs, and classifications for all types of rail freight traffic with all connecting rail carriers to and from all points served by rail within the port. It shall be the duty of each such Class I common carrier by railroad establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation and providing for reasonable compensation to those entitled thereto, and, in case of joint rates, charges, or tariffs, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any participating carrier. . . .

17. 124 CONG. REC. 38671, 38672, 38677, 38678, 95th Cong. 2d Sess.

MS. [BARBARA A.] MIKULSKI [of Maryland]: Mr. Chairman, I make a point of order against the bill on the grounds that the amendment is not germane because the amendment amends the Interstate Commerce Act and the Clayton Antitrust Act.

Mr. Chairman, the amendment in the nature of a substitute is basically an authorization; it authorizes USRA to purchase ConRail securities. The amendment offered by the gentleman from New York (Mr. Murphy) not only amends these two statutes, but also makes new policy concerning intraport equalization. The bill is not a policy oriented bill dealing with the Interstate Commerce Act, but is rather essentially an authorization bill, by far, and I think it is not germane. . . .

MR. MURPHY [of New York:] Mr. Chairman, this amendment was adopted by this House, passed into law, and incorporated in the 4R Act of 1976.

What this amendment does is just restate the fact of the matter because the Interstate Commerce Commission and, of course, ConRail itself have failed to implement the law.

Mr. Chairman, the amendment certainly is germane. It has already been part of this act, and it is a restatement of the original amendment of 3 years ago. . . .

MR. ROBERT E. BAUMAN [of Maryland]: Mr. Chairman, I point out that the substitute amendment to which the amendment is proposed amends the Regional Rail Reorganization Act. The amendment itself, however, amends the Interstate Commerce Act, an entirely different statute; and as has been pointed out by the gentlewoman from Maryland [Ms. Mikulski], the Clayton Act, which is not, I understand, under the jurisdiction of this committee, but under the jurisdiction of the Committee on the Judiciary, which is a test of germaneness.

Mr. Chairman, the entire thrust of the gentleman's amendment deals with the establishment and maintenance of rates, charges, and tariffs and their classifications and divisions, whereas the bill itself deals with nothing like that, but, rather, with the funding, debentures, and stocks and other related matters dealing with ConRail. . . .

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

The gentlewoman from Maryland [Ms. Mikulski] makes a point of order that the amendment offered by the gentleman from New York (Mr. Murphy) is not germane to the amendment in the nature of a substitute in that the Rooney amendment in the nature of a substitute amends the Regional Rail Transportation Act and provides for financial assistance to railroads in the ConRail system, while the amendment offered thereto amends the Interstate Commerce Act and also provides changes in the Clayton Act which deal with the issue of antitrust matters and railroad rates applicable not only to ConRail but to other rail systems.

The Chair, therefore, sustains the point of order.

Bill Amending Several Sections of Law—Amendment Affecting Sections Not Mentioned in Bill

§ 35.81 A bill amending several sections of an existing law

18. George E. Brown, Jr. (Calif.).

may be sufficiently comprehensive to permit amendments which are germane to other sections of that law; thus, to a bill amending several sections of the Regional Rail Reorganization Act of 1973, an amendment to a section of that Act not mentioned in the bill, relating to congressional disapproval of reorganization plans, and germane to that section, was held germane to the bill (where the argument was not made that the amendment changed the rules of the House).

During consideration of a bill to amend H.R. 2051 on Feb. 19, 1975,[19] the Chair overruled a point of order against the following amendment:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 7 after line 24 insert a new section 5 (and number the succeeding Sections accordingly).

Sec. 5. (a) Section 208(a) of the Regional Rail Reorganization Act of 1973. The sentence "The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system." is amended by deleting the language after "shall' and inserting in lieu thereof "be voted by each House of Congress within the period of 60 calendar days of continuous session of Congress after such date of transmittal.". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order on two bases. . . .

The second point of order, Mr. Chairman, is that the amendment goes beyond the scope of the legislation before us. It deals with sections of the statute not currently before the House, and as such it seeks to go to matters on which Members of this body could not, in the exercise of reasonable prudence and care, have been forewarned as to the existence of the pendency of this particular amendment, and that therefore the amendment is violative of the rule of germaneness and is not properly before the body at this time. . . .

MR. ASHBROOK: . . . [I]t is very clear that the entire matter is before us. We are talking about the bill as it now stands, referring to a prospective date of 60 days, when the plan would go into operation. All my amendment does is to change that, to make it affirmative action rather than negative action of the House that is required. I think it is consistent with the precedents and the point of order should be overruled.

THE CHAIRMAN:[20] The Chair is prepared to rule. . . .

As to the second point made by the gentleman from Michigan, the Chair has examined the amendment as well as the "Ramseyer" in the report on the

19. 121 CONG. REC. 3596, 94th Cong. 1st Sess.

20. Walter Flowers (Ala.).

bill under consideration and, in the opinion of the Chair, the bill under consideration amends several sections of the act, and is so comprehensive an amendment as to permit germane amendments to any portion of the law. The amendment offered by the gentleman from Ohio is germane to the section 208 of the act which provides for review by Congress. Therefore the Chair overrules the point of order raised by the gentleman from Michigan.

Parliamentarian's Note: Had the argument been made that the Ashbrook amendment constituted a change in House and Senate rules by requiring a vote in each House within a certain time period, the Chair would have been advised to sustain the germaneness point of order.

Urban Mass Transportation Act—"Buy American" Provisions

§ 35.82 To an amendment in the nature of a substitute comprehensively amending the Urban Mass Transportation Act and authorizing the appropriation of funds to carry out that Act, an amendment further amending the Act to prohibit the obligation of funds authorized to be appropriated thereunder for certain contracts unless American-made goods be used, in pursuance of such contracts, to the extent specified in the amendment, was held germane as a restriction on the broad authorities granted in the bill.

During consideration of H.R. 6417[1] in the Committee of the Whole on Dec. 4, 1980,[2] it was held that, to a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment denying the use of those authorities or funds to purchase foreign-made goods or equipment is germane. The proceedings were as follows:

> Amendment offered by Mr. Oberstar to the amendment in the nature of a substitute offered by Mr. Howard, as amended: Page 44, after line 7, insert the following:
>
> BUY AMERICA
>
> Sec. 225. (a) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:
>
> "(h)(1) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the

1. The Surface Transportation Act of 1980.
2. 126 CONG. REC. 32169, 32170, 96th Cong. 2d Sess.

United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States at least 50 per centum from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract. . . .

(b) The amendment made by subsection (a) shall not apply to project contracts entered into on or before the date of enactment of this Act or options exercised pursuant to such contracts. Section 401 of the Surface Transportation Assistance Act of 1978 shall not apply to any project contract entered into after the date of enactment of this Act for a project to which section 12(h) of the Urban Mass Transportation Act of 1964 applies. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Minnesota (Mr. Oberstar). This proposed amendment violates rule XVI, clause 7. . . .

Hinds' volume V, section 5825, states that while a committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Cannon's, chapter 8, section 2995, states that the burden of proof is on the proponent of an amendment to establish germaneness, and where an amendment is equally susceptible to more than one interpretation, one of which renders it not germane, the Chair will rule it out of order.

Mr. Chairman, the Oberstar amendment seeks to introduce a new subject which is part neither of this bill nor of the statute which this bill seeks to amend. The Oberstar amendment would introduce a Buy America requirement, through which funds will be limited, into the Urban Mass Transit Act of 1964, where none now exists, and in so doing, it repeals the similar provision that currently exists in the Surface Transportation Assistance Act of 1978. It is an attempt to amend the Surface Transportation Assistance Act of 1978 by adding to the statute which this bill amends and repealing it where it currently exists.

It may be argued that the amendments made by this bill are sufficiently broad to open the entire 1964 act for amendment. But the 1964 act contains no such domestic content provision.

The Oberstar amendment introduces a new subject, and couching it in language that tacks the provision on at the end of the existing section of the 1964 act is not enough to make it germane.

The Oberstar amendment really amends the Surface Transportation Act of 1978, an act which itself amended the 1964 act.

I submit that regardless of whether H.R. 6417 is broad enough to open the entire 1964 act for amendment, it is not broad enough to open other acts . . . for amendments as well, and neither is it broad enough to render germane any new subject. . . .

MR. [JAMES L.] OBERSTAR [of Minnesota]: . . . I rise in opposition to the point of order.

Mr. Chairman, the amendment that I am offering is to the Howard substitute, which is substantially broad enough to admit an amendment dealing with the Buy America Act, which is a part of the original Urban Mass Transit Act. There was a Buy America

provision in the Surface Transportation Assistance Act of 1978, which provided that a final manufactured article should be substantially all-American produced and established the 10-percent price differential between foreign and domestic bids.

My amendment would broaden that language, which is existing law somewhat, and is perfectly in order because it is an amendment to the Howard substitute and is restricted entirely to the language of the Urban Mass Transportation Act and does not, as the gentleman from Minnesota suggested, go beyond the provisions of the Urban Mass Transportation Act. . . .

THE CHAIRMAN PRO TEMPORE:[3] The Chair is prepared to rule.

The Chair has heard the arguments of both the maker of the point of order and the opponent of it, and the Chair is constrained to agree with the gentleman from Minnesota (Mr. Oberstar) that the amendment amends only the Urban Mass Transportation Act. That law in 1978 was in effect amended by the Buy America title contained in the Surface Transportation Assistance Act, and the pending amendment only alters the effect of the 1978 law as it relates to authorities under UMTA. On two previous occasions, Buy America amendments have been held germane when offered to bills, comprehensively amending existing laws and drafted as restrictions on authorities contained in those laws.

The first was on May 7, 1959, when Chairman Bass held germane to a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment prohibiting use of such funds to purchase foreign-made equipment. On another occasion perhaps the gentleman from Minnesota (Mr. Frenzel) will recall, when he made a similar point of order to the Outer Continental Shelf Lands Act amendments; and the chairman of the committee at that time, the gentleman from Kentucky (Mr. Natcher), on July 21, 1976, held the amendment to be in order. These precedents are contained in Deschler's Procedure, chapter 28, sections 4.27 and 23.7.

The Chair, therefore, overrules the point of order and recognizes the gentleman from Minnesota (Mr. Oberstar) in support of his amendment for 5 minutes.

Energy Research and Development Programs—Amendment to Define "Research and Development"

§ 35.83 To a bill not only containing authorizations for one fiscal year but also amending permanent laws in several respects, an amendment further amending one of those laws in a related way may be germane; thus, to a bill, open to amendment at any point, which not only authorized civilian research and development programs for the Department of Energy for a fiscal year but also amended in diverse ways several permanent laws relating to energy research and

3. Gerry E. Studds (Mass.).

development programs, an amendment adding a new title to further amend one of those laws to define the term "research and development" for purposes of laws authorizing energy research and development was held germane.

During consideration of H.R. 12163 in the Committee of the Whole on July 14[4] and July 17,[5] 1978, the Chair overruled a point of order in the circumstances described above. The proceedings were as follows:

TITLE V—GENERAL PROVISIONS

. . .

Sec. 504. (a) Section 111 of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j)(1) Beginning with fiscal year 1980 with respect to Department of Energy civilian research and development programs, for purposes of the President's annual budget submission and of related reports submitted by the Secretary of Energy to the House Committee on Science and Technology and to the Senate Committee on Energy and Natural Resources each plant and capital equipment construction project shall be assigned or reassigned to one of the following categories. . . .

MR. [DON] FUQUA [of Florida]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fuqua: At the end of the bill, add the following new title:

TITLE VII—DEFINITION OF RESEARCH AND DEVELOPMENT

Sec. 701. Section 304 of the Energy Reorganization Act of 1974 (42 U.S.C. 5874) is amended by inserting "(a)" after "Sec. 304.", and by adding at the end thereof the following new subsection:

"(b)(1) For purposes of this Act and the Atomic Energy Act of 1954, the Federal Non-nuclear Energy Research and Development Act of 1974, and the Department of Energy Organization Act, the term "research and development" means—

"(A) basic and applied research . . .

"(D) concept and demonstration development; and

"(E) operational systems development.

"(2) As used in paragraph (1)—

"(A) the term "basic research" means systematic and intensive study directed toward greater knowledge or understanding of a specific subject, and toward the expansion of man's fundamental knowledge of nature (with or without immediate relevance to specific technology programs). . . .

MR. [JOHN D.] DINGELL [of Michigan]: Madam Chairman, I make the point of order that the amendment is not germane to the bill which lies before us.

I would point out, first of all, that the burden is upon the offeror of the amendment to establish the germaneness thereof.

Furthermore, Madam Chairman, under the traditions and practices of the House as well as under the rules of

4. 124 CONG. REC.20994, 20995, 95th Cong. 2d Sess.

5. *Id.* at pp. 21194–96.

the House, it is well settled that the Energy Reorganization Act of 1974 referred to is a statute relating to the reorganization of government and does not lie under the jurisdiction of the Committee on Science and Technology.

I would point out that the amendment clearly seeks to amend a statute lying under the jurisdiction of another committee. . . .

I would point out that the amendment here offered by the gentleman from Florida seeks to change permanent law, as opposed to simply laying forth for the House the basis upon which appropriations may be made, which is the basic purpose on which this particular legislation is before the House. The amendment affects the Atomic Energy Act of 1954.

I point out again that this amendment, which is offered to a 1-year authorization, is permanent legislation, defining a rather sweeping responsibility of the Department of Energy of which I am not able to advise the Chair of all the consequences, nor is the author.

In reiteration, I point out that this is an authorization bill, and it includes limitations and procedural changes. Of course, adoption of this amendment does not affect jurisdiction of any committee or affect the rules of the House. Other permanent provisions of the amendment go much beyond the provisions of an annual authorization, and deal with what is essentially permanent and lasting legislation, not only of the Atomic Energy Act, but also again, I reiterate, another statute not under the jurisdiction of this committee at all, the Energy Reorganization Act of 1974, which was referred to the Committee on Government Operations. . . .

MR. [JOHN W.] WYDLER [of New York]: Madam Chairman, I would only point out to the Chair that in the bill the gentleman from Michigan is going to bring to the floor immediately upon the conclusion of the bill we are now considering, he amends the Department of Energy Act in many places, and I would be hard pressed to understand how he is going to defend that action when he is contending that doing this is a violation of the rules of the House. . . .

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

The gentleman from Michigan (Mr. Dingell) raises a point of order against the amendment offered by the gentleman from Florida (Mr. Fuqua) on the basis that the amendment is not germane to the legislation. The Chair would state to the gentleman from Michigan that this amendment does not amend the rules of the House. Under the rule which provides for consideration of this legislation a substitute was made in order as an original bill, the substitute which was an amendment by the gentleman from Florida (Mr. Fuqua) printed in the Record on the 23d of June.

In the substitute which was made in order as an original bill, the energy Reorganization Act is substantively amended in a permanent way. The gentleman from Florida now seeks to add a new title following the "general provisions" portion of the bill to provide a definition of research and development under the aegis of the Energy Reorganization Act. That is clearly ger-

6. Barbara Jordan (Tex.).

mane because of the provisions of this bill and under the the precedents that have been established in interpreting and applying the rules of the House related to the question of germaneness.

The amendment obviously relates to the question of energy research and development, the subject of the pending bill. Consequently the Chair overrules the point of order raised by the gentleman from Michigan.

Rationing Under Emergency Petroleum Allocation Act—User Charges for Allocations

§ 35.84 To a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the President to establish priorities, including rationing of gasoline, among users of petroleum products, an amendment providing that any rationing proposal for individual users of gasoline should include payment of a user charge to qualify for additional allocations was held to constitute a tax which was not within the category of rationing authority in the substitute and was ruled out as not germane.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[7] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

"(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

"(6) For purposes of this subsection, the term 'allocation' shall not be construed to exclude the end-use allocation of gasoline to individual consumers.

MR. [JAMES G.] MARTIN [of North Carolina:] Mr. Chairman, I offer an

7. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Martin of North Carolina to the amendment in the nature of a substitute offered by Mr. Staggers: On page 6, at line 6, strike the period, and add: "; *Provided, however,* That any proposal by the President for the rationing of fuel for personal automobiles and recreational vehicles should, in addition to the basic non-discriminatory ration, include provisions under which the individual consumer may qualify for additional allocations of fuel upon payment of a free or user charge on a per unit basis to the Federal Energy Administration."

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

I make the point of order on the amendment on the ground that it authorizes a user's fee in the nature of a tax and that is not supposed to come within the jurisdiction of our committee. That authority is delegated to the Ways and Means Committee.

MR. MARTIN of [North Carolina:] Mr. Chairman, I believe that the amendment is germane and pertinent to the section dealing with gasoline rationing. . . .

This amendment does not propose a tax as such and so does not run afoul of the prerogatives of the honorable Committee on Ways and Means. Instead it proposes an administrative fee to be charged, much as fees are charged by the National Park Service under the Golden Eagle plan for use of our park resources. This fee as I propose it would be charged for preferential use of any extra limited fuel resources.

THE CHAIRMAN:[8] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

Provisions Modifying Standards Imposed by Clean Air Act—Amendment Suspending Authority of Administrator To Control Automobile Emissions

§ 35.85 To an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of the shortage of energy resources upon standards imposed under that Act, an amendment to another section of that Act suspending for a temporary period the authority of the Administrator of the Environmental Protection Agency to control automobile emissions was held germane.

During consideration of H.R. 11450[9] on Dec. 14, 1973,[10] the

8. Richard Bolling (Mo.).

9. The Emergency Energy Act.

10. 119 CONG. REC. 41688, 41689, 93d Cong. 1st Sess.

Chair overruled a point of order against the following amendment:

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Wyman to the amendment in the nature of a substitute offered by Mr. Staggers: On page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6)(a) Notwithstanding any other provision of law, the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress. . . .

(3) Section 203(a)(3) of such Act is amended to read as follows:

"(3) for any person to register, on or after 60 days after the date of enactment of this paragraph, a motor vehicle or motor vehicle engine for which the regulations prescribed under section 202(a)(1) do not apply under section 202(a)(3) if such person resides in a geographic area designated by the Administrator to be a geographic area in which there is significant air pollution; or". . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . The second ground on which I make a point of order is that at no point in the bill before us appears an amendment to section 203 of the Clean Air Act. In fact, the gentleman's amendment deals with section 203 and not with the sections which are before us.

As the Chair will observe from the reading of the Clean Air Act, section 203 is the penalty section and relates to certifications. Section 202(b) mandates the EPA to establish emission limitations for automobiles, and it is to section 202(b) which the bill itself now does apply. The amendment goes much further than that and it restricts the authority of automobile owners to register automobiles in States, and this matter is not spoken to otherwise or elsewhere in the legislation before us.

It is, therefore, my strong view, Mr. Chairman, that the amendment before us is not germane to the legislation in dealing with subjects not in the bill and not presently before the House.

Obviously the germaneness rules are here to protect Members from being surprised by amendments which relate to matters different than those before us. Obviously the amendment relates to sections of the Clean Air Act and to matters that are not before us. For that reason the point of order against the amendment should be sustained. . . .

MR. WYMAN: . . . [The amendment] simply suspends . . . the authority of the Administrator to impose [requirements for emission controls] for a definite period during the energy crisis.

This is so plainly in order that I submit the Chair should overrule the point of order.

THE CHAIRMAN:[11] The Chair is ready to rule. . . .

The second aspect of the point of order is the question of nongermaneness in connection with the Clean Air Act. The Chair has simply looked at the Ramseyer on the bill before us and it is very clear that the Clean Air Act is comprehensively amended by the bill and by the pending amendment in the nature of a substitute. Therefore, the Chair overrules the point of order of the gentleman from Michigan.

Regulations Affecting Rationing of Petroleum Products—Amending Rules To Establish Congressional Disapproval Procedure

§ 35.86 While an amendment amending the rules of the House to establish a special disapproval procedure would not ordinarily be germane to a proposition which granted certain authority to the executive but did not contain a provision affecting congressional procedure, such an amendment is in order where the section of law being amended by that proposition contains a comparable provision.

On Dec. 14, 1973,[12] the Committee of the Whole had under consideration a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the president to establish priorities, including rationing procedures, among users of petroleum products. An amendment was offered which conditioned the effectiveness of those regulations upon subsequent congressional disapproval (amending the rules of both Houses to provide for the privileged consideration of disapproval resolutions). The amendment was held germane, where the section of law being amended already contained a provision permitting either House to disapprove regulations exempting certain petroleum products from allocations under that section.

The proceedings were as follows:

MR. [H. JOHN] HEINZ [III, of Pennsylvania]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the

11. Richard Bolling (Mo.).

12. See 119 CONG. REC. 41716–18, 93d Cong. 1st Sess. (proceedings relating to H.R. 11450, the Energy Emergency Act).

gentleman from West Virginia (Mr. Staggers). . . .

The Clerk read as follows:

Amendment offered by Mr. Heinz to the amendment in the nature of a substitute offered by Mr. Staggers. Page 8, after line 18, insert the following new subsection: (e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(l)(1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) DISAPPROVAL OF CONGRESS. . . .

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House not favor the energy action. . . .

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House. . . .

"(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, my point of order is that the amendment is not germane to the amendment in the nature of a substitute. Further, the amendment is not germane to the material of the bill. . . .

Mr. Chairman, what the amendment purports to do is create additional ma-

chinery with respect to the allocation section of the bill which is covered in section 103 of that bill so as to provide that the powers which are to be exercised in allocation, including end use allocation, shall be subject to presentation to the Congress during a 15-day period in which, if they are not vetoed by one or the other House, such provisions may be canceled by having been denied by the two Houses.

There is nothing in the original bill or in the amendment that provides for any procedure by which the matter shall be resubmitted to the Congress. There is nothing in the amendment in the nature of a substitute that has any such procedure in it.

The amendment offered here provides an extensive amendment of the procedures of both the House and Senate with respect to the manner in which this is accomplished.

I should like to point out to the Chair that this is not a small change in policy or in law but an extremely large one. What it purports to do, in effect, is to change the role of the Presidency and that of the Congress and to afford a special procedure by which this bill reserves to the Congress the administrative position, a position in which as a condition subsequent to the passage of this bill this bill may require a second look at the entire question and a determination on the question of policy by the Congress.

The major thrust of my point of order does not go to any question of constitutionality.

It indicates too the fact that the matter contained herein so sweepingly alters the procedures of the House, and the work to accommodate itself to this peculiar and unusual problem, that it is far beyond the scope of any provision in the bill. It does not in a minor manner change the bill, but it changes it in an extremely substantial manner because it calls upon the House to make a deep and complete policy determination with respect to the question of allocation at a time subsequent to the passage of the bill, and give that policy determination the effect of law as a condition subsequent to its particular enactment. . . .

MR. HEINZ: . . . Mr. Chairman, the gentleman from Texas contends on the one hand that my amendment is not constitutional, and on the other that it is not germane to the bill.

On the first point I would like to indicate, Mr. Chairman, that there are already on the statute books two laws, the War Powers Act, and the Procedure for Approving Executive Reorganizations. They use the same procedure for the two items I mentioned. Therefore I do not feel that the point of constitutionality can stand the test.

Second, the gentleman from Texas argues that my amendment and the disapproval portion thereof is not germane to the bill. Were this the case it would seem to me inconsistent, Mr. Chairman, because we would not have had, as we did 2 days ago, a vote on the Broyhill amendment which included the exact same procedures as exist in my amendment.

Admittedly, section 105 is not section 103 but, nonetheless, both amendments were offered to the amendment in the nature of a substitute, H.R. 11882. I do not believe, therefore, Mr. Chairman, that the point of order has merit.

MR. ECKHARDT: Mr. Chairman, I should like to urge one other point aside from the germaneness question, and that is that the amendment is out of order because it seeks to amend the Rules of the House.

MR. HEINZ: Mr. Chairman, if I may be heard further, I just do not think that the gentleman from Texas is correct. What is in this amendment is simply no different from writing into the bill, which we could do at any time, for any section, a provision which might say "notwithstanding anything in Section 103 or any other section, the Executive Branch has to come back to the Congress for enactment or approval or determination, or anything."

THE CHAIRMAN:[13] The Chair is prepared to rule.

The gentleman from Texas (Mr. Eckhardt) makes a very interesting and strong argument. The Chair in its ruling is persuaded that the question is a narrow question. The Chair does not rule on the constitutional questions raised in this argument; but there are two aspects of the matter that the Chair takes into consideration in its decision. One, which the Chair believes to be the lesser one, is the fact that in the original bill there is a similar provision which in turn was offered as an amendment to the amendment in the nature of a substitute. But the Chair relies primarily on the fact that the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) is in fact an amendment to section 4 of Public Law 93–159, the Emergency Petroleum Allocation Act which, in a different manner, does provide for a procedure whereby the President shall make submissions to the Congress. And whereby either House may disapprove of such submissions.

Therefore the Chair overrules the point of order.

13. Richard Bolling (Mo.).

Indirectly Superseding Other Law

§ 35.87 To a section of a bill amending the Defense Production Act providing financial assistance for synthetic fuel development to meet national defense needs, an amendment providing expedited review and approval of certain designated priority projects to be financed by the bill, thereby indirectly affecting time periods for procedural review specified in other laws, but not specifically waiving provisions of substantive law which might prohibit completion of such projects, was held germane as not directly amending substantive environmental or energy laws within the jurisdiction of other committees.

On June 26, 1979,[14] during consideration of H.R. 3930[15] in the Committee of the Whole, Chairman Gerry E. Studds, of

14. 125 CONG. REC. 16681–83, 96th Cong. 1st Sess.

15. The Defense Production Act Amendments of 1979.

Massachusetts, overruled a point of order and held the following amendment to be germane:

Amendment offered by Mr. Udall: Page 8, after line 13 add the following new subsection and renumber the subsequent sections accordingly:

(g)(1) The Secretary of Energy is hereby authorized to designate a proposed synthetic fuel or feedstock facility as a priority synthetic project pursuant to the procedures and criteria provided in this section. . . .

(h)(1) Any person planning or proposing a synthetic fuel or feedstock facility may apply to the Secretary of Energy for an order designating such facility as a priority synthetic project. . . .

(i) Not later than forty-five days after receipt of an application authorized under the previous section, the Secretary shall determine whether the proposed synthetic fuel or feedstock facility is of sufficient national interest to be designated a priority synthetic project. Upon reaching a determination the Secretary shall publish his decision in the Federal Register and shall notify the applicant and the agencies identified in subsection (h)(3). In making such a determination the Secretary shall consider—

(1) the extent to which the facility would reduce the Nation's dependence upon imported oil;

(2) the magnitude of any adverse environmental impacts associated with the facility and the existence of alternatives that would have fewer adverse impacts; . . .

(7) the extent to which the applicant is prepared to complete or has already completed the significant actions which the applicant in consultation with the Deputy Secretary anticipate will be identified under subsection (1) as required from the applicant; and

(8) the public comments received concerning such facility. . . .

(l) Not later than thirty days after notice appears in the Federal Register of an order designating a proposed synthetic fuel or feedstock facility as a priority synthetic project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Secretary of Energy and to the priority energy project—

(1) a compilation of all significant actions required by such agency before a final decision or any necessary approval(s) can be rendered;

(2) a compilation of all significant actions and information required of the applicant before a final decision by such agency can be made;

(3) a tentative schedule for completing actions and obtaining the information listed in subsections (1) and (2) of this subsection;

(4) all necessary application forms that must be completed by the priority energy project before such approval can be granted; and

(5) the amounts of funds and personnel available to such agency to conduct such actions and the impact of such schedule on other applications pending before such agency.

(m)(1) Not later than sixty days after notice appears in the Federal Register of an order designating a synthetic fuel or feedstock facility as a priority synthetic project, the Secretary, in con-

sultation with the appropriate Federal, State and local agencies shall publish in the Federal Register a Project Decision Schedule containing deadlines for all Federal actions relating to such project. . . .

(3) All deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal agencies governed by such Schedule.

(4) Except as provided in subparagraph (3) above and in subsection (p) no deadline established under this section or extension granted under subparagraph (5) of the section may result in the total time for agency action exceeding nine months beginning from the date on which notice appears in the Federal Register of an order designating the proposed synthetic fuel or feedstock facility as a priority synthetic project.

(5) Notwithstanding any deadline or other provision of Federal law, the deadlines imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines for reviewing applications filed by the priority synthetic project. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Arizona is not germane. . . .

Mr. Chairman, it is well settled the amendment must be germane not only to the section but also to the bill.

Mr. Chairman, the bill relates to the Defense Production Act.

Mr. Chairman, under the amendment, a lengthy process is established whereunder the Secretary of Energy, who is not mentioned elsewhere in the bill, is authorized to designate synthetic fuel or feedstocks facilities as priority synthetic projects, pursuant to lengthy criteria which are set forth at the first and second pages and following.

So, Mr. Chairman, there is a whole range of broad new responsibilities imposed on the Secretary of Energy not found elsewhere, either in the Defense Production Act or in the bill before us, which are quite complex, very obvious, and which involve a lengthy amount of work and which involve amendment either directly or indirectly of a large number of Federal, State, and local statutes dealing with the project and permitting the project.

There is also an extensive procedural responsibility on both the Secretary and one which is imposed on the Governor of the State in which the action would occur.

For that reason, Mr. Chairman, a Member of this body could not very well anticipate as would be required by the rules of germaneness that an amendment of this sweep and breadth could be visited upon us. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a further point of order. . . .

I make a point of order against the amendment for the following reasons: The bill before us, H.R. 3930, amends the Defense Production Act of 1950 and it does so by extending the authority of the act and also providing for the purchase of synthetic fuels and synthetic chemical feed stock and for other purposes. An examination of the other purposes reveals nothing akin to the amendment before us. The amendment before us in effect seeks to apply the National Environmental and Policy Act

of 1969, specifically on page 5 in subparagraph (d) to the facilities that would contract with the Government.

It appears to me that by attempting to do this, this is beyond the scope of the jurisdiction of this committee. It is within the scope of other committees' jurisdictions and certainly beyond the scope of the bill, which simply deals with contracts and purchases and not the environmental qualities or activities of the people who seek to contract with the Government.

Therefore, the amendment is not germane and beyond the scope of the bill. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The pending bill creates authority to finance directly and indirectly synthetic fuel and chemical feed stocks, feedstock projects. . . .

What my amendment does is not to change any of the existing laws. It does not change any environmental protection laws or anything else, but it says we are going to have decisions. Within nine months after this is put on the fast track, we are going to get a yes or no decision on it. . . .

This amendment simply supplements the existing statutory procedures to achieve expedited approval or disapproval of various authorities necessary for the completion of synfuel projects created under the authority of the legislation; so the subject matter of the amendment is germane to the subject of the pending legislation. The point of order ought to be rejected, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule.

The bill before the committee bestows authority for loan guarantees to finance synthetic fuel or feedstock facility construction. The amendment of the gentleman from Arizona establishes a complex mechanism for expediting procedures for projects financed by loan guarantees under the bill.

The Chair is unable in response to the gentleman from Maryland to find any respect in which the amendment of the gentleman from Arizona would amend the National Environmental Protection Act, but merely provides that determinations made as to priority of synthetic projects eligible for expeditious review shall not be considered major Federal actions under that law.

In the opinion of the Chair, the totality of the Udall amendment constitutes essentially an expediting of procedures under authorities provided for in the bill and is, therefore, germane.

The Chair overrules the point of order.

Specific Project Deemed To Satisfy Requirements of Law Being Amended

§ 35.88 To a bill amending an existing law (the Endangered Species Act) which had been interpreted to prohibit completion of certain federally funded construction projects where species of wildlife would be adversely affected, an amendment providing that a specific federal project permit be deemed to satisfy the requirements of that law was held germane as not spe-

cifically broadening authorities of federal agencies not administering that law.

On Oct. 14, 1978,[16] during consideration of H.R. 14014 in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:
>
> "The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.). . . .

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment. The amendment is not germane to the section of the bill to which it is offered, and in addition it imposes duties upon the Secretary of Commerce that are nowhere else mentioned in the bill.

MR. [MARK] ANDREWS of North Dakota: . . . If a project of this type is stopped because of an interpretation of an act of the Congress, how then can the rules of the Congress prohibit the same Congress from amending the action so that it does not affect a certain type of project? This is basically what the argument is all about. And to tie up projects which would prevent the homeowners from getting their electricity at a sensible cost because of the interpretation of the law—if it cannot be fixed in this body where can it be fixed? . . .

MR. [FRANK E.] EVANS of Colorado: . . . I think the amendment now pending offered by the gentleman from Wyoming is clearly in order. The simple thing this amendment does is declare a legislative funding of fact relative to the Endangered Species Act. Thus it is clearly germane.

THE CHAIRMAN:[17] The Chair is ready to rule. This occupant of the Chair had, as indicated, to make a rather rapid analysis of the previous amendment, not having been aware of the questions at issue. The present amendment offered by the gentleman from Wyoming would appear, based on the information that the Chair has available and on the precedents available to him including the precedent cited by the gentleman from Wyoming, to be germane and completely in the proper form, and therefore overrules the point of order in connection with the amendment of the gentleman from Wyoming.

House Procedures: Content of Committee Reports—Amendment To Require Statements as to Effect of Appropriations on Existing Law

§ 35.89 To an amendment in the nature of a substitute amending Rules X and XI and making conforming and miscellaneous changes in other rules to reorganize House committees, and including requirements as to content and filing of com-

16. 124 CONG. REC. 38143, 38144, 95th Cong. 2d Sess.

17. B. F. Sisk (Calif.).

mittee reports, an amendment to Rule XXI (which relates to appropriation bills and reports) to require the committee report accompanying any bill containing an appropriation to state the direct or indirect changes in law made by the bill and to prohibit such report from containing any directive or limitation affecting the appropriation that was not also contained in the bill was held germane, since the issue of the content of committee reports was within the purview of the amendment in the nature of a substitute.

The proceedings of Oct. 8, 1974, relating to House Resolution 988, to reform the structure, jurisdiction and procedures of House committees, are discussed in § 3.37, supra.

House Procedures: Committee Stage of Legislative Process—Amendment Relating to Voting Procedures in Committee of Whole

§ 35.90 To a proposition reorganizing House committees and dealing with the committee stage of the legislative process, amended to delete reference to consideration of legislation in Committee of the Whole, an amendment relating to voting procedures in the Committee of the Whole was held to be not germane.

On Oct. 8, 1974,[18] the Committee of the Whole had under consideration House Resolution 988, to reform the structure, jurisdiction and procedures of House committees. Pending was an amendment in the nature of a substitute amending Rules X and XI and making conforming changes in other rules to reform the structure, jurisdiction and procedures of committees, and containing miscellaneous provisions reorganizing certain institutional facilities of the House. The amendment had been perfected by amendment to eliminate a revision of Rule XVI which had proposed changes in Committee of the Whole procedure. Pursuant to a point of order, the amendment in the nature of a substitute was held not to be sufficiently broad in scope to admit as germane an amendment to Rule VIII to permit pairs on recorded votes in Committee of the Whole.

> MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

18. 120 CONG. REC. 34415, 34416, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: On page 53, after line 2, insert the following:

"PAIRS IN COMMITTEE OF THE WHOLE

"Sec. 209. The first sentence of clause 2 of rule VIII of the Rules of the House of Representatives is amended by inserting 'by the House or Committee of the Whole' immediately before the first comma.". . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment for the reason that it is an amendment to rule VIII, whereas the principal resolution under consideration here, House Resolution 988, attempts to amend rules X and XI only. Therefore, the amendment is not germane. . . .

MR. BINGHAM: . . . This would amend title II of the resolution, which is headed, "Miscellaneous and Conforming Provisions." That title of the resolution is not limited to changes in rules X and XI. It affects other rules, section 207, for example, amendment to rule XVI, and under the heading of "Miscellaneous and Conforming Provisions," it would seem to me that a simple amendment to rule VIII would clearly be in order.

THE CHAIRMAN:[19] The Chair is ready to rule.

On hearing the gentleman from Iowa (Mr. Smith) and the gentleman from New York (Mr. Bingham), the Chair is of the opinion that there is nothing in the Hansen amendment in the nature of a substitute, as perfected, relating to voting procedures in the Committee of the Whole. The miscellaneous provisions in the Hansen amendment, as perfected by the Waggonner amendment, do not broaden the Hansen amendment to the extent suggested by the gentleman from New York.

Therefore, the point of order must be sustained, and the point of order is sustained.

Proposal To Amend House Rules With Regard to Open Hearings—Amendment Affecting Investigative Funds for Minority Staff

§ 35.91 To a proposition amending existing law in several particulars but only with regard to a single subject affected thereby, an amendment proposing to modify the law in a manner not related to the subject of the pending proposition is not germane; this principle was applied during consideration of a resolution amending clauses 26 and 27 of Rule XI to require House committee and subcommittee meetings and hearings to be open to the public except where the committee determined by open rollcall vote that the remainder of that meeting or hearing be closed, where an amendment to clause 32(c) of that rule to

19. William H. Natcher (Ky.).

provide that one-third of each standing committee's investigative funds be available for minority staff was held to be not germane.

On Mar. 7, 1973,[20] during consideration of a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee meetings and hearings, an amendment to another clause of that rule relating to committee staffing was held to be not germane. The proceedings were as follows:

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 2, line 24, add a new section 4, to read as follows:

Clause 32(c) of rule XI of the Rules of the House of Representatives is amended to read as follows:

"(c) The minority party on any such standing committee is entitled, upon request of a majority of such minority, to up to one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the staff until such appointment is made. Each staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.". . .

MR. [JOHN J.] MCFALL [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the matter that we are considering. The matter that we are considering has to do with access to committee meetings, and the amendment has to do with staff make-ups, and they are entirely two different subject matters. . . .

MR. ANDERSON of Illinois: Mr. Chairman, House Resolution 259, the resolution we are considering today amends two clauses in rule XI of the Rules of the House of Representatives. I am proposing another amendment to rule XI namely the provision dealing with minority staffing of committees.

I contend this amendment is germane and in order. Having only Cannon's Procedure of the 87th Congress available to me, I quote from page 201 of that volume dealing with germaneness:

> But where the bill proposes to amend existing law in several particulars, no arbitrary rule can be laid down either admitting or excluding further amendments to the law not proposed in the pending bill, but the question of the germaneness of such additional amendments must be determined in each instance on the merits of the case presented (VIII, 2938).

This ruling was made by Chairman Sydney Anderson of Minnesota on June 10, 1921. I quote from volume VIII of the Precedents:

20. 119 CONG. REC. 6714, 93d Cong. 1st Sess.

The Chair does not think that the general rule can be laid down that where several portions of a law are amended by a bill reported by a committee, it is not in any case in order to amend another section of the bill not included in the bill reported by the committee, nor does the Chair think that the opposite rule can be laid down and rigidly applied in every instance. The Chair thinks that a question of this kind must be determined in every instance in the light of the facts which are presented in the case. In the particular case under consideration it appears that the committee has reported a bill which amends several sections of Title IV of the bill in various particulars. The Chair does not feel that he can hold that no amendment to a section not dealt with by the committee is not in order.

Mr. Chairman, I feel my amendment would clearly be in order.

Mr. Chairman, the substitute rule would not make it possible for any other amendments to be made to rule XI.

It seems to me this further argues in favor of the germaneness of this particular amendment. I ask that the point of order be overruled.

THE CHAIRMAN:[1] The Chair is prepared to rule.

House Resolution 259, while it technically amends two different clauses of rule XI, relates solely to the single subject of public access to House committee meetings and hearings. Thus, amendments to other portions of rule XI pertaining to committee jurisdiction such as staffing, and procedures other than access to hearings and meetings would not be germane.

Under the precedents, the fact that a bill amends several sections of a law does not necessarily open the whole law to amendment. The purpose and scope of the bill must be considered. In the 89th Congress, the Committee of the Whole had under consideration a bill amending the National Labor Relations Act to repeal section 14(b) of that law. On that occasion, in several rulings by Chairman O'Brien of New York, the principal was reiterated that where a bill is amendatory of existing law in several particulars, but relates to a single subject affected thereby, amendments proposing to modify the law but not related to the bill are not germane (July 28, 1965, Rec. p. 18631–18645).

For this reason, the Chair holds that the amendment is not germane and sustains the point of order.

Law Amended in Two Respects—Amendment To Add Postal Service Property to Definition of Federal Property in Assessing "Impact"

§ 35.92 To a title of a bill amending an existing law in two diverse respects, an amendment further amending one section of the law being amended by the bill may be germane; thus, an amendment expanding the definition of federal property to include United States Postal Service property under an educational assistance program subsidizing school districts where there is a federal "impact", was

1. Joe D. Waggoner, Jr. (La.).

held germane (but was ruled out as in violation of Rule XXI, clause 5, since permitting a new use of funds already appropriated).

During consideration of H.R. 12835[2] in the Committee of the Whole on May 11, 1976,[3] the Chair sustained a point of order against an amendment, as described above.

The Clerk read as follows:

TITLE III—TECHNICAL AID AND MISCELLANEOUS EDUCATION AMENDMENTS; REPEALERS, EXTENSIONS, AND EFFECTIVE DATES

TECHNICAL AMENDMENTS

Sec. 301. (a) The Education Amendments of 1974 is amended . . .

(n) Section 403(17) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "(but not including" and inserting in lieu thereof "; but at the option of a local educational agency, such term need not include"; and such section is further amended by striking out "residing in nonproject areas)" and inserting in lieu thereof "residing in noproject areas". . . .

(e)(1) Section 5(c)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended by the Education Amendments of 1974, is amended to read as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.".

(2) Section 5(c)(2) of such Act, as so amended, is amended (A) by striking out "; and" at the end of clause (F) and substituting a period, and (B) by striking out clause (G). . . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan: Page 190, immediately after line 3, insert the following:

(g) The fourth sentence of section 403(1) (20 U.S.C. 244(1)) of the Act of September 30, 1950 (Public Law 874, 81st Congress), is amended by inserting immediately before the period at the end thereof the following: ", except that such term shall include all real property owned by the United States Postal Service which is not subject to any State or local real property tax" used for the support of education. . . .

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Michigan (Mr. Ford) on the grounds that it is not germane to the bill under consideration.

The gentleman's amendment seeks to amend the definitions title of impact aid, Public Law 874 of the 81st Congress. The bill before us contains only two technical amendments to impact aid. The amendment offered by the

2. The Vocational Education Act amendments.

3. 122 CONG. REC. 13409–11, 13417, 94th Cong. 2d Sess.

gentleman from Michigan seeks to make a major change in the impact aid law by substantially increasing payments under the program. The gentleman seeks to include his amendment in title III, which relates to technical and miscellaneous amendments. Clearly, the amendment offered by the gentleman is not technical and is substantial in nature.

It is my view that the amendment is in violation of clause 7 of rule XVI of the Rules of the House of Representatives. I cite as precedent for my position the ruling of the Chair on November 29, 1971, when the Chair ruled that an amendment to regulate a broad scope of activities is not germane to a proposition imposing restrictions within a limited area of activities.

I would also cite as a precedent the ruling of the Chair on April 28, 1971, to the effect that an amendment proposing changes in another section of a law is not germane to a bill amending one section of existing law to accomplish a particular purpose. . . .

The amendment is also in violation of clause 5 of rule XXI, relating to appropriations since the amendment is effective immediately and thereby affects already appropriated funds. . . .

THE CHAIRMAN:[4] The Chair is prepared to rule.

In connection with the point of order the gentleman from Minnesota makes regarding the question of germaneness, the Chair has examined the amendment and the legislation to which the amendment is offered. Upon an examination of title III, which is a very diverse title and is open to amendment at any point, that title actually amends Public Law 81–874 in two diverse respects, as indicated on pages 214 to 217 of the Ramseyer rule in the committee report, section 403 of that act is amended in the bill on page 186. This amendment would make a further change in that section of the law.

Therefore, on the basis of germaneness, it is the opinion of the Chair that the amendment is germane; however, with respect to the point of order that the amendment violates clause 5, rule XXI, it appears to the Chair, recalling the debate on the rule of yesterday where points of order were waived against the committee amendment, that there are in existence appropriated funds for impact aid purposes which this amendment would permit to be used for a new category of recipients. Since the amendment permits a new use of funds already appropriated, the Chair would have to hold that that amendment is a violation of clause 5, rule XXI and, therefore, would sustain that portion of the point of order.

Now, the Chair would state, of course, that we are dealing here with a point of order dealing exclusively with the reuse of funds already appropriated.

Therefore, the Chair sustains the point of order in connection with clause 5 of rule XXI.

Parliamentarian's Note: While the bill was primarily a vocational Education Act amendment and extension, title III amended miscellaneous education laws, including diverse laws on elementary and secondary education, and thus greatly broadened the scope of the bill.

4. B. F. Sisk (Calif.).

Postal Reorganization Act Amended in Diverse Respects—Amendment to Another Subsection of Act

§ 35.93 A proposition amending the Postal Reorganization Act in several diverse respects, considered as read and open to amendment at any point by unanimous consent, was considered sufficiently comprehensive in scope to admit as germane an amendment to another subsection of that Act to render the entire Postal Service operation subject to the annual appropriation process, although the section of the proposition to which offered contained an annual authorization only for a limited (public service) aspect of the Postal Service operation.

On Sept. 29, 1975,[5] it was demonstrated that the test of the germaneness of an amendment is its relationship to the pending portion of a bill to which offered, and where a bill is by unanimous consent considered as read and open to amendment at any point, the germaneness of an amendment thereto is determined by its relationship to the entire bill rather than to the particular section to which offered. The proceedings in the Committee of the Whole were as follows:

THE CHAIRMAN:[6] Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Reorganization Act Amendments of 1975".

Sec. 2. Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) There is authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, and for each of the fiscal years ending September 30, 1977, 1978, and 1979, an amount equal to $35 multiplied by the number of delivery addresses estimated by the Postal Service to be served during the fiscal year involved. There is authorized to be appropriated to the Postal Service for the period commencing July 1, 1976, and ending September 30, 1976, an amount equal to one-fourth the amount authorized under this subsection for the fiscal year ending June 30, 1976. . . .

MR. [JAMES M.] HANLEY [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

5. 121 CONG. REC. 30761, 30764, 30767, 30768, 94th Cong. 1st Sess.

6. Walter Flowers (Ala.).

There was no objection. . . .

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

> Amendment offered by Mr. Alexander: Page 12, strike out line 20 and all that follows through page 13, line 6, and insert in lieu thereof the following:
>
> Sec. 2. (a)(1) Section 2401(a) of title 39, United States Code, is amended to read as follows:
>
> "(a)(1) There are authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, such sums as may be necessary to enable the Postal Service to carry out the purposes, functions, and powers authorized by this title. . . .
>
> (b) Section 2401(b) of title 39, United States Code, is amended to read as follows:
>
> "(b)(1) There are authorized to be appropriated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere.". . .

MR. HANLEY: Mr. Chairman, I raise [a] point of order on the grounds that the matter contained in the amendment is in violation of clause 7, rule XVI of the rules of the House, which provides in part that—

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The bill under consideration, H.R. 8603, is narrow in scope since it relates only to the following specific subject matters.

First, it provides authorization for increased public service appropriations by changing the statutory formula currently in existence.

Second, it would limit the amount of the next temporary rate increase and would establish new procedures and limitations for the implementation of other future temporary postal rates.

Third, it would amend the law with respect to the Postal Rate Commission by changing its procedures to expedite rate and classification cases; by subjecting the Commissioners to Senate confirmation; and by expanding the powers of the Chairman in administering the Commission. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York (Mr. Hanley) has made a point of order to the amendment offered by the gentleman from Arkansas (Mr. Alexander) to section 2 of the bill. The gentleman's point of order relates, in the Chair's judgment, primarily to the germaneness based upon the scope of the gentleman's amendment and as it relates to the scope of the bill, which bill is open to amendment at any point.

The amendment offered by the gentleman from Arkansas (Mr. Alexander) actually amends section 2(a) of the bill, although section 2(a) of the Postal Act is not amended in the bill before the Committee here this afternoon.

The Chair notes, however, as conceded by the chairman of the subcommittee, there are several enumerated purposes which touch upon many different ramifications and aspects of the postal law. These purposes are diverse in nature.

Since all of the bill is before the Committee at this point, the Chair re-

luctantly comes to the conclusion that the position of the gentleman from New York (Mr. Hanley) in his point of order is not well founded and, therefore, the Chair must overrule the point of order made by the gentleman from New York.

Bill Affecting Salaries and Number of Grades in Postal Field Service—Amendment Relating to Annual and Sick Leave

§ 35.94 To a bill relating to the number of grades and positions in the postal field service and providing salary increases for personnel in such service, an amendment relating to annual and sick leave of such personnel was held to be not germane.

In the 82d Congress, a bill[7] was under consideration which sought to amend the act of July 6, 1945, as amended, so as to reduce the number of grades for the various positions under such act. The following amendment was offered to the bill:[8]

Amendment offered by Mr. [Victor L.] Anfuso [of New York]:

Page 10, after line 10, insert the following:

Sec. 4. (a) So much of section 6 of the act entitled 'An act to reclassify the salaries of postmasters, officers, and employees of the postal service . . . " approved July 6, 1945, as amended, as precedes the second paragraph thereof is hereby amended to read as follows:

"ANNUAL AND SICK LEAVE

"Sec. 6. Postmasters, officers, and employees shall be granted 26 days' leave of absence with pay . . . each fiscal year and sick leave with pay at the rate of 15 days a year. . . ."

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

MR. [THOMAS J.] MURRAY [of Tennessee]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from New York is not germane to the pending bill. It does not pertain to any provision of the bill now under consideration which relates only to salary and to reassignment of the first three grades of Public Law 134.

The Chairman,[9] in ruling on the point of order, stated:

As the Chair stated before, this bill provides for the number of grades and positions in the postal field service and also provides salary increases for personnel in such service.

The amendment offered by the gentleman from New York deals neither with the number of grades or positions in the postal service nor with salary increases as such. It concerns an entirely different matter, namely, annual and sick leave.

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7. H.R. 244 (Committee on Post Office and Civil Service).

8. 97 CONG. REC. 11773, 82d Cong. 1st Sess., Sept. 20, 1951.

9. Clinton D. McKinnon (Calif.).

The Chair sustains the point of order.

Rights of Executive Branch Employees—Amendment Affecting Legislative Branch Employees

§ 35.95 Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends upon its relationship to the subject of the bill and not to the entire law being amended; thus, to 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 legislative branch employees, as defined in a different section of that title, was held to be beyond the scope of the bill and was ruled out as not germane.

On Oct. 28, 1975,[10] during consideration of a bill[11] dealing with the right to representation for federal executive employees during questioning, the Chair, in ruling that the amendment described above was not germane to that bill, reiterated the principle that one individual proposition is not germane to another individual proposition, even though the two belong to the same class:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—EMPLOYEE RIGHTS

"§ 7171. Right to representation during questioning

"(a) Any employee of an Executive agency under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay of such employee shall not be required to answer questions relating to the misconduct under investigation unless—

"(1) the employee is advised in writing of—

"(A) the fact that such employee is under investigation for misconduct,

"(B) the specific nature of such alleged misconduct, and

"(C) the rights such employee has under paragraph (2) of this subsection, and

"(2) the employee has been provided reasonable time, not to exceed 5 working days, to obtain a representative of his choice, and is allowed to have such representative present during such questioning, if he so elects. . . .

MR. [ROBIN L.] BEARD of Tennessee: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Beard of Tennessee: on page 1, line 8 insert

10. 121 CONG. REC. 34031, 34036, 34037, 94th Cong. 1st Sess.

11. H.R. 6227.

immediately following the word "agency" the following: ", or any employee as defined under section 2107 of this Title.".

MR. CHARLES H. WILSON of California: Madam Chairman, I have a point of order against the amendment. . . .

Madam Chairman, under rule XVI, clause 7, of the Rules of the House, any amendment to a bill concerning a subject different from those contained in the bill is not germane and is subject to a point of order. The instant amendment proposes to make the bill applicable to a completely new class of employees other than what is covered under the bill, namely, congressional employees. However, the reported bill applies only to employees of executive agencies as defined under section 105.

In my opinion, the subject of the amendment is not similar to any of the subject matters involved in H.R. 6227 which I have just outlined and is not germane. . . .

MR. BEARD of Tennessee: . . . Madam Chairman, I feel the amendment is germane to this particular bill inasmuch as the people we are including in this bill are Federal employees and those concerning whom we are legislating today are Federal employees. . . .

Madam Chairman, if I may be heard further on the point of order, all this does is to remove an exemption rather than add a group of employees. It is just removing an exemption, and I believe that is the fair thing to do.

THE CHAIRMAN:[12] The Chair is prepared to rule.

The bill before us is very explicit as to its scope. It includes any employee of an executive agency. The bill itself, by its own terms, affects the class of civil servants known as executive agency employees.

The amendment offered by the gentleman from Tennessee (Mr. Beard) would seek to amend the bill by adding a totally different individual class of employees to the bill beyond the scope of the bill, namely, congressional employees as defined in section 2107.

The rule of germaneness, in terms of amendments of this kind, states as follows: One individual proposition may not be amended by another individual proposition, even though the two belong to the same class.

In light of that principle and in light of the scope of this bill, the Chair rules that this amendment is not germane and is, therefore, out of order. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Madam Chairman, respecting the chairperson's ruling, in regard to title V to which this bill addresses itself, an amendment to title V includes all employees, including the President, Members of Congress, and members of the uniformed services, even though this bill has application, as the gentlewoman has said, only to Federal employees. Therefore, this title V does apply to all Federal employees. . . .

THE CHAIRMAN: To the gentleman from California (Mr. Rousselot) the Chair would only state that the germaneness of the amendment must be weighed against the content and scope of the bill and not title V of the United States Code, as the gentleman would interpret it.

12. Barbara Jordan (Tex.).

Census and Apportionment: Amendment To Modify Law in Manner Not Related to Bill

§ 35.96 To a bill proposing to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane.

In the 76th Congress, a bill[13] was under consideration proposing to amend an act relating to the decennial census and the apportionment of Representatives in Congress. The following proceedings took place on Apr. 11, 1940:[14]

> THE CHAIRMAN:[15] . . . The Clerk will read.
>
> The Clerk read as follows:
>
> > That an act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, is hereby amended in the first sentence of section 22(a) by striking out the words "second regular session of the Seventy-first Congress" and substituting the following words: "first regular session of the Seventy-seventh Congress", and by striking out "fifteenth" and inserting "sixteenth."
>
> MR. [JAMES W.] MOTT [of Oregon]: Mr. Chairman, I offer the following amendment, which I send to the desk.
>
> The Clerk read as follows: . . .
>
> > The said act is further amended in the first sentence of section 22(a) by striking out the words, "the then existing number of Representatives" and substituting the following words, "300 Representatives."
>
> MR. [LINDSAY C.] WARREN [of North Carolina]: Mr. Chairman, I make the point of order against the amendment that it is not germane. . . .

In ruling on the point of order, the Chairman, stated:[16]

> There is no question that the amendment would have been germane to the act of 1929. The precedents, however, seem to be very definite on the proposition that when a bill proposes to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane. . . .
>
> The pending section of the bill does not in any way affect the total number of Members of the House but only proposes to change the time when the statement of the President must be transmitted to Congress. The Chair is of the opinion therefore that the amendment is not germane and sustains the point of order.

District of Columbia: Bill Conferring Broad Powers on New Community Development and Finance Corporation—Amendment Limiting Authority of District of Columbia Council Over Parking

§ 35.97 To a bill conferring broad powers on a new Com-

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13. S. 2505 (Committee on the Census).

14. 86 CONG. REC. 4382, 76th Cong. 3d Sess.

15. Marvin Jones (Tex.).

16. 86 CONG. REC. 4383, 4384, 76th Cong. 3d Sess.

munity Development and Finance Corporation for the District of Columbia and narrowly affecting the powers of the District of Columbia Council to the extent that it would only be preempted from interfering with congressional approval authority over projects proposed by the Corporation, an amendment limiting the authority of the Council (and not the Corporation) over all parking in the District of Columbia and not confined to the Corporation's authority over parking and the Council's relation thereto was held to go beyond the scope of the bill and was held to be not germane.

On Oct. 10, 1974,[17] during consideration of H.R. 15888 in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

THE CHAIRMAN:[18] The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: On page 2, in the table of contents, insert "Sec. 309. Audits." immediately following "Sec. 308. Annual report.". . .

"POWERS OF THE COUNCIL

"Sec. 313. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority of the District of Columbia Council to enact any act, resolution, or regulation, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act."

THE CHAIRMAN: The question is on the committee amendments.

The committee amendments were agreed to. . . .

MR. [WALTER E.] FAUNTROY [Delegate from the District of Columbia]: Mr. Chairman, I offer a series of amendments and ask unanimous consent that they may be considered en bloc.

THE CHAIRMAN: Is there objection to the request of the Delegate from the District of Columbia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Fauntroy: Page 33, after line 21, insert the following:

RESERVATION OF CONGRESSIONAL AUTHORITY

Sec. 303. (a) The corporation shall not undertake any project unless such project, including a cost estimate, has been submitted by the corporation to, and has been approved by, the Committees on Appropriations of the House of Representatives and the Senate.

(b) Nothing in this Act shall be construed as amending or modifying the financing, appropriation, or budget process of the government of the District of Columbia, as established in parts D and E of title IV,

17. 120 CONG. REC. 35216–19, 93d Cong. 2d Sess.

18. Sidney R. Yates (Ill.).

and section 603 of the District of Columbia Self-Government and Governmental Reorganization Act.

Page 41, immediately after line 26, insert the following:

(b) Notwithstanding any provision of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia Council shall have no authority to modify or amend the provisions of section 303 of this Act. . . .

The amendments were agreed to.

MR. [STANFORD E.] PARRIS [of Virginia]: Mr. Chairman, I offer amendments and ask unanimous consent that the amendments be considered en bloc.

THE CHAIRMAN: Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Parris: Page 41, at the end of section 313, insert the following:

"(c) Notwithstanding any other provisions of law, the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) and, after January 2, 1975, the Council of the District of Columbia established under the District of Columbia Self-Government and Governmental Reorganization Act, shall have no authority to adopt any rule or regulation with respect to the utilization of parking facilities (including on-street and off-street parking) within the District of Columbia which is more restrictive upon nonresidents of the District of Columbia than residents of the District of Columbia. Notwithstanding any provision of the District of Columbia Self-Government and Governmental Reorganization Act, the Council of the District of Columbia shall have no authority to modify or amend the provisions of this subsection."

MR. [CHARLES C.] DIGGS [Jr., of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is nongermane. The purpose of H.R. 15888 is to accomplish several specific goals, including the development of low- and moderate-income housing, increase employment opportunities for District residents, and the development of substandard and blighted residential, commercial, and industrial areas in our National Capital in time for our Nation's Bicentennial. Clearly, the powers conferred on the proposed Corporation are specifically subject to the limited and circumscribed purpose in the provisions of the bill. Accordingly, we must read the powers of the bill contained in section 201 in the context of the purposes and findings contained in section 102. Nowhere do we find a statement that the Corporation may engage in establishing parking facilities or the regulation thereof. To argue that the powers are so broad as to allow an amendment which purpose is to restrict the overall powers of the Council is, in my view, outside of the purposes of H.R. 15888 and therefore nongermane. . . .

Any amendment which seeks to deal with Council authority over parking in areas under the control of the United States or the District of Columbia government, which would include the streets of the District, clearly goes beyond the limited powers granted the Corporation under this act. Accordingly, it would be nongermane. . . .

MR. PARRIS: . . . Section 313 of H.R. 15888, as amended by my colleague, Mr. Fauntroy, providing for a subsection b to section 313, directly and expressly limits and thereby amends the District of Columbia Self-Govern-

ment and Governmental Reorganization Act, as it relates to provisions of H.R. 15888.

My amendment does no more and goes no further than does the amendment submitted by Mr. Fauntroy.

With respect to the developmental powers that may be exercised by the District of Columbia Community Development and Finance Corporation and according to the provisions of the act and as stated in the report on page 7, that corporation which is an instrumentality of the District government may:

> 18. Construct, manage or operate public facilities for the District government or any other public body, at its request.

As I read this and as any responsible man would read this, the District government, if it wishes, could by enactment or regulation permit this instrumentality of the District of Columbia, the District of Columbia Development and Finance Corporation, to manage and operate parking facilities in the District of Columbia, be they on public property such as those where meters now exist or other public property in residential areas where a ban on nonresidential parking could be imposed.

Item 17 on page 7 of the report indicated that the corporation may:

> Manage its own property, or to enter into agreement with the District of Columbia government or a private entity for the management of property.

Here again, this would certainly permit this corporation to engage in the management of on-street parking in the District of Columbia in either commercial or residential areas at the direction and discretion of the District of Columbia government and this corporation which is its instrumentality. . . .

Mr. Chairman, I submit that title II of H.R. 15888 is so broad and so general that it permits this corporation, which it establishes, to perform nearly any function that the District of Columbia government itself could perform, because by and large such powers and authority could be delegated to it if, in fact, title II of the bill does not directly and expressly give those powers to that corporation. . . .

THE CHAIRMAN: The gentleman from Michigan makes a point of order against the amendment offered by the gentleman from Virginia.

The amendment offered by the gentleman from Virginia directly limits the powers of the present District of Columbia Council, and of the Council to be established under the Home Rule Act, to regulate all parking facilities within the District of Columbia. The bill H.R. 15888, which the gentleman's amendment seeks to amend, establishes a Community Development and Finance Corporation and gives such corporation certain powers. It does not appear to the Chair that the scope of the bill extends to regulation, either by the Corporation or by the City Council, of all parking within the District of Columbia.

The amendment offered by the gentleman from Virginia does not even mention the powers of the Corporation which is the primary subject of H.R. 15888, but limits instead the powers of the City Council. While a narrowly drawn amendment limiting the power of the Corporation to institute parking

regulations over lands within its jurisdiction might be germane, the issue of the overall powers of the District of Columbia Council, as to all areas of regulation, is not comprehended in the bill.

The gentleman from Virginia has argued that the amendment already incorporated into the bill is similar to his amendment, and that his amendment no more limits the powers of the Council or amends the Home Rule Act than does the adopted amendment. The new section 303, added by amendment of the gentleman from the District of Columbia, only limits the powers of the Council as to the requirement that projects which the Corporation is authorized to undertake be submitted for approval to congressional committees. The new section 303 directly relates to the financing of projects authorized in the bill, and the section further states that the Council may not change the requirement of submission for congressional approval. It does not appear to the Chair that that provision in any way amends the powers of the Council under the Home Rule Act or that it touches on any subject not in the bill H.R. 15888.

Section 313, added by committee amendment to specify that the bill does not preempt the legislative authority conferred on the City Council under the Home Rule Act, does not bring the subject of the general powers of the City Council under the Home Rule Act within the purview of the bill, except to the extent that the Council may or may not control the activities of the Corporation.

For the reasons stated, the Chair sustains the point of order.

Restrictions on Funds for Legal Services Corporation—Amendment Making Criminal and Civil Laws Applicable to Corporation

§ 35.98 To a Senate amendment to a general appropriation bill subjecting funds for the Legal Services Corporation to a comprehensive series of restrictions on its activities for that fiscal year and reconstituting its board of directors, a proposed amendment also applying to that corporation "with respect to the use of funds in the bill" certain substantive provisions of Federal criminal and civil law not otherwise applicable to it was held not germane.

The proceedings of Oct. 26, 1989, relating to the conference report on H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, are discussed in § 34.37, supra.

Laws Governing Handguns Made Applicable to Rifles—Amendment Requiring Firearm Registration

§ 35.99 To a bill which sought, as part of a comprehensive scheme for the regulation of

transfers of firearms, to extend the provisions of existing law governing handguns to transactions involving rifles and shotguns and to specify regulations for the identification of firearms by importers and manufacturers, an amendment requiring registration of firearms by the purchasers thereof was held to be an extension of matter already carried in the bill and therefore germane.

In the 90th Congress, during consideration of the State Firearms Control Assistance Act of 1968,[19] an amendment was offered which stated in part:[20]

> Amendment offered by Mr. [Robert] McClory [of Illinois]: . . . On page 32, after line 11, insert the following:
>
> CHAPTER 44A—REGISTRATION OF HANDGUNS
>
> Sec.
> 931. Definitions
> 932. Registration . . .
>
> §932. Registration.—(a) It is unlawful for a person knowingly to possess a firearm not registered in accordance with the provisions of this section. . . .

A point of order was raised against the amendment, as follows:[1]

> MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the fundamental purpose of the amendment must be germane to the bill. Here the amendment goes far beyond the purposes of the bill and imposes a whole new series of responsibilities on the Secretary, including registration of firearms. . . .
>
> I submit, in conclusion, the [amendment] offered by my friend goes far beyond the matter before the House, compels entirely new duties and responsibilities, adds entirely new classes of persons, creates entirely new regulatory problems, and, indeed, advances and enhances in enormous manner the scope of the bill, far beyond that which was submitted to this body and far beyond that which was contemplated by the committee.

The Chairman,[2] in ruling on the point of order, stated:[3]

> . . . [T]he bill which the Committee of the Whole is now considering seeks to regulate the various transactions involving rifles, shotguns, and handguns. It provides for the identification of such firearms by manufacturers and importers and, as amended by the Committee on the Judiciary and by this committee earlier this afternoon, specifies that this identification shall include serial numbers. Licensed importers, dealers, and manufacturers are required to retain descriptions of the firearms with which they deal.
>
> The amendment proposed by the gentleman from Illinois [Mr. McClory] is drafted as a further amendment to

19. H.R. 17735 (Committee on the Judiciary).

20. See 114 CONG. REC. 22248, 22249, 90th Cong. 2d Sess., July 19, 1968.

1. *Id.* at p. 22249.

2. John J. Rooney (N.Y.).

3. 114 CONG. REC. 22249, 22250, 90th Cong. 2d Sess., July 19, 1968.

title 18, United States Code, the same portion of the Code amended by the pending bill. It carries the concept of registration or identification to the persons having handguns in their possession. The system of registration established by the amendment would be under the jurisdiction of the Secretary of the Treasury, the same officer designated for this purpose by the bill.

The Chair notes that the bill makes at least three major innovations in the existing law concerning gun control: it extends that law with respect to transactions in rifles and shotguns; it brings ammunition within the scheme of the law; and it modifies the law regarding shipment and sale of destructive devices. Since present law is modified in the foregoing ways, an additional change in the law and the bill—a change that is an extension of a subject already carried in the bill—is germane.

The Chair therefore overrules the point of order.

Disposal of Surplus Military Equipment—Amendment Prohibiting Transfer of Surplus Guns

§ 35.100 To a bill authorizing appropriations for military procurement and containing provisions modifying existing law with respect to the disposal of surplus military equipment, an amendment proposing a further modification of that law to prohibit the transfer of surplus guns and ammunition to individuals, clubs or organizations was held to be germane.

In the 90th Congress, a bill[4] was under consideration relating to military procurement authorization for fiscal 1969. The bill stated in part as follows:[5]

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. Funds are hereby authorized to be appropriated during the fiscal year 1969 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law in amounts as follows:

For the Army, $1,641,900,000. . . .

TITLE IV—GENERAL PROVISIONS

Sec. 404. (a) Chapter 163 of title 10, United States Code, is amended by adding at the end thereof the following new section:

§ 2576. Obsolete and surplus military equipment: sale to State, local law enforcement, and firefighting agencies

(a) The Secretary of Defense . . . shall sell to State, local law enforcement and firefighting agencies, at fair market value, obsolete and surplus military equipment. . . .

(b) Obsolete and surplus military equipment shall not be sold under the provisions of this section to a State, local law enforcement or fire-

4. S. 3293 (Committee on Armed Services).

5. See 114 CONG. REC. 20761, 90th Cong. 2d Sess., July 11, 1968.

fighting agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe. . . . Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency.

The following amendment was offered to the bill:[6]

Amendment offered by Mr. [Sidney R.] Yates [of Illinois]: On page 11, line 17, strike out the period and substitute a comma and insert the following: "*Provided, however*, That no surplus or obsolete military guns or ammunition shall be sold or loaned or otherwise transferred to any private individual, association, board, club, or organization."

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

MR. [DURWARD G.] HALL [of Missouri]: . . . [T]he amendment is out of order because this is an amendment pertaining to the domestic distribution of firearms and firefighting equipment. It is not consistent with the essence of the bill as prescribed under section 2576 and the actions of the Secretary of Defense.

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

The whole section . . . deals with obsolete and surplus military equipment. This is a further limitation on that. The Chair overrules the point of order.

6. *Id.* at p. 20767.

7. Daniel D. Rostenkowski (Ill.).

Penalties for Inciting Riot—Gun Control Amendment

§ 35.101 To a bill amending a title of the United States Code to provide penalties for travel in or use of interstate facilities with intent to incite a riot, an amendment which sought to control and regulate the shipment of firearms in interstate commerce was held to be not germane.

In the 90th Congress, during consideration of a bill[8] amending Title 18 of the United States Code and making it a crime to travel in or use interstate facilities with the intent to incite a riot, an amendment was offered which sought to add to Title 18 a comprehensive gun control law and to repeal the Federal Firearms Act, found in Title 15.[9] Mr. Edwin E. Willis, of Louisiana, reserved a point of order against the amendment.[10] The following exchange ensued:

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the amendment on the grounds that the amendment is not germane to the pending legislation.

8. H.R. 421 (Committee on the Judiciary).

9. See the amendment at 113 CONG. REC. 19408–12, 90th Cong. 1st Sess., July 19, 1967.

10. *Id.* at p. 19412.

MR. WILLIS: That is the reservation that I had in mind.

MR. GROSS: I have no reservation, I am making the point of order.

MR. WILLIS: All right.

The proponent of the amendment, Mr. Richard D. McCarthy, of New York, stated in response to the point of order:

Mr. Chairman, this amendment is germane because the pattern of these riots is clear. Guerrilla warfare in the streets with snipers pouring deadly gunfire from roofs. . . .

After some further remarks, and in response to objections of Mr. Gross, the Chairman[11] made the request that Mr. McCarthy "confine his remarks to the point of order."

Speaking in support of the point of order, Mr. Willis stated:[12]

The bill before the Committee is one which proscribes travel by people across State lines in furtherance of rioting.

The amendment would add a new chapter, chapter 102, to title 18 of the Code under the subject of "Riots." The words "Chapter 102 of the Code" are not even mentioned in this strange and completely disassociated amendment. . . .

The following exchange, directed to the point of order, concerned the meaning of the terms of the bill:

MR. [ANDREW] JACOBS [Jr., of Indiana]: . . . If a rifle, which is an integral part of effective and deadly riot, is shipped in interstate commerce, it seems to me that it does relate to a facility in interstate or foreign commerce, the shipment of which is with the intent to incite a riot or other violent disturbance, and that therefore the amendment . . . is germane. . . .

MR. [THOMAS S.] FOLEY [of Washington]: . . . [T]he use of "facility" in the bill before the committee is designed to mean a facility of transportation or communication and not a facility such as an instrument of firearms. . . .

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

The committee has before it H.R. 421, a bill which adds a new chapter entitled "Riots" to title 18, United States Code, and it makes certain activities in interstate commerce unlawful, and specific penalties are provided.

The amendment offered by the gentleman from New York [Mr. McCarthy] makes unlawful certain actions and deals in sale and transportation in interstate and foreign commerce of firearms or ammunition. The amendment provides a comprehensive legislative scheme for control for interstate shipment of firearms.

The Chair feels that the amendment comes within the rule of germaneness, wherein it is said that one individual proposition may not be amended by another individual proposition even though the two belong to the same class. . . .

. . . [T]he Chair feels that while [the bill and the amendment] are simi-

11. Joseph L. Evins (Tenn.).

12. 113 CONG. REC. 19413, 90th Cong. 1st Sess., July 19, 1967.

lar, there are differences . . . and the Chair sustains the point of order.

Diverse Amendments to Laws Relating to Intelligence Community—Amendments Relating to Accountability for Intelligence Activities

§ 35.102 To a proposition dealing with a subject matter by diverse changes in existing laws, an amendment relating to that same general subject matter may be germane although including additional changes in law not contained in the bill; thus, to a bill authorizing funding for the intelligence community for one fiscal year and making diverse changes in permanent laws relating to the intelligence community (including laws concerning congressional oversight of certain intelligence activities), an amendment changing another permanent law to address accountability for intelligence activities was held germane.

On Oct. 17, 1990,[13] during consideration of the Intelligence Authorization Act of 1991[14] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

> The text of the bill is as follows: . . .
>
> TITLE I—INTELLIGENCE ACTIVITIES
>
> SEC. 101. AUTHORIZATION OF APPROPRIATIONS.
>
> Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:
>
> (1) The Central Intelligence Agency.
>
> (2) The Department of Defense.
>
> (3) The Defense Intelligence Agency. . . .
>
> TITLE II—INTELLIGENCE COMMUNITY STAFF
>
> SEC. 201. AUTHORIZATION OF APPROPRIATIONS.
>
> There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $27,900,000.
>
> SEC. 202. AUTHORIZATION OF PERSONNEL END STRENGTH
>
> TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS
>
> SEC. 301 AUTHORIZATION OF APPROPRIATIONS.
>
> There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000. . . .

13. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

14. H.R. 5422.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. . . .

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICE.

(a) The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency if the Secretary of Defense determines that such services are provided in support of authorized intelligence activities. . . .

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(A) In General.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

SEC. 503. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT FOR INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 21 of title 10, United States Code, is amended . . .

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

"431. Authority to engage in commercial activities as security for defense intelligence collection activities . . .

"§ 437. Congressional oversight

"(a) Proposed Regulations.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect. . . .

"(c) Annual Report.—Not later than January 15 of each year, the Secretary shall submit to the intelligence committees a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. . . .

SEC. 504. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for United

States military personnel listed as prisoner, missing, or unaccounted for in military actions. . . .

MRS. [BARBARA] BOXER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Boxer: Page 25, after line 18, insert the following new title:

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 601. CONGRESSIONAL OVERSIGHT.

(a) In General.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"Sec. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the "intelligence committees") are kept fully and currently informed of the intelligence activities of the United States including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of intelligence gathering activities. . . .

"(b) The President, upon being made aware of any allegations of illegal intelligence activity, shall immediately report such allegations to the intelligence committees and keep the intelligence committees informed of the ongoing investigations into such activities, such reports to encompass any measures taken to prevent a recurrence of such illegal activity, including the reporting of such activity to the Department of Justice for prosecution.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title, including procedures to ensure that each is kept fully and currently informed of intelligence activities.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to ensure that all members of the Congress are informed regarding intelligence activities to the extent consistent with the need to protect from unauthorized disclosure classified information and information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term "intelligence activities" includes 'covert actions', as defined in section 503(e)."

(b) INFORMATION REQUIRED TO BE DISCLOSED; FINDINGS.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 505 and 506, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES

"Sec. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of clas-

sified information relating to sensitive intelligence sources and methods, the President shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. . . .

"Sec. 503. (a) In setting forth the procedures regulating covert actions, this title shall not be construed as authorizing the use of covert operations as a routine means of conducting foreign policy or achieving foreign policy objectives.

"(b) The President may not conduct covert actions without prior approval by the intelligence committees, except as set forth in subsection (c)(6).

"(c) Approval of a covert action by the intelligence committees shall be predicated on the following: . . .

"(6) The approval by the intelligence committees of each covert action must be obtained in writing before the covert action can commence, except that the President may under extraordinary and emergency conditions, when time is of the essence, initiate a covert action prior to receiving approval from the intelligence committees, but such covert action shall cease within 48 hours of initiation unless express written approval of the covert action is given by the intelligence committees pursuant to such procedures as the intelligence committees may adopt to ensure a prompt response in such circumstances.

"(d) The President shall—

"(1) keep the intelligence committees fully and currently informed of the status of all covert actions which are carried out for or on behalf of the United States Government, including significant failures;

"(2) furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of the executive branch and which is requested by either of the intelligence committees; . . .

"Sec. 504. Any person who knowingly initiates or participates in a covert action in violation of this title shall be guilty of a felony punishable by up to 20 years in Federal prison, a fine of $100,000, or both.". . .

MR. [HENRY J.] HYDE [of Illinois]: Mr. Chairman, I make a point of order that the amendment violates clause 7 of rule XVI. . . . The proposed amendment is not germane to the bill because it deals with matters beyond the scope of the bill's provisions and the amendment includes matters within the jurisdiction of committees of the House not reporting the bill under consideration.

Mr. Chairman, the amendment is not germane, and consequently violates clause 7 of rule XVI in the following specific respects:

First, the bill authorizes funds for a limited number of executive departments or their subcomponents specified in section 101 of the bill and makes a few very modest changes in the statutory authorities of only a few of those agencies.

The amendment would enact a comprehensive scheme of oversight and reporting requirements for all U.S. intelligence activities which are engaged in by any U.S. Government agency, not

just those covered by the bill, as well as by third parties outside of the U.S. Government. (Amndt: p. 4, lines 6–12.)

In this regard, I call attention to a ruling by the Chair on September 27, 1967 (113 Cong. Rec. page 26957) cited in section 798f of the Rules and Practice of the House of Representatives. That ruling states that, "To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane."

Second, the only provision of the bill addressing congressional oversight of intelligence is section 503. That provision is limited to oversight related only to one specific and narrow class of intelligence activities, and that is commercial cover activities to provide security only for intelligence collection. Moreover, section 503 of the bill applies only to elements of one executive department, the Defense Department, and the provision expires at the end of 5 years.

The amendment goes far beyond that one new and specifically limited oversight subject in the bill. The amendment provides for a comprehensive oversight system for intelligence activities of the U.S. Government in general, and in some cases the role of outside third parties. The amendment is also not limited in duration, as is section 503 of the bill, but is broader because it would enact a permanent statutory change. In these regards, the amendment is not germane because it is more general in nature than the only provision of the bill which deals with one particular and narrow class within the general subject of intelligence oversight reporting.

The amendment further requires, as part of its oversight scheme, that the House and Senate establish certain procedures by adopting internal rules or resolutions, matters not dealt with in any form by the bill. (Amndt: page 3, lines 4–18.)

Third, the amendment is not germane because its text consists entirely of provisions repealing or amending sections of two statutes not amended or addressed by the bill under consideration.

The amendment extensively amends title V of the National Security Act of 1947, codified in title 50 of the United States Code, and repeals section 662 of the Foreign Assistance Act of 1961, codified in title 22 of the United States Code. The bill does not amend either of those statutes, and indeed, does not amend any part of title 22 of the United States Code.

Section 799 of the Rules and Practice of the House of Representatives cites a ruling by the Chair on May 11, 1976, that, "Generally to a bill amending one existing law, an amendment changing the provisions of another law . . . is not germane." Precedents cited in sections 33.1 and 33.3 of chapter 28 of Procedures in the U.S. House of Representatives, 97th Congress, 4th Edition (Deschler and Brown) support this principle with which the proposed amendment is inconsistent.

Furthermore, chapter 28, section 33.14 of Deschler and Brown's Procedures in the U.S. House of Representatives, 97th Congress, 4th Edition cites a precedent from a ruling of March 7, 1974 (120 Cong Rec. 5653, 5654, 93rd Cong. 2nd Sess.) that, "An amendment repealing existing law has been held not germane to a bill not amending that law." In proposing to repeal a sec-

tion of the Foreign Assistance Act of 1961, a statute not amended by the bill, the proposed amendment is not germane. (Amndt: page 1, lines 3–4.)

Fourth, the amendment is not germane because it fails the test of committee jurisdiction under section 798c of the Rules and Practice of the House of Representatives by including matters within the jurisdiction of committees not reporting the bill, the Committee on Foreign Affairs and Rules.

The amendment would repeal section 662 of the Foreign Assistance Act of 1961. That act is within the jurisdiction of the Foreign Affairs Committee. (Amndt: page 1, lines 3–4.)

The amendment also would require the House (and one of its committees) to establish certain internal procedures by the adoption of House rules or resolutions. Such matters are within the jurisdiction of the Committee on Rules. (Amndt: p. 3, lines 4–18.)

Fifth, the amendment (at p. 8, lines 8–12) would create a penal offense, whereas the pending bill does not deal with or create any criminal offenses. In addition, the committees reporting the bill do not have jurisdiction to consider such matters. In that regard, I would call the attention of the Chair to a precedent of the House, rulings by the Chairman of the Committee of the Whole, Mr. Forand on April 7, 1960. In those rulings, the Chair sustained points of order against two amendments to a pending amendment in the nature of a substitute to a bill relating to employment of retired officers by Defense contractors reported from the Armed Services Committee. Those points of order were sustained by the Chair, which ruled that the substitutes dealt with the imposition of criminal penalties, a matter not dealt with in the proposition being amended. Further, the Chair ruled that the substitutes' imposition of criminal penalties was a matter outside the jurisdiction of the committee which had reported the pending bill [Armed Services] and, if offered as a separate bill, would have to be referred to the Committee on the Judiciary.

For all the reasons given and in light of the precedents cited, the amendment is not germane, and therefore it violates clause 7 of rule XVI. I insist upon my point of order, Mr. Chairman. . . .

MRS. BOXER: . . . We feel it is absolutely germane. We feel that there are other provisions in the bill, for example on page 26 and page 33 that talk about permanent changes in law, and we would say that this is absolutely germane.

My goodness, we are talking about covert activities, and certainly the Intelligence Committee, and it is hard for me to believe that someone could say that a discussion of covert activities in this particular amendment would not be germane to the intelligence authorization bill. . . .

MR. [ANTHONY C.] BEILENSON [of California]: . . . I recognize the right of the gentleman, of course, to make this point of order and, in fact, I do not know how the Chair will rule on the precedents which the gentleman from Illinois has cited. I would only ask that in its ruling the Chair consider the fact that there are already provisions in the bill which do broaden its scope. . . .

THE CHAIRMAN:[15] . . . The Chair is prepared to rule.

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15. Bill Nelson (Fla.).

The gentleman from Illinois (Mr. Hyde) makes the point of order that the amendment offered by the gentlewoman from California is not germane to the bill. The amendment adds a new title and must be germane to the bill as a whole, as amended.

The bill authorizes funding for the intelligence community for 1 fiscal year and makes several, diverse changes in permanent law relating to sundry authorities of the Central Intelligence Agency and the Department of Defense. For example, the bill makes changes in the CIA retirement and disability system; it authorizes the Secretary of Defense to permit components of DOD to charge the CIA the same rate for airlift services that they would charge another component of DOD; and it authorizes the Secretary of Defense to withhold certain geodetic products from disclosure under the Freedom of Information Act. In addition, the bill, as perfected, includes the amendment recommended by the Committee on Armed Services directing the Secretary of Defense to provide Members of Congress access to a classified report of the Defense Intelligence Agency assessing efforts to account for military personnel listed as prisoners of war or missing in action.

The amendment at the desk does not repeal the Hughes-Ryan law, but does amend title V of the National Security Act of 1947—relating to accountability for intelligence activities. Among other things, it assigns to the President several responsibilities of the type that the existing act assigns to lower officials, such as the Director of Central Intelligence.

Although the bill does not amend the National Security Act of 1947, neither does it confine itself to authorities and activities of the intelligence community. In addition to the changes in permanent law already noted, at section 503 the bill inserts new provisions in title 10 of the United States Code—relating to the Armed Forces—to ensure congressional oversight of activities of the Department of Defense in commercial cover of intelligence operations.

Thus, the subject matter of the amendment—the relationship between the executive branch and the Congress with respect to the authorities and activities of the intelligence community—is one of the diverse topics already addressed in the bill.

Accordingly, the point of order is overruled.

MR. HYDE: Mr. Chairman, may I ask one question?

Mr. Chairman, I did not hear that part, what the Chair read about the criminal penalties that she inserts in the law, and my point that that should go to the Committee on the Judiciary, that it is certainly beyond the scope of our bill.

I must have missed that. How did the Chair rule on that, sir?

THE CHAIRMAN: The Chair thinks that the bill, as presented and amended contains provisions within several committee jurisdictions. Therefore the amendment need not meet a strict jurisdictional test. Accordingly, the Chair rules that the point of order is overruled.

Parliamentarian's Note: Mr. Hyde's point of order anticipated inclusion in the Boxer amendment of a provision repealing the so-called "Hughes-Ryan" amendment

to the Foreign Assistance Act (22 U.S.C. 2422), a law not amended by the bill and within the partial jurisdiction of another committee (Foreign Affairs). The offered amendment did not include that proposed repeal but did include the criminal provision cited in the point of order. As indicated in the Chair's follow-up response, it was only because of the diverse nature of the bill that the criminal provision was held germane. (Compare Apr. 7, 1960, rulings in sections 4.39 and 4.40, supra, cited by Mr. Hyde.) In those cases the points of order were sustained that the criminal sanction provisions contained in the amendments attempted to attain a result by a method unrelated to the narrow purpose of the bill. The pending proposition in those cases was not diverse and therefore not susceptible to the amendments ruled out.

Bill Amending 1937 Flood Control Act—Amendment To Amend 1936 Act

§ 35.103 To a bill proposing to amend the Flood Control Act of 1937, an amendment proposing to amend the Flood Control Act of 1936 was held to be not germane, the act of 1936 having been enacted for purposes not related to the bill.

The ruling described above was made on July 6, 1939.[16] Proceedings were as follows:

> The Clerk called the bill (H.R. 6634) amending previous flood-control acts and authorizing certain preliminary examinations and surveys for flood control, and for other purposes.
>
> There being no objection, the Clerk read the bill as follows:
>
> > *Be it enacted, etc.*, That section 2 of the Flood Control Act of August 28, 1937, is hereby amended to read as follows:
> >
> > "That the Secretary of War is hereby authorized to allot not to exceed $300,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris and clearing channels in navigable streams and tributaries thereof when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than $25,000 shall be allotted for this purpose for any single tributary from the appropriations for any one fiscal year."
> >
> > Sec. 2. Funds heretofore or hereafter appropriated for construction and maintenance of flood-control works by the War Department shall be available for expenditure by the War Department in making examinations and surveys for flood control heretofore or hereafter authorized, or in preparing reports in review thereof as authorized by law, in addition to funds heretofore authorized to be expended for such purposes by the War Department.
> >
> > Sec. 3. That section 2 of the River and Harbor Act of June 20, 1938, is

16. 84 CONG. REC. 8715, 76th Cong. 1st Sess. Under consideration was H.R. 6634 (Committee on Flood Control).

hereby made applicable to authorized works of flood control. . . .

MR. [LOUIS L.] LUDLOW [of Indiana]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ludlow: On page 2, after the word "department" in line 12, insert a new section, as follows:

"Sec. 3. Section 3 of the act entitled 'An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved June 22, 1936, as amended, is amended by adding before the period at the end thereof a colon and the following: '*And provided further*, That if, after investigation, the President finds that any city or town is, by reason of its financial condition, unable to comply with the requirements of this section as to local cooperation, he is hereby authorized to waive such requirements on any individual levee or flood-wall project not to exceed 50 percent of the estimated costs of the lands, easements, and rights-of-way.'"

"The first paragraph of section 2 of the act entitled 'An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes, approved June 28, 1938, is amended to read as follows:

"'That section 3 of the act of June 22, 1936 (Public, No. 738, 74th Cong.), as heretofore amended, as herein further modified, and as amended after June 28, 1938, shall apply to all flood-control projects, except as otherwise specifically provided by law.'"

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, I make the point of order that, as I said, this amendment is not germane to the bill. The bill undertakes to amend the Flood Control Act of 1937 and the Flood Control Act of 1938. They are perfecting amendments. The gentleman's amendment is an amendment to the act of 1936, that is in no way involved in this bill, as it relates to local contributions for levees and flood walls.

So I make the point of order that the amendment is not germane to the bill under consideration or any section thereof.

THE SPEAKER PRO TEMPORE [Sam Rayburn, of Texas]: The Chair is ready to rule.

MR. [CASSIUS C.] DOWELL [of Iowa]: Mr. Speaker, the amendment submitted by the gentleman from Indiana merely asks to relieve the city from the payment of what is due under the law and is in no way germane to the question before the House.

THE SPEAKER PRO TEMPORE: The Chair is ready to rule.

The bill before the House is a bill to amend the Flood Control Act of 1937. That act had one purpose. The Flood Control Act of 1936 had another purpose. The gentleman from Indiana (Mr. Ludlow) offers an amendment as an amendment to the Flood Control Act of 1936. The amendment clearly is not germane to this bill, and the Chair sustains the point of order.

Endangered Species Act—Amendment Giving Responsibilities to Parties Not Within Coverage of Bill

§ 35.104 To a bill amending the Endangered Species Act, an amendment providing that a Corps of Engineers permit

for a power project, and Rural Electrification loan guarantee commitments and approvals be deemed to satisfy the requirements of the Endangered Species Act and of other environmental acts, and directing the Corps and the Administration, after the rendering of an opinion by the Fish and Wildlife Service and in consultation with the Secretary of the Interior, to require modifications in the project to protect endangered species and their habitats, and a similar amendment only omitting the references to other environmental acts, were held not germane since broadening the responsibilities and authorities of agencies not covered by the bill.

During consideration of H.R. 14014 in the Committee of the Whole on Oct. 14, 1978,[17] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Sec. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.". . .

MR. [TENO] RONCALIO [of Wyoming]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) as amended, and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the Endangered Species Act; *Provided,* That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Sec-

17. 124 CONG. REC. 38134, 38140, 38141, 95th Cong. 2d Sess.

retary of Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after consultation as appropriate with the affected States.". . .

MR. RONCALIO: Mr. Chairman, I cannot imagine how a point of order could be reserved on the amendment at this point.

The precise objections to the last amendment [18] were stricken from this amendment, and this amendment is left with a citation of only one statute, and that is the Endangered Species Act, which is precisely the statute before us at this time. I cannot imagine an attack on the germaneness provision at this point.

I have stricken from my first amendment all reference to the Army Corps of Engineers, all reference to the National Environmental Policy Act of 1969, and all reference to the Federal Water Pollution Control Act. There is only one act cited in the amendment, and that is precisely the one before us. . . .

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment on the basis that the amendment is not germane to the bill. The differences between this amendment and the amendment previously offered are that the gentleman from Wyoming has stricken specific references in the first portion of his amendment to the National Environmental Policy Act, the Federal Water Pollution Control Act, and the Rural Electrification Act, but the gentleman's amendment has not stricken new responsibilities imposed upon the Rural Electrification Administration, the Army Corps of Engineers, the Fish and Wildlife Service, and the Secretary of the Interior.

The amendment would continue to require biological opinion by the Fish and Wildlife Service, and require additional duties of responsible officers of the REA, the Corps of Engineers; to require modifications of the project.

In addition, it requires the Secretary of the Interior to consult with the appropriate affected states, which would also be a new obligation not envisioned in the act imposed upon agencies of Government. In addition to that, the amendment is not germane to the section. It appears as a new section following section 32, a section dealing with certain antique articles.

So, I would renew my point of order as to germaneness both to the bill and to the section.

THE CHAIRMAN: [19] The Chair is prepared to rule.

Actually, the amendment adds a new section, let the Chair say to the gentleman from Nebraska, which in the opinion of the Chair would need only be germane to the bill as a whole.

However, the earlier matter cited by the gentleman from Nebraska in his point of order dealing with the expanded authority and responsibilities and obligations of the Rural Electrification Administration and Army

18. See § 42.32, infra.

19. B. F. Sisk (Calif.).

Corps of Engineers is still a part of the amendment as the Chair views it.

Therefore, the Chair would have to sustain the point of order on the basis that it would still expand authorities which are not within the coverage of the bill.

§ 36. Amendment Repealing Existing Law to Bill Amending That Law

To a bill amending existing law in one particular,[20] or in a limited respect,[1] an amendment repealing the law is not germane. Thus, to a bill establishing a new office within a government department, an amendment to abolish the department is not germane.[2] Similarly, to an amendment proposing to amend existing law in some particulars, an amendment proposing to repeal the law in its entirety is not germane,[3] unless the proposition being amended changes law in a comprehensive and diverse way, in which case an amendment proposing repeal of the law may be germane.[4] And to a bill referring to certain provisions of existing law, an amendment repealing a portion of that law has been held not to be germane.[5]

Continuing Tax Exemptions for Property Used by Government—Amendment Repealing Other Exemptions

§ 36.1 To a bill to continue the tax-exempt status of certain property owned by others but used and occupied by government agencies or by the Red Cross, an amendment seeking to repeal the law granting tax exemptions with respect to property occupied by the Daughters of the American Revolution was held not to be germane.

In the 79th Congress, a bill[6] was under consideration which stated in part as follows:[7]

> Whereas in times of national stress it is necessary for the United States of America and its various instrumentalities to use and occupy additional space necessary for the proper execution of their enlarged functions: Therefore be it
>
> *Resolved, etc.,* That the use and occupancy of real property in the District of Columbia by any department, agency, or instrumentality of the United States of America, or by the American Red

20. See § 36.2, infra.
1. See § 42.43, infra.
2. *Id.*
3. See § 36.3, infra.
4. See 5 Hinds' Precedents § 5824.
5. See § 41.6, infra.
6. H.J. Res. 236 (Committee on the District of Columbia).
7. 91 Cong. Rec. 9911, 79th Cong. 1st Sess., Oct. 22, 1945.

Cross, on a basis which does not result in the receipt of rent or income to the owner thereof within the meaning of section 2 of the act of December 24, 1942 (56 Stat. 1089), shall not operate to terminate the tax exempt status of such property if exempted from taxation prior to such use and occupancy. . . .

The purpose of the bill was indicated as follows:

MR. [JENNINGS] RANDOLPH [of West Virginia]: . . . This is merely to correct a technicality. Although the District of Columbia Code exempts . . . property belonging to various institutions, associations, societies, etc., when the latter use and occupy their respective properties, the Commissioners of the District have held that when such institutions furnish space to the Government gratuitously the exemption ceases since such property is not then "used and occupied" by the owner to whom the exemption is granted. . . .

The following amendment was offered to the bill: (8)

Amendment offered by Mr. Biemiller: On page 2, following line 17, add a new section as follows:

That the property situated in square one hundred and seventy-three in the city of Washington, District of Columbia . . . occupied by the Daughters of the American Revolution, shall no longer be exempt from taxation, as heretofore provided [by law] and that the said exemption . . . is . . . repealed.

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

MR. RANDOLPH: Mr. Speaker, I make the point of order that the amendment is not germane to this legislation. We are only concerned in providing for the Red Cross in connection with conditions that arose during the war while a Government agency used the facilities rent free. Frankly, the gentleman from West Virginia will not allow this District of Columbia legislation to become involved in the subject matter of the amendment offered by the gentleman from Wisconsin. . . .

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

MR. [ANDREW J.] BIEMILLER [of Wisconsin]: On the point of order, Mr. Speaker, may I say that the bill deals with the question of tax-exempt property in the District of Columbia and furthermore deals with an organization which has been chartered by the Congress, the American Red Cross. My amendment deals with those same categories, tax-exempt property and an organization that has been chartered by the Congress of the United States.

The Speaker,(9) in ruling on the point of order, stated:

This bill provides only for Government-chartered organizations that have given their facilities to the Government of the United States during the war period. The amendment offered by the gentleman from Wisconsin would make an absolute repeal of law on the statute books and therefore is not germane. The Chair sustains the point of order.

8. *Id.* at p. 9912.

9. Sam Rayburn (Tex.).

Bill Amending Law as to Transfer of Rice Acreage Allotments—Amendment To Repeal Law

§ 36.2 To a bill amending a single aspect of that agricultural law relating to the transfer of rice acreage allotments, an amendment to repeal the entire provision of law regulating such transfers was ruled out as not germane.

In the 88th Congress, a bill[10] was under consideration relating to the transfer of rice acreage allotments. An amendment as described above was offered by Mr. Paul Findley, of Illinois:[11]

Mr. Paul C. Jones, of Missouri, having raised the point of order that the amendment was not germane to the bill, Mr. Findley stated:

> Mr. Chairman, the title of the bill makes it clear that it is to amend the provisions of the Agricultural Adjustment Act of 1938, as amended, relating to the transfer of producer rice allotments. The amendment that I have offered simply changes the subsection which is a part of the section dealing with the transfer of producer rice acreage allotments.

The Chairman,[12] in ruling on the point of order, stated:

> According to section 2949, volume 8, Cannon's Precedents of the House of Representatives, I read:
>
> > To a bill amending a law in one particular, an amendment repealing the law is not germane.
>
> The Chair rules that the amendment is not germane.

Bill To Amend Reclamation Act: Amendment Striking Part of Section of Bill—Substitute Repealing Law

§ 36.3 To an amendment proposing to strike out part of a section of a bill, thereby amending existing law, a substitute proposing to strike out the entire section and to repeal the existing law is not germane.

In the 80th Congress, a bill[13] was under consideration amending certain provisions of the Reclamation Act of 1939. An amendment striking a specified part of the bill was offered by Mr. Ben F. Jensen, of Iowa,[14] who indicated that the purpose of the amendment was to insure that the Secretary of the Interior not be given

10. H.R. 3742 (Committee on Agriculture).

11. 110 CONG. REC. 423, 88th Cong. 2d Sess., Jan. 14, 1964.

12. Clifford Davis (Tenn.).

13. H.R. 2873 (Committee on Public Lands).

14. See 94 CONG. REC. 403, 80th Cong. 2d Sess., Jan. 21, 1948.

excessive authority with respect to undertaking certain construction projects. Mr. Gordon L. McDonough, of California, speaking in support of the amendment, discussed its purpose as follows:[15]

> . . . I want to read the section of the bill that this amendment will strike out, so that those who have any doubts about the authority that the Secretary of the Interior now has under the present Reclamation Act may understand what this amendment would do to correct that. The section that this amendment strikes out begins on line 11, page 6, and reads as follows:
>
> > If the proposed construction is found by the Secretary to have engineering feasibility and if the repayable and returnable allocations to irrigation, power, and municipal water supply or other miscellaneous purposes found by the Secretary to be proper pursuant to subdivisions (3), (4), (5), and (6) hereof, together with any allocation to flood control or navigation made under subsection (b) of this section, and together with any allocation made pursuant to subdivision (7) hereof, which shall be nonreimbursable and nonreturnable, equal the total estimated cost of construction as determined by the Secretary, then the new project, new division of a project, or supplemental works on a project, covered by his findings, shall be deemed authorized and may be undertaken by the Secretary.
>
> Evidently that is a repetition of what is now in the 1939 Reclamation Act as far as authority is concerned. This amendment amends that out and gives to the Congress the power to determine whether these projects shall be feasible and shall be initiated. . . .

The following exchange occurred with respect to the precise effect of the Jensen amendment:[16]

> MR. JENSEN: This amendment takes nothing away from the weight and effect of the present law, specifically referring to section 9 of the Reclamation Act. It leaves that intact but simply provides and assures us that no additional authorization and power will be given to the Secretary of the Interior to authorize more projects.
>
> MR. [FRANK A.] BARRETT [of Wyoming]: I am very much afraid that the gentleman is entirely mistaken because existing law provides for all of the elements that are outlined on page 6, from line 11 to the bottom of the page. That is in existing law at the present time and you are repealing it.

A substitute amendment was then offered, as follows:

> MR. [FOREST A.] HARNESS of Indiana: Mr. Chairman, I offer a substitute for the pending amendment.
>
> The Clerk read as follows:
>
> > Substitute amendment offered by Mr. Harness of Indiana to the amendment offered by Mr. Jensen: On page 4, line 15, to page 7, line 15, delete all and substitute "Section 9 (a) of the Reclamation Act of 1939 is hereby repealed."

The following proceedings then took place with respect to a question as to the propriety of the Harness amendment:

15. *Id.* at p. 404.

16. *Id.* at p. 405.

THE CHAIRMAN:[17] I will say to the gentleman from Indiana that is not a substitute for the Jensen amendment. The Jensen amendment applied only to the section at the bottom of page 6 of the bill.

MR. HARNESS of Indiana: It is the same section that I am striking out by my amendment.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I make a point of order against the substitute amendment.

THE CHAIRMAN: The gentleman may offer his amendment after the Jensen amendment is disposed of. . . .

MR. HARNESS of Indiana: Mr. Chairman, the Jensen amendment proposes to strike out, beginning on page 6, line 11, all of that section down to line 25 and add the word "a." My amendment strikes out that same section and also provides for the repeal of the same section which is in the 1939 act.

THE CHAIRMAN: The Chair must hold that the amendment is not germane to the Jensen amendment. The gentleman's amendment can be offered after the Jensen amendment is disposed of.

§ 37. Amendments to Bills Which Repeal Existing Law

To a bill repealing several sections of an existing law, an amendment proposing to repeal the entire law may be germane.[18]

Where a bill repeals a provision of law, an amendment modifying that provision rather than repealing it may be germane; but the modification must relate to the provision of law being repealed.[19] Thus, where a bill seeks to repeal a provision of existing law, an amendment proposing modification of that law may be held germane[20] or not germane,[1] depending on whether the amendment relates specifically to the fundamental purpose of the bill and to the provision of law being repealed by the bill.

To a bill consisting of two sections, the first stating the title of the bill, the second repealing a narrow provision of an existing act, an amendment inserting a statement of congressional policy applicable not only to the pending bill but to the administration of the whole act is not germane.[2]

National Labor Relations Act

§ 37.1 To a bill repealing a provision of existing labor law, thereby depriving the states of the power to prohibit "closed shop contracts," an amendment modifying the provision of law, to permit

17. George A. Dondero (Mich.).
18. See § 37.4, infra.
19. See § 37.8, infra.
20. See § 37.13, infra.
1. See §§ 37.1, 37.2, 41.1–41.4, infra.
2. See § 37.9, infra.

states to retain the power to bar the application of "closed shop" agreements to veterans of military service, was ruled out as not germane.

The following proceedings took place on July 28, 1965,[3] during consideration of a bill[4] repealing portions of the National Labor Relations Act as described above:

> The Clerk read as follows:
>
> Amendment offered by Mr. Findley: Page 1, line 4 strike the word "repealed" and insert the following: "amended to read as follows:
>
> > "With respect to any individual who has served the United States on active military duty during wartime or during the Korean or Vietnam conflicts, nothing in this act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial law."
>
> MR. [ADAM C.] POWELL [of New York]: Mr. Chairman, I make a point of order against the amendment that it is not germane.
>
> The Chairman (Mr. Leo O'Brien [of New York]): The gentleman from New York makes the point of order that the amendment is not germane, and the Chair must rule that it is not germane.
>
> MR. [PAUL] FINDLEY [of Illinois]: May I be heard on the point of order? . . . I was on my feet seeking recognition.
>
> THE CHAIRMAN: The gentleman may proceed.
>
> MR. FINDLEY: Mr. Chairman, the amendment just read deals only with the language of 14(b); in fact, the amendment contains the exact language of 14(b) with a very simple but clear limitation. . . .
>
> THE CHAIRMAN: The Chair has ruled that the amendment offered by the gentleman from Illinois is not germane.

§ 37.2 To a bill repealing a provision of existing labor law, thereby depriving the states of the power to prohibit "closed shops," an amendment permitting the states to retain the power to prohibit such shops but authorizing labor organizations to enter into agreements requiring nonunion members to pay an agency fee for collective bargaining representation, was held not to be germane.

In the 89th Congress, a bill[5] was under consideration repealing portions of the National Labor Relations Act as described above.

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3. See 111 CONG. REC. 18636, 89th Cong. 1st Sess.

For other important rulings on the germaneness of amendments offered during consideration of this bill, see §§ 41.1–41.4, infra.

4. H.R. 77 (Committee on Education and Labor).

5. H.R. 77 (Committee on Education and Labor).

The following amendment was offered to the bill:[6]

> Amendment offered by Mr. [Charles McC.] Mathias [Jr., of Maryland]: On page 1, lines 3 and 4, strike out lines 3 and 4 and in lieu thereof insert: "Subsection (b) of Section 14 of the National Labor Relations Act is amended to read as follows:
>
> "(b) Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or territory in which such execution or application is prohibited by State or Territorial law. The Act, however, does authorize the execution or application of agreements requiring all members of a collective bargaining unit to pay in equal proportion for the services rendered by a certified collective bargaining agent."

Mr. Adam C. Powell, Jr., of New York, made a point of order against the amendment as not germane. In defense of the amendment, the proponent stated:

> . . . [The amendment] is so intimately connected with the right-to-work issue that it meets the objections to the repeal of 14(b) and yet obtains the objectives of the repeal of 14(b). . . .

Mr. James G. O'Hara, of Michigan, also speaking on the point of order, stated:

> . . . The amendment offered by the gentleman from Maryland attempts to amend the section that deals with right-to-work laws by adding an amendment having to do with what the gentleman termed "the agency shop." Agency shop arrangements or provisions are in nowise affected by H.R. 77, the bill before us. I contend, therefore, that the amendment is not germane to the bill.

The Chairman[7] ruled without elaboration that the amendment was not germane.

Parliamentarian's Note: The Chair ruled on the germaneness of six amendments to this bill. In four of the rulings, carried in §§ 41.1 through 41.4, infra, the amendments ruled nongermane clearly raised issues beyond the narrow purpose of the bill and affected other portions of the law in question. In the two rulings cited above, the amendments were drafted as limitations or exceptions from the repeal in question, in order to preserve to the states authorities to ban certain closed shop agreements involving particular employees or permit alternative "agency" shop agreements under certain circumstances. Because the fundamental purpose of the bill was to achieve a uniform federal law prohibiting the states from barring "closed shops," amendments which deviated from

6. 111 CONG. REC. 18637, 89th Cong. 1st Sess., July 28, 1965.

For other important rulings on the germaneness of amendments offered during consideration of this bill, see §§ 41.1–41.4, infra.

7. Leo W. O'Brien (N.Y.).

that purpose and related instead to the coverage of certain classes of employees under that and other sections of the law were held not germane.

Neutrality Act

§ 37.3 To a bill seeking to repeal a portion of the Neutrality Act for purposes of permitting the President to arm American vessels, an amendment relating to insurance for certain persons on military duty was held not germane.

In the 77th Congress, a bill[8] was under consideration which stated:[9]

> *Resolved, etc.,* That section 6 of the Neutrality Act of 1939 (relating to the arming of American vessels) is hereby repealed; and, during the unlimited national emergency proclaimed by the President on May 27, 1941, the President is authorized, through such agency as he may designate, to arm, or to permit or cause to be armed, any American vessel as defined in such act. . . .

The following amendment was offered:

> Amendment offered by Mr. [Edouard V.M.] Izac [of California]: In line 11, after period, add the following: "For life insurance protection to the families of armed guard detachments detailed as guns' crews on American vessels so armed, all personnel on active duty in the Navy, Marine Corps, and Coast Guard . . . shall be granted insurance under sections 602 (a), (b), (c), and (d) of the National Service Life Insurance Act of 1940. . . ."

The Chairman,[10] ruling on a point of order raised by Mr. Sol Bloom, of New York, stated:[11]

> The Chair has examined the amendment. It relates to a provision for insurance for men who arm these vessels, a provision fairly within the jurisdiction of committees other than the Foreign Affairs Committee. Unquestionably the amendment is not germane to this resolution and the Chair, therefore, sustains the point of order.

§ 37.4 To a joint resolution repealing several sections of an existing neutrality law, an amendment in the nature of a substitute proposing to repeal the entire law was held germane.

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

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8. H.J. Res. 237 (Committee on Foreign Affairs).

9. See 87 CONG. REC. 8026, 77th Cong. 1st Sess., Oct. 17, 1941.

10. Clifton A. Woodrum (Va.).

11. 87 CONG. REC. 8027, 77th Cong. 1st Sess., Oct. 17, 1941.

12. H.J. Res. 306 (Committee on Foreign Affairs).

13. See 84 CONG. REC. 8282, 76th Cong. 1st Sess., June 29, 1939.

PROCLAMATION OF A STATE OF WAR BETWEEN FOREIGN STATES

Section 1. (a) That whenever the President shall find that there exists a state of war between foreign states, and that such war endangers the lives of citizens of the United States and threatens the peace of the United States, the President shall issue a proclamation naming the states involved; and he shall, from time to time, by proclamation, name other states as and when they may become involved in the war.

(b) Whenever the conditions which have caused the President to issue any proclamation under the authority of this section have ceased to exist, he shall revoke the same.

A later section of the bill, Section 15, referred to by Mr. Fish in his point of order against the amendment offered here, stated:

Sec. 15. The act of August 31, 1935 (Public Res. No. 67, 74th Cong.), as amended by the act of February 29, 1936 (Public Res. No. 74, 74th Cong.), and the act of May 1, 1937 (Public Res. No. 27, 75th Cong.), and the act of January 8, 1937 (Public Res. No. 1, 75th Cong.), are hereby repealed.

Section 15 was modified by a committee amendment subsequently agreed to on June 30.(14)

The following amendment was offered:(15)

Amendment offered by Mr. [Robert G.] Allen of Pennsylvania: Page 2, line 1, strike out all of section 1 and insert in lieu thereof the following as a substitute for the joint resolution:

REPEAL OF NEUTRALITY ACTS OF 1935, 1936, 1937

The act of August 31, 1935 (Public Res. No. 67, 74th Cong.), as amended by the act of February 29, 1936 (Public Res. No. 74, 74th Cong.), and the act of May 1, 1937 (Public Res. No. 27, 75th Cong.), and the act of January 8, 1937 (Public Res. No. 1, 75th Cong.), are hereby repealed.

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

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, it seems to me this amendment is not germane to section 1 but would be germane to section 15, now called section 16, on page 15, the repeal of the acts of 1935, 1936, 1937. . . . It seems to me there is but one place for [the amendment] and that would be that section of the bill where reference is made to the specific laws that are repealed. There is no reference to any of these laws in the first section of the bill.

The Chairman,[16] in ruling on the point of order, stated:

The Chair is of the opinion that the amendment is clearly germane to the pending resolution, because the pending resolution contains a section repealing certain provisions of existing neutrality laws. The amendment offered by the gentleman from Pennsylvania seeks to repeal the neutrality law. The amendment is, therefore, germane. As to the point of order made by

14. See 84 CONG. REC. 8501, 8502, 76th Cong. 1st Sess.

15. *Id.* at p. 8288.

16. Jere Cooper (Tenn.).

the gentleman from New York that it is not germane to the section the Chair invites attention to section 2905 of volume VIII of Cannon's Precedents of the House which state:

> A substitute for an entire bill may be offered only after the first paragraph has been read or after the reading of the bill for amendment has been concluded.

The Chair is of opinion, in keeping with the precedent to which attention has been invited, that the amendment offered by the gentleman from Pennsylvania is in order at this point.

Parliamentarian's Note: The Chair properly treated the Allen amendment as "in the nature of a substitute" for the entire joint resolution, since it substituted language for the entire text, although not drafted to "strike out all after the resolving clause and insert. . . ."

§ 37.5 To a proposition to repeal the neutrality laws, a substitute amendment expressing the sense of Congress that the world "be put on notice" that Congress would not declare war except in certain situations involving the safety of the United States was held not to be germane.

In the 76th Congress, during consideration of the Neutrality Act of 1939,[17] an amendment was offered, as follows:[18]

> MR. [MARTIN J.] KENNEDY [of New York]: Mr. Chairman, I offer a substitute for the amendment offered by the gentleman from Pennsylvania.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Martin J. Kennedy: On page 2, line 1, after the enacting clause strike out all of the language of the resolution down through and including section 14, and insert the following: . . .
>
> > Whereas under the Constitution the Congress of the United States has the sole power to declare war; and
> >
> > Whereas the neutrality law has come to a termination: Therefore be it
> >
> > *Resolved by the House of Representatives (the Senate concurring),* That it is the sense of the Congress. . . that the entire world be put on notice that the Congress. . . will not declare war on any country unless our own safety is directly. . . involved by a hostile force or by an actual violation of international law which endangers the safety of our country. . . .

Mr. Luther A. Johnson, of Texas, made the point of order that the amendment was not germane. The Chairman[19] sustained the point of order, relying in part on the rule that a preamble can

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17. H.J. Res. 306 (Committee on Foreign Affairs). For further description of the joint resolution, see Sec. 37.4, supra.

18. 84 CONG. REC. 8294, 76th Cong. 1st Sess., June 29, 1939.

19. Jere Cooper (Tenn.).

be in order only after the body of a bill or joint resolution has been perfected. The Chairman further stated that, "the resolving clause contained in the amendment offered by [Mr. Kennedy] is not germane to the [pending amendment to the] joint resolution. . . ."[20]

Chinese Exclusion Acts

§ 37.6 To a bill seeking the repeal of Chinese Exclusion Acts, an amendment relating to immigration generally was held not germane.

In the 78th Congress, during consideration of a bill[1] to repeal the Chinese Exclusion Acts, the following amendment was offered:[2]

> Amendment offered by Mr. [A. Leonard] Allen of Louisiana: Page 4, after line 4, add a new section, to read as follows:
>
> Sec. 4. That, beginning with the end of hostilities of the present war, no immigrant (as defined in sec. 203, title 8, U.S.C.) shall be admitted into the United States during any calendar year until the number of unemployed persons, including United States war veterans, within the United States, is less than 1,000,000. . . .

Mr. Thomas E. Scanlon, of Pennsylvania, made a point of order against the amendment on the ground that it was not germane to the bill. The point of order having been conceded,[3] the Chairman[4] sustained the point of order.

Bill Repealing Narrow Subsection of Selective Service Act—Amendment Proposing Comprehensive Revision of Law

§ 37.7 To a bill repealing one narrow subsection of existing law, an amendment proposing a comprehensive revision of the whole law in question was conceded not to be germane and was ruled out on a point of order.

In the 91st Congress, a bill[5] was under consideration which stated:[6]

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Selective Service Amendment Act of 1969."

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20. 84 Cong. Rec. 8295, 76th Cong. 1st Sess., June 29, 1939.

1. H.R. 3070 (Committee on Immigration and Naturalization).

2. 89 Cong. Rec. 8633, 78th Cong. 1st Sess., Oct. 21, 1943.

3. *Id.* at p. 8635.

4. Emmet O'Neal (Ky.).

5. H.R. 14001 (Committee on Armed Services), amending the Selective Service Act.

6. 115 Cong. Rec. 32464, 91st Cong. 1st Sess., Oct. 30, 1969.

Sec. 2, Section 5(a)(2) of the Military Selective Service Act of 1967 (50 App. U.S.C. 455(a)(2)) is hereby repealed.

The following amendment was offered to the bill:

Amendment offered by Mr. [Richard H.] Ichord [II, of Missouri]: Strike out all after the enacting clause and insert the following: . . .

Sec. 2. (a) Section 5 of the Military Selective Service Act of 1967 (50 App. U.S.C. 455) is amended by striking out subsection (a), by redesignating subsections (b) and (c) as subsections (g) and (h), respectively, and by inserting immediately before subsection (g) (as so redesignated) the following new subsections: . . .

(b) The order of induction of registrants found qualified for induction shall be determined as follows:

(1) Selection of persons for induction to meet the military manpower needs shall be made from persons in the prime selection group, after the selection of delinquents and volunteers.

(2) The term "prime selection group" means persons who are liable for training and service under this title, and who at the time of selection are registered and classified and are nineteen years of age and not deferred or exempted. . . .

Sec. 3. (a) Subsection (h)(1) of section 6 of the Military Selective Service Act of 1967 (50 App. U.S.C. 456) is amended to read as follows:

(h)(1) The President is authorized under such rules, and regulations as he may prescribe, to provide for the deferment from training and service in the Armed Forces of persons [under specified conditions]. . . .

A point of order having been raised by Mr. F. Edward Hébert, of Louisiana, Mr. Ichord conceded that the amendment was not germane, and the Chairman[7] thereupon sustained the point of order.[8]

—Amendment Modifying Subsection in Manner Not Relating to Subject of Bill

§ 37.8 To a bill repealing a narrow subsection of law relating to the order of induction of selective service registrants, amendments modifying that subsection of law for the purpose of placing restrictions on the assignment of personnel to Vietnam without their consent was ruled out as not germane.

In the 91st Congress, during consideration of a bill[9] amending the Selective Service Act, an amendment was offered which provided that, subject to certain limitations, "[N]o person inducted under this title on or after such date of enactment may be assigned, without his express consent, to active duty in Vietnam. . . ."[10] Mr. William F. Ryan, of New York, the proponent

7. Robert L.F. Sikes (Fla.).

8. 115 CONG. REC. 32465, 91st Cong. 1st Sess., Oct. 30, 1969.

9. H.R. 14001 (Committee on Armed Services). See § 37.7, supra, for further discussion of the bill.

10. 115 CONG. REC. 32466, 91st Cong. 1st Sess., Oct. 30, 1969.

of the amendment, stated as follows in response to a point of order raised by Mr. F. Edward Hébert, of Louisiana:

> . . . Mr. Chairman, I submit the amendment which I have offered is germane to the bill in that my amendment would permit the President to institute a random selection method, it does repeal the section 5(a)(2)) of the Military Selective Service Act which is the same section the bill before us repeals.
>
> At the same time, it says that no one inducted under the Selective Service Act of 1967, regardless of how he is inducted, shall be sent to Vietnam without his consent unless there is a declaration of war.
>
> It seems to me that nothing could be more germane to the question of the draft than where and under what conditions one is going to be asked to give his life.[11]

The Chairman,[12] in ruling on the point of order, stated:

> Section 5(a)(2)) deals only with the order of the induction for registrants within the various age groups found to qualify for induction. . . .
>
> The amendment . . . refers to the assignment of personnel after their induction. . . .
>
> The Chair does not believe that, because this bill provides for the induction of personnel, that it opens up for general consideration the subsequent military service and careers of those inducted. The assignment of personnel . . . (is) not within the contemplation of the present bill.
>
> The Chair therefore holds that the amendment is not germane, and sustains the point of order.

Mr. Ryan then offered a modified version of the amendment. Such version contained the following language:[13]

> . . . [N]o person inducted pursuant to any such change as may be made under the authority of the preceding provisions of this paragraph may be assigned, without his express consent, to active duty in Vietnam. . . .

Mr. Hébert again made a point of order against the amendment, and Mr. Ryan stated:

> . . . Mr. Chairman, this amendment which I have offered is considerably more restrictive than the previous amendment. I submit it is germane because it deals, as does the pending bill, H.R. 14001, only with the order of induction of various age groups which would be changed under the proposed repeal.
>
> The bill . . . repeals section 5(a)(2)) of the Military Selective Service Act of 1967. In other words, it repeals the 1967 prohibition upon the President effecting a change in the method of determining the relative order of induction of registrants from the method in effect upon the date of enactment of the 1967 act. . . .
>
> . . . [T]he bill . . . repeals the prohibition. My amendment repeals it in part. Certainly, it is germane, to limit

11. *Id.* at p. 32467.

12. Robert L.F. Sikes (Fla.).

13. 115 Cong. Rec. 32467, 91st Cong. 1st Sess., Oct. 30, 1969.

the repeal in that fashion, and I submit it is very much germane because it is on the very subject of the method of selection, and under the rules of the House an amendment is germane if it is on the subject under consideration.

The Chairman again sustained the point of order. He stated in part:

The Chair must hold that the language of the amendment would open up for present consideration a broader field than that which is contained in the language of the bill. The situation is four-square with that of the amendment offered immediately prior by the gentleman from New York (Mr. Ryan). The Chair therefore holds that the amendment is not germane. . . .

—*Amendment Stating Congressional Policy as to Application of Whole Act*

§ 37.9 To a bill repealing one subsection of the Selective Service Act relating to the President's authority to determine the relative order of induction for selective service registrants within certain age groups, an amendment inserting in the bill a statement of congressional policy concerning the application of the whole of the Selective Service Act was ruled out as not germane.

In the 91st Congress, during consideration of a bill[14] amending the Selective Service Act, the following amendment was offered:[15]

Amendment offered by Mr. [Leonard] Farbstein [of New York]: On page 1, insert between lines 4 and 5 the following:

Sec. 2. The Congress declares that . . . although the implementation of . . . a random system of selection would be a significant step toward achieving fairness in the existing conscription system, it would be still more equitable to suspend such system as soon as possible. . . .

The Chairman,[16] ruling on a point of order raised by Mr. F. Edward Hébert, of Louisiana, stated:[17]

The bill is aimed at the accomplishment of a single, narrow objective: the repeal of one subsection of the Military Selective Service Act, which it relates only to the President's authority to determine the relative order of induction for selective service registrants within age groups.

Since the amendment is of more general application and goes to the whole subject of the existing selective service system, the Chair holds that it is not germane. The point of order . . . is, therefore, sustained.

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14. H.R. 14001 (Committee on Armed Services). See §§ 37.7, 37.8, supra, for further discussion of the bill.

15. 115 CONG. REC. 32465, 91st Cong. 1st Sess., Oct. 30, 1969.

16. Robert L.F. Sikes (Fla.).

17. 115 CONG. REC. 32466, 91st Cong. 1st Sess., Oct. 30, 1969.

Federal Judgeship in Missouri—Amendment Affecting Jurisdiction of Federal Courts

§ 37.10 To a bill relating to the permanency of a federal judgeship in Missouri, an amendment relating to requirements for jurisdiction of federal courts was held not germane.

In the 81st Congress, a bill[18] was under consideration which provided:[19]

> That the judgeship for the eastern and western districts of Missouri provided for by the act entitled "An act to provide for the appointment of an additional district judge for the eastern and western districts of Missouri," approved December 24, 1942 (Public Law 837, 56 Stat. 1083), shall hereafter be a permanent judgeship. Accordingly, in order to incorporate the permanent provisions of the said act into the United States Code, as a continuation of existing law and not as a new enactment, title 28, United States Code, section 133, is amended to read as follows, with respect to the eastern and western districts of Missouri:
>
> [Missouri, eastern and western districts—2 judges]
>
> Sec. 2. The act entitled "An act to provide for the appointment of an additional district judge for the eastern and western districts of Missouri," approved December 24, 1942 (50 Stat. 1083), is hereby repealed, but its repeal shall not affect the tenure of office of the incumbent of the judgeship created by such act who shall henceforth hold his position under title 28, United States Code, section 133, as amended by this Act.

The following amendment was offered to the bill:

> Amendment offered by Mr. [Francis E.] Walter [of Pennsylvania]: Page 3, line 10, add a new section:
>
> Sec. 3. That sections 1331 and 1332 of title 28, United States Code, are amended to read as follows: . . .
>
> Sec. 1332. Diversity of citizenship; Amount in Controversy
>
> "(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and is between—
>
> "(1) citizens of different States. . . ."

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Pennsylvania (Mr. Walter) to the bill to repeal the proviso against the filling of the vacancy in the office of district judge for the eastern and western districts of Missouri is not germane to the main purposes of the bill. . . . [The amendment] increases jurisdiction, lifting the present minimum amount from $3,000

18. H.R. 7009 (Committee on the Judiciary).

19. See 96 CONG. REC. 12018, 81st Cong. 2d Sess., Aug. 8, 1950.

to a higher amount, and it certainly has no relation whatever to a judgeship in the State of Missouri. It is general legislation on a specific bill for a specific purpose.

The Chairman,[20] without elaboration, ruled that the amendment was not germane.

Termination of Powers of President Relating to Issuance of United States Note—Amendment Affecting Powers of Federal Reserve and Treasury as to Limitations on Credit Expansion

§ 37.11 To that section of a bill terminating the powers of the President regarding the issuance of United States notes, an amendment was held not germane which sought to enable the President to establish a parity between gold and silver and to enable the Federal Reserve in connection with the Treasury Department to issue directions to the Federal Reserve banks to limit credit expansion.

In the 79th Congress, a bill[1] was under consideration which sought to amend the Federal Reserve Act and which stated in part:[2]

> Sec. 4. All power and authority of the President and the Secretary of the Treasury under section 43(b)(1) of the act approved May 12, 1933 (48 Stat. 31, 52), with respect to the issuance of United States notes, shall cease and terminate on the date of enactment of this act.

The following amendment was offered:

> Amendment offered by Mr. [Jesse P.] Wolcott [of Michigan] Page 4, line 15, strike out all of section 4 and insert in lieu thereof the following:
>
> > Sec. 4. Section 43 of the act approved May 12, 1933 (48 Stat. 3152) is hereby repealed.

The effect of the amendment was described as follows by Mr. Brent Spence, of Kentucky, who raised the point of order that the amendment was not germane:

> Mr. Chairman, that amendment repeals the Thomas amendment. The gentleman's amendment goes very much further than the bill, and provides that the President may establish a parity between gold and silver and it also provides that the Federal Reserve in connection with the Treasury Department may issue directions to the Federal Reserve banks to limit credit expansion. It makes legal tender the Federal Reserve notes; and if you strike out this amendment, there will be no legal tender or money except sil-

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

1. H.R. 3000 (Committee on Banking and Currency).

2. See 91 CONG. REC. 5289, 79th Cong. 1st Sess., May 29, 1945.

ver certificates and the small coins to the extent of $10. It does not do any thing to silver, because those who are interested in silver rely on the Silver Purchase Act, which provides that one-fourth of the monetary stock of the United States shall be in silver bullion.

I do not think that the amendment is germane in any respect. It is a most far-reaching amendment—one that if adopted, I am sure, would delay the passage of this bill and might cause a delay which would be very injurious to the activities of the Federal Reserve System in regard to our public-debt transactions. . . .

The Chairman,[3] in ruling on the point of order, stated:

The amendment offered by the gentleman from Michigan, it appears clearly, goes beyond the language of section 4 and therefore is not germane to the bill. The Chair, therefore, sustains the point of order made by the gentleman from Kentucky.

District of Columbia Changes in Zoning

§ 37.12 To a bill relating to dwellings situated in alleys in the District of Columbia, a committee amendment proposing to change zoning provisions in the District by authorizing improvements to be made on specified property so as to facilitate the operation of a gasoline station thereon was held not to be germane.

In the 83d Congress, a bill[4] was under consideration which read in part as follows:[5]

Be it enacted, etc., That the act entitled "An act to provide, in the interest of public health, comfort, morals, and safety, for the discontinuance of the use as dwellings of buildings situated in the alleys in the District of Columbia," approved September 25, 1914 (38 Stat. 716), as amended (secs. 5–101, 102, D.C. Code, 1951 edition), is hereby repealed.

Sec. 2. Subsections (b), (c), and (d) of section 4 of the act entitled "An act to provide for the discontinuance of the use of dwellings of buildings situated in alleys in the District of Columbia, and for the replatting and development of squares containing inhabited alleys, in the interest of public health, comfort, morals, safety, and welfare, and for other purposes,' approved June 12, 1934 (48 Stat. 932), as amended (sec. 5–106, D.C. Code, 1951 edition), are hereby repealed. . . .

The following amendment was offered to the bill:

The Clerk read the committee amendment as follows:

On page 2, line 8, insert a new section as follows:

Sec. 3. The Board of Commissioners of the District of Columbia are authorized to permit the erection, construction, alteration, conversion, maintenance, and use of such buildings and

3. Wilbur D. Mills (Ark.).

4. S. 3506 (Committee on the District of Columbia).

5. See 100 Cong. Rec. 13807, 83d Cong. 2d Sess., Aug. 9, 1954.

other improvements on square 1928, lot numbered 800 (southeast corner of the intersection of Wisconsin and Massachusetts Avenues Northwest), situated in the District of Columbia, as the Commissioners may deem appropriate for the purpose of conducting the business which is being conducted on such land on the date of enactment of this act.

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

MR. [JOSEPH P.] O'HARA of Minnesota: Mr. Speaker, I make a point of order against the amendment on the ground that it is not germane to the bill as passed by the Senate. That bill related only to the amendment of the Alley Dwelling Act of the District of Columbia on June 12, 1934, so as to remove therefrom provisions which would make it unlawful after June 30, 1955, to use or occupy any alley building or structure as a dwelling in the District of Columbia. . . .

Mr. Speaker, the District of Columbia Committee of the House amended S. 3506 so as to add thereto a provision which would permit the reconstruction of nonconforming gasoline filling stations located in an area of the District which has been zoned as residential (A). This amendment to the bill is in effect an amendment to the Zoning Act of 1935 and not in any way related to the matter of alley dwellings. . . . In other words, the bill as passed by the Senate referred to alley dwellings and the amendment offered by the gentleman from South Carolina dealt with an entirely different subject—zoning law and zoning regulations. . . .

Mr. John L. McMillan, of South Carolina, in support of the amendment, stated:

Mr. Speaker, I contend the amendment is germane to the bill, S. 3506, on the ground the purposes of the amendment and the purposes of the bill, S. 3506, relate to alley improvement. I also contend it is germane on the ground that both the bill S. 3506 and the amendment is for the purpose of granting permission to repair and improve property here in the District of Columbia.

The Speaker,[6] both responding to a parliamentary inquiry and ruling on the point of order, stated:

In response to the parliamentary inquiry propounded by the gentleman from Nebraska [Mr. Miller] the Chair may say that the committee amendment assumes the same status in the House as any other amendment that might be offered from the floor. That is why the Committee on Rules is sometimes asked to report special rules waiving points of order against committee amendments. Those points of order usually involve questions of germaneness.

The Chair has examined the bill and the committee amendment.

The bill itself relates solely to the use of alley dwellings and the prohibition against the erection of structures in alleys for dwelling purposes. The proposed committee amendment has for its purpose a change in the zoning provisions in the District of Columbia.

6. Joseph W. Martin, Jr. (Mass.).

It does not seem to the Chair that the committee amendment has any direct relationship to the purpose of the bill.

The Chair is of the opinion that the amendment is not germane and, therefore, sustains the point of order.

—*School Appropriations: Amendment To Modify Rather Than Repeal Provisions Relating to Teaching or Advocating Communism*

§ 37.13 To a bill seeking to repeal a provision of existing law, an amendment proposing a modification in such provision of the law was held to be germane as an alternative exception from the prohibition contained in the law sought to be repealed.

In the 75th Congress, a bill[7] was under consideration which stated:[8]

> *Be it enacted, etc.,* That the proviso appearing in the fourteenth paragraph, under the subheading "Miscellaneous", under the heading "Public Schools", in the District of Columbia Appropriation Act for the fiscal year ending June 30, 1936, approved June 14, 1935 (49 Stat. 356), and reading as follows: "*Provided* That hereafter no part of any appropriation for the public schools shall be available for the payment of the salary of any person teaching or advocating communism" is hereby repealed.

The following amendment was offered to the bill:[9]

> Amendment offered by Mr. McCormack: On page 1, line 11, after the word "communism", strike out "is hereby repealed" and insert in lieu thereof "is hereby amended to read as follows: '*Provided*, That hereafter no part of any appropriation for the public schools shall be available for the payment of the salary of any person advocating . . . but no official or teacher shall be required to make any special declaration of nonviolation hereof as a condition for payment of salary.' "

Mr. Maury Maverick, of Texas, made the point of order that the amendment was not germane to the bill. The Chairman,[10] in ruling on the point of order, stated:

> The Chair thinks that the test of the amendment offered by the gentleman from Massachusetts is whether it would have been germane to the so-called "red rider" amendment. If it would have been germane to that amendment, it is germane to this bill. The amendment offered by the gentleman from Massachusetts simply deletes from the so-called "red rider" the inhibition against teaching but retains the advocacy of such doctrine, and the Chair thinks it would have been germane to the original amendment, and, therefore, is germane to the pending bill. The Chair overrules the point of order.[11]

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7. H.R. 148 (Committee on the District of Columbia).

8. See 81 CONG. REC. 998, 75th Cong. 1st Sess., Feb. 8, 1937.

9. *Id.* at p. 999.

10. Clifton A. Woodrum (Va.).

11. But see § 37.8, supra, and §§ 41.1–41.4, infra, for discussion of in-

§ 38. Amendments to Bills Which Incorporate Other Law or Matter

Bill and Amendment as Applying Making Different Provisions of Same Law Applicable to Terms of Emergency Assistance to India

§ 38.1 To a bill authorizing emergency food relief assistance to India on credit terms as provided in one designated section of another act, an amendment making such assistance subject to all provisions of that act "applicable to and consistent with the purposes" of the bill was held to be not germane.

In the 82d Congress, a bill[12] was under consideration to furnish emergency food relief assistance to India. The following amendment was offered to the bill:[13]

> Amendment offered by Mr. Shelley: On page 2, after line 20, insert a new section:
>
> Sec. 3. Assistance provided under this act shall be provided under the provision of the Economic Cooperation Act of 1948, as amended, applicable to and consistent with the purposes of this act.
>
> And amend this title.

Mr. John F. Shelley, of California, explaining the purpose of the amendment, stated:

> . . . The purpose I have in offering this amendment at this time is to protect (the) principle . . . that the cargoes carried shall be carried at least 50 percent in vessels of American registry. . . .

Mr. John M. Vorys, of Ohio, made the point of order that the amendment was not germane.[14] He pointed out that the section of the Economic Cooperation Act of 1948 referred to in the bill related to credit terms, whereas the amendment sought to incorporate provisions of such act relating to shipping. The Chairman[15] sustained the point of order,[16] observing that while shipping was a subject covered by the bill, the bill's provisions did not relate to shipping or other operations under the Economic Cooperation

stances where an amendment modifying a provision of law was held not to be germane to a bill repealing such provision. Such a proposed modification of law must, to be germane, bear sufficient relationship to the provision of law being repealed and to the fundamental purpose of the bill.

12. H.R. 3791 (Committee on Foreign Affairs).

13. 97 Cong. Rec. 5832, 82d Cong. 1st Sess., May 24, 1951.

14. *Id.* at pp. 5832, 5833.

15. Albert A. Gore (Tenn.).

16. 97 Cong. Rec. 5833, 5834, 82d Cong. 1st Sess., May 24, 1951.

Administration Act of 1948. He further stated:

> Upon close examination, the Chair finds that the amendment proposes the injection of new subject matter, not now within the text of the pending bill, by making the assistance which the pending bill would provide subject to the provisions of the Economic Cooperation Act of 1948 which differ from subsection (c), paragraph (2), of section 111 of said act, specifically referred to by the pending bill.
>
> The fundamental test of germaneness being whether a proposed amendment would inject new and different subject matter, though not necessarily unrelated matter, into the legislation, the Chair is constrained to feel that the proposed amendment, even though it proposes to subject the pending bill to certain provisions of an act, a limited part of which act is referred to by the pending bill, does not meet the test of germaneness. . . .

Provision Making Law Inapplicable to One Activity—Amendment (In Form of Motion To Strike) Making Law Inapplicable to Other Activities

§ 38.2 For a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was held more general in scope and not germane.

On Aug. 18, 1982,[17] during consideration of H.R. 5540, the Defense Industrial Base Revitalization Act, in the Committee of the Whole, the Chair made the following statement:

> THE CHAIRMAN:[18] All time has expired.
>
> Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.
>
> The Clerk read as follows:
>
> H.R. 5540
>
> . . . Sec. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:
>
> "Sec. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.
>
> "(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to

17. 128 CONG. REC. 21967, 21968, 97th Cong. 2d Sess.

18. Wyche Fowler, Jr. (Ga.).

assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war. . . .

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. . . .

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

When consideration of H.R. 5540 resumed on Sept. 23, 1982,[19] an amendment was offered by Mr. Bruce F. Vento, of Minnesota, and proceedings ensued as follows:

MR. VENTO: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Vento: Page 41, line 24, strike out ", or the installation of equipment,".
>
> Page 42, beginning on line 15, strike out ", or the installation of equipment,". . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. Erlenborn as a substitute for the amendment offered by Mr. Vento: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

MR. VENTO: Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn). . . .

Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and

19. 128 CONG. REC. 24963, 24964, 97th Cong. 2d Sess.

limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section or paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly. . . .

MR. ERLENBORN: . . . It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. Vento) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. Vento) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. Erlenborn) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

Parliamentarian's Note: As the above proceedings indicate, a motion to strike out an entire subsection of a bill is not, in any event, a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment.

§ 39. Amendments to Bills Extending Existing Law or Authority Under Existing Law

To a bill extending an existing law, an amendment modifying the law may be germane.[20] It has been held, for example, that, to a bill extending an existing law in modified form, an amendment proposing further modification of the law is germane.[1] Of course, an amendment must be germane not only to the act sought to be extended but also to the bill providing for such extension, where the bill extends only a portion of an existing law and does not open up other unrelated portions of that law to amendment.[2]

While a bill "extending existing law" may open up the law being extended to germane amendments, a proposition which extends, not the law, but an official's authority under that law, does not open up the basic law to amendment.[3] Therefore it is held that, to a bill temporarily extending an official's authority under existing law, an amendment permanently amending that law is not germane.[4]

Similarly, where a bill has for its sole purpose merely the extension of the time when a certain authority under a law shall become or continue to be effective, or cease to be effective, no amendments which affect other authorities under other provisions of that substantive law are in order.[5] Thus, to a bill extending the provisions of a section of an existing law for an additional period of time, an amendment proposing to add a new section to such law has been held not to be germane.[6] Where a bill merely authorizes appropriations to an agency for a certain period but does not amend the organic law by extending the existence of that agency, the bill does not necessarily open up the law to permanent amendments,[7] and where a bill only authorizes appropriations for an existing program for one year, an amendment to extend the authorization for additional years is not germane.[8]

Furthermore, to a bill continuing and expanding a law, an amendment may be ruled out as not germane even where the provisions contained in the amendment had formerly been an unrelated part of the law in question.[9]

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20. See §§ 39.14, 39.28, infra.

1. See § 39.19, infra.

2. See § 39.20, infra.

3. See § 39.27, infra.

4. *Id.*

5. See § 35.44, supra.

6. See § 39.23, infra.

7. See §§ 39.33, 39.35, 41.14, infra.

8. See § 39.34, infra.

9. See § 39.11, infra.

Price Control Act

§ 39.1 To a bill extending acts that were concerned with the stabilization of prices and wages, an amendment relating to contracts and agreements covering aspects of employee and employer relationships beyond the scope of the bill and the acts sought to be amended was held to be not germane.

In the 78th Congress, during consideration of the bill[10] for extension of the Price Control Act of 1942, the following amendment was offered:[11]

> Amendment offered by Mr. Cravens: Title I of the Emergency Price Control Act of 1942 as amended, is hereby amended by adding the following at the end of section 1 of said title.
>
> Notwithstanding the provisions of any other law, order, or regulation, the National War Labor Board, in the exercise of its authority, may prescribe the terms and conditions of employment (customarily included in collective bargaining agreements) which the parties shall observe, but the Board shall make no order requiring any person—
>
> (1) to sign any contract or agreement to which such person does not voluntarily agree . . .
>
> (3) to agree to submit any dispute to arbitration . . .
>
> (5) to make any indirect wage or salary increase of any kind whatsoever except under regulations promulgated by the President and in strict conformity therewith. . . .

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

> MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, the amendment goes very much further than any of the provisions of the bill we are considering. It not only includes wages but it includes working conditions, the relationship of employer to employee and the settlement of labor disputes, none of which are involved in this bill and none of which, it seems to me, are germane or in the contemplated purposes of any provision of the pending bill.

In defending the amendment, the proponent, Mr. Fadjo Cravens, of Arkansas, stated:[12]

> Mr. Chairman, may I direct the attention of the Chair to the fact that H.R. 4941, section 1, now under consideration, refers to section 1 of the Emergency Price Control Act of 1942, as amended, which in turn refers specifically to the National War Labor Board. I am proceeding on the theory that the express reference to the National War Labor Board would make germane any matter which might control the action or conduct or jurisdiction of that Board.

The Chairman,[13] in ruling on the point of order, stated:[14]

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10. H.R. 4941 (Committee on Banking and Currency).

11. 90 CONG. REC. 5650, 78th Cong. 2d Sess., June 9, 1944.

12. *Id.* at pp. 5650, 5651.

13. Jere Cooper (Tenn.).

14. 90 CONG. REC. 5651, 78th Cong. 2d Sess., June 9, 1944.

The Chair invites attention to the fact that in the Emergency Price Control Act of 1942, as amended, reference is made to stabilization of prices and wages. This act and the Emergency Stabilization Act are amended by provisions of the pending bill.

The Chair also invites attention to the fact that the amendment offered by the gentleman from Arkansas (Mr. Cravens) seeks to include provisions relating to contracts and agreements with respect to employee and employer relationships which are beyond the scope of the pending bill or the appropriate provisions of the acts sought to be amended by the pending bill.

The Chair [also invites] attention to the fact that during discussion of the rule which was adopted for the consideration of the pending bill it was pointed out that a waiver of points of order would be necessary in order to make certain amendments in order, one of which doubtlessly is the amendment here presented by the gentleman from Arkansas [Mr. Cravens]. The rule adopted by the House did not contain such a waiver.

The Chair is therefore constrained to rule that the amendment offered is not germane and sustains the point of order.

§ 39.2 To a bill extending the Price Control Act and containing provisions relating to subsidies on meat and other commodities, an amendment offered to such provisions in order to eliminate the subsidies was held germane.

In the 79th Congress, the Committee of the Whole had under consideration the Emergency Price Control Act,[15] which stated in part as follows:[16]

> *Be it enacted, etc.*, That section 1 (b) of the Emergency Price Control Act of 1942, as amended, is amended by striking out "June 30, 1946" and substituting "June 30, 1947."
>
> Sec. 2. Section 6 of the Stabilization Act of 1942, is amended by striking out "June 30, 1946" and substituting "June 30, 1947."
>
> Sec. 3. Title I of the Emergency Price Control Act of 1942, as amended, is amended by inserting after section 1 thereof a new section as follows:
>
> "REMOVAL OF PRICE AND WAGE CONTROLS
>
> "Sec. 1A. (a) It is hereby declared to be the policy of the Congress that the general control of prices and wages, and the use of the subsidy powers conferred by section 2(e) of this act, shall be terminated, without further extension, not later than June 30, 1947, and that on that date the Office of Price Administration shall be abolished. . . .
>
> Sec. 5. Subsection (e) of section 2 of the Emergency Price Control Act of 1942, as amended by the Stabilization Extension Act of 1944, is amended, effective as of July 1, 1946, by inserting "(1)" after "(e)" at the beginning of such subsection, and by striking out the last paragraph of such subsection (e) and inserting in lieu thereof the following paragraphs:
>
> "(2) Subsidy operations, as hereinafter defined, for the fiscal year ending June 30, 1947, shall be limited as follows, subject to the provisions of paragraph (3):

15. H.R. 6042 (Committee on Banking and Currency).

16. 92 CONG. REC. 3872, 79th Cong. 2d Sess., Apr. 17, 1946.

"(A) With respect to funds of the Commodity Credit Corporation—

(i) for the dairy production payment program, $515,000,000: *Provided*, That in carrying out the dairy production payment program the rate of payment per pound of butterfat delivered shall not be less than 25 percent of the national weighted average rate of payment per hundred pounds of whole milk delivered;

"(ii) for other noncrop programs, $50,000,000; and

"(iii) for the 1946 crop-program operations, $160,000,000:

"*Provided*, That not to exceed 10 percent of each amount specified in clauses (i), (ii), and (iii) of this subparagraph (A) shall be available interchangeably for the operations described in such clauses but in no case shall the total subsidy operations under any one of such clauses be increased by more than 10 percent. . . .

The following amendment was offered:[17]

Amendment offered by Mr. Flannagan: . . .

2. Amend section 5, page 8, line 2, by inserting a colon in lieu of the period at the end of the sentence and adding the following: "*Provided further*, That no funds heretofore or hereafter appropriated to, borrowed under congressional authorization by, or in custody or control of any governmental agency . . . shall be used after June 30, 1946, to continue any existing program or to institute any new program for the payment of subsidies on livestock or meat derived from livestock. . . ."

The following exchange concerned a point of order raised against the amendment:

MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground, first, that it is not germane to the bill, and, second, that it goes far beyond the authorization and scope of this bill. The bill only provides for the extension of the Office of Price Administration and Stabilization and this takes in many other acts and agencies. . . .

MR. [JOHN W.] FLANNAGAN [Jr., of Virginia]: The only purpose this amendment would accomplish would be to eliminate entirely meat subsidies.

THE CHAIRMAN:[18] . . . The section relates to the question of subsidies. The amendment offered by the gentleman from Virginia [Mr. Flannagan] likewise relates to the question of subsidies. The Chair believes the amendment is germane and overrules the point of order.

§ 39.3 To a bill to extend the Price Control Act, an amendment providing that notwithstanding any provisions of the act no regulation, order, directive, or allocation shall be issued, made, or maintained with respect to livestock or any edible product processed from livestock was held germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[19] an amendment was offered[20] as described

17. *Id.* at p. 3904.

18. Jere Cooper (Tenn.).

19. H.R. 6042 (Committee on Banking and Currency).

20. 92 CONG. REC. 3909, 79th Cong. 2d Sess., Apr. 17, 1946.

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

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground it goes beyond the scope of the bill and is not germane to either the section or the bill.

The Chairman,[1] in ruling on the point of order, stated:

> The gentleman from New York offers an amendment which has been reported, and the gentleman from Michigan has made a point of order against the amendment on the ground that it is not germane and that it goes beyond the scope of the pending bill. The Chair invites attention to the fact that the amendment is confined to the Emergency Price Control Act of 1942 which is sought here to be amended, and the Chair is of the opinion that the amendment is germane.

§ 39.4 To a bill to extend the effective period of the Emergency Price Control Act of 1942 and the Stabilization Act of 1942, an amendment authorizing the diversion of supplies of food from military channels in order to meet critical civilian needs was held germane.

In the 79th Congress, a bill[2] was under consideration extending the Price Control and Stabilization Acts. An amendment previously agreed to[3] stated as follows:

> Amendment offered by Mr. [Thomas A.] Jenkins [of Ohio]: Page 1, after section 2, insert the following section:
>
> "Sec. 3. All powers of the Price Administrator or the Director of Economic Stabilization, with respect to food, granted by or exercised pursuant to a delegation of authority under the Emergency Price Control Act of 1942, the Stabilization Act of 1942, or title III of the Second War Powers Act, as such acts were originally enacted or as they have been amended, except rationing, are hereby transferred to the Secretary of Agriculture; and in any case where, under authority of any such provision of law, powers with respect to food are hereafter delegated, such powers, except rationing, shall be delegated only to the Secretary of Agriculture."

The following amendment was offered to the bill:[4]

> Amendment offered by Mr. [Francis H.] Case of South Dakota: Insert a new section after section 2 to read as follows:
>
> The Secretary of Agriculture shall confer with the Secretary of War and the Secretary of the Navy from time to time on the supplies of meat, sugar, poultry, dairy and vegetable products available in continental United States for military and civilian needs and said Secretary of Agriculture is authorized and directed to

1. Jere Cooper (Tenn.).
2. H.J. Res. 101 (Committee on Banking and Currency).
3. 91 CONG. REC. 6570, 6578, 79th Cong. 1st Sess., June 22, 1945.
4. 91 CONG. REC. 6597, 79th Cong. 1st Sess., June 23, 1945.

borrow or divert from military channels for critical civilian needs such stocks or supplies as he finds can be spared by the military and in such amounts as he can certify to the Secretary of War or the Secretary of the Navy can and will be restored by the time they are needed.

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

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make the point of order that the amendment is not germane to the bill; that it includes matters not contemplated by the bill, and it goes far beyond the scope of the bill.

The Chairman,[5] in ruling on the point of order, stated:[6]

. . . The amendment confers certain discretionary authority on the Secretary of Agriculture to make certain findings and to receive certain information from the Secretary of War and the Secretary of the Navy. The pending bill, especially since the adoption of the amendment on yesterday which was offered by the gentleman from Ohio [Mr. Jenkins], not only confers certain discretionary authority upon the Secretary of Agriculture but imposes certain definite duties and responsibilities upon the Secretary of Agriculture to make certain findings. Therefore the Chair is of the opinion that the amendment is in order especially in view of the present form of the pending bill at this stage. The Chair overrules the point of order.

5. Jere Cooper (Tenn.).

6. 91 CONG. REC. 6598, 79th Cong. 1st Sess., June 23, 1945.

—*Amendment Waiving Other Laws*

§ 39.5 To a bill to extend the Price Control Act and the Stabilization Act of 1942, an amendment relating not only to these acts but also to "any other act or acts" was held to be not germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[7] the following amendment was offered:[8]

Amendment offered by Mr. [Jesse P.] Wolcott [of Michigan]: Page 1, line 5, after section 1, insert a new section, as follows:

Sec. 2. Notwithstanding the provisions of this act, the Stabilization Act of 1942, or any other act or acts, no maximum price shall be established or maintained for any commodity below [a certain price] . . .

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

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill. It refers not only to this act but "or any other act or acts," which is far beyond the purview of the bill and is not germane.

In defense of the amendment, the proponent stated:

7. H.R. 6042 (Committee on Banking and Currency).

8. 92 CONG. REC. 3885, 79th Cong. 2d Sess., Apr. 17, 1946.

Mr. Chairman, the Emergency Price Control Act of 1942 and the Stabilization Act of 1942 are being amended by the bill pending before the committee. Any other act which might have a bearing or might be incidental to the provisions of [these acts] are, of course, clearly within the purview of the subject matter of the extension acts.

This amendment would apply only, of course, to such act as would be affected by the amendment, acts which in turn, as I have said, might be incidental to the Emergency Price Control Act and the Stabilization Act. . . .

The Chairman,[9] in ruling on the point of order, stated:

The Chair invites attention to the fact that the pending bill seeks to extend for a definite period of time two acts, the Emergency Price Control Act of 1942, and the Stabilization Act of 1942. The Chair also invites attention to the fact that the amendment offered by the gentleman from Michigan (Mr. Wolcott) seeks to deal not only with the two acts to which attention has been invited, but also includes this language: "or any other act or acts" which, in the opinion of the Chair, makes it too broad.

It is conceivable that many acts might thus be affected that would not even come under the jurisdiction of the committee having charge of the bill now under consideration. The Chair is of the opinion that the amendment as offered is not germane and, therefore, sustains the point of order.

§ 39.6 To a bill to extend the Emergency Price Control Act and the Stabilization Act of 1942, an amendment referring to "this or any other law" was held to go beyond the scope of the pending bill and therefore was not germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[10] the following amendment was offered:[11]

Amendment offered by Mr. August H. Andresen [of Minnesota]: On page 1, after section 2, insert the following new section:

Sec. 3. Subsection (e) of section 3 of the Emergency Price Control Act of 1942, as amended, is amended to read as follows:

"(e) Notwithstanding any provision of this act or any other law, no regulation, order . . . or allocation shall be made or issued, or any other action taken . . . with respect to any agricultural commodity . . . by the Administrator or by any agency of the Government or the head thereof, without the prior written and voluntary approval of the Secretary of Agriculture. . . ."

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

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the bill. The amendment provides for allocations under the Sec-

9. Jere Cooper (Tenn.).

10. H.R. 6042 (Committee on Banking and Currency).

11. 92 CONG. REC. 3931, 79th Cong. 2d Sess., Apr. 17, 1946.

ond War Powers Act, and therefore, is not germane to the pending bill.

The Chairman,[12] in ruling on the point of order, stated:

> . . . The Chairman invites attention to the fact that the pending bill seeks to extend for a limited or definite time two existing acts, the Emergency Price Control Act of 1942 and the Stabilization Act of 1942. The Chair invites attention to the fact that the gentleman's amendment relates to any other law which is much broader than the pending bill and might affect many agencies not at all affected by the pending bill. Therefore, the Chair is of the opinion that the amendment is not germane. . . .

—*Amendment Affecting Issuance of Tokens as Authorized Under Another Act*

§ 39.7 To a bill extending the Emergency Price Control Act, an amendment to prohibit the Office of Price Administration from issuing any ration tokens of less than a certain diameter and to require destruction of smaller tokens previously issued was held to be germane, even though such prior issuance of tokens had occurred under powers granted by the War Powers Act rather than the Emergency Price Control Act.

In the 78th Congress, a bill[13] was under consideration extending the Emergency Price Control Act of 1942. The following amendment was offered to the bill:[14]

> Amendment offered by Mr. [Carl] Hinshaw [of California]: Page 13, after line 2, insert a new section:
>
> The Office of Price Administration shall not issue any token or authorize the issuance of any token having a diameter of less than 0.900 inch, and shall forthwith cause to be withdrawn from circulation and destroyed any tokens of a lesser diameter that may have been issued or authorized to be issued heretofore.

A point of order against the amendment was raised by Mr. Jesse P. Wolcott, of Michigan, who contended that the amendment was not germane to the bill.[15] The following exchange then occurred:[16]

> THE CHAIRMAN:[17] May the Chair inquire of the gentleman, has the Office of Price Administration issued tokens up to this time?
>
> MR. WOLCOTT: They have under the powers which they receive under the War Powers Act but not under the powers they received under this act.
>
> THE CHAIRMAN: But the Administration does issue tokens?

12. Jere Cooper (Tenn.).

13. H.R. 4941 (Committee on Banking and Currency).

14. 90 CONG. REC. 5816, 78th Cong. 2d Sess., June 12, 1944.

15. *Id.* at pp. 5816, 5817.

16. *Id.* at p. 5817.

17. Jere Cooper (Tenn.).

MR. WOLCOTT: Yes.

THE CHAIRMAN: This would be a restriction of that, in the opinion of the Chair; therefore the Chair is constrained to overrule the point of order.

Authority Respecting Price and Distribution of Sugar—Amendment Affecting Other Commodities

§ 39.8 To a proposition extending the powers and authorities under certain statutes with respect to the distribution and pricing of sugar, an amendment adding a new section to one of those statutes and relating to the sale of commodities other than sugar was held not germane.

The following proceedings took place in the 80th Congress:[18]

THE CHAIRMAN:[19] There being no further requests for time, under the rule the Clerk will read the committee amendment which will be considered as an original bill.

The Clerk read as follows:

That (a) notwithstanding any other provisions of law, the Emergency Price Control Act of 1942 (56 Stat. 23); the Stabilization Act, 1942 (56 Stat. 765); title III of the Second War Powers Act, 1942 (56 Stat. 177), and the amendment to existing law made thereby; title XIV of the Second War Powers Act, 1942 (56 Stat. 177); and section 6 of the act of July 2, 1940 (54 Stat. 714), all as amended and extended, shall continue in effect with respect to sugar to and including October 31, 1947. . . .

Subsequently, the following amendment was offered:[20]

Amendment offered by Mr. Dirksen: After line 7, on page 11, add a new section reading as follows:

Sec. 6. A new section is added to the Emergency Price Control Act of 1942, as amended, to read as follows:

"Notwithstanding anything to the contrary in this act, no action shall be instituted or maintained under section 205(a) or 205(e) by the Administrator, or on behalf of the United States by any other officer or agency of the Government, if the violation arose out of the sale of a commodity other than sugar or rice or the payment or receipt of rent for defense area housing accommodations."

The following exchange[1] concerned a point of order raised against the amendment:

MR. [A.S. MIKE] MONRONEY [of Oklahoma]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill under consideration. . . .

MR. [EVERETT M.] DIRKSEN [of Illinois]: . . . Mr. Chairman, with re-

18. 93 CONG. REC. 2408, 80th Cong. 1st Sess., Mar. 21, 1947. Under consideration was H.J. Res. 146 (Committee on Banking and Currency), extending powers and authorities under certain statutes with respect to the distribution and pricing of sugar.

19. W. Sterling Cole (N.Y.).

20. 93 CONG. REC. 2415, 80th Cong. 1st Sess., Mar. 21, 1947.

1. *Id.* at pp. 2415, 2416.

spect to the point of order it did occur to me that because of the general policy set out in the bill, and in view of the fact that it relates to the whole OPA act, the Stabilization Act and the Second War Powers Act, that it might be germane to the bill, notwithstanding the fact that it deals broadly with OPA, whereas the bill in question relates only to one commodity. . . .

MR. MONRONEY: Mr. Chairman, since this bill deals exclusively with sugar, and since the amendment offered by the gentleman from Illinois specifically exempts sugar from any consideration in the amendment, I renew my point of order against the gentleman's amendment.

THE CHAIRMAN: . . . As indicated by the gentleman from Oklahoma, the resolution before the Committee, both in its title and in the provisions contained in the body of the bill, relates solely and exclusively to the commodity of sugar.

The amendment offered by the gentleman from Illinois seeks to amend the Emergency Price Control Act of 1942 by adding a new section. The effect of that amendment is to cover commodities of all sorts, types, and descriptions, remedies, penalties, and procedures covered by the Price Control Act of 1942, with the exception of sugar; therefore, in the opinion of the Chair, it is not germane to the resolution before the Committee of the Whole, and the Chair sustains the point of order. . . .

Emergency Powers Continuation Act—Amendment Requesting President To Invoke Emergency Powers Under Another Act

§ 39.9 To a joint resolution proposing to continue certain statutory provisions in effect for a specified time, an amendment requesting the President to invoke certain emergency provisions of a permanent law not extended in the bill and within another committee's jurisdiction was held to be not germane.

In the 82d Congress, a joint resolution [2] was under consideration which stated in part: [3]

Resolved [That]—

(a) The following statutory provisions . . . in addition to coming into full force and effect in time of war or otherwise where their terms so provide, shall remain in full force and effect until 6 months after the termination of the national emergency proclaimed by the President on December 16, 1950 (Proc. 2914, 3 CFR, 1950 Supp., p. 71), or until such earlier date or dates as may be provided by the Congress by concurrent resolution either generally or for a particular statutory provision or by the President either generally by proclamation or for a particular statutory provision, but in no event beyond June 30, 1953 . . . :

(1) Act of December 17, 1942 (ch. 739, sec. 1, 56 Stat. 1053), as amended (50 U.S.C. App. 1201). . . .

(2) Act of March 27, 1942 (ch. 199, secs. 1301–1304, 56 Stat. 185–186; 50 U.S.C. App. 643, 643a, 643b, 643c). . . .

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2. The Emergency Powers Continuation Act, H.J. Res. 477 (Committee on the Judiciary).

3. 98 CONG. REC. 7067, 82d Cong. 2d Sess., June 11, 1952.

An amendment was offered, as follows:[4]

> Amendment offered by Mr. Davis of Georgia: Page 14, after line 2, insert the following:
>
> > Sec. 8. The Congress hereby finds that, by reason of the work stoppage now existing in the steel industry, the national safety is imperiled, and therefore the Congress requests the President to immediately invoke the national emergency provisions (secs. 206 to 210, inclusive) of the Labor Management Relations Act, 1947, for the purpose of terminating such work stoppage.

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

> MR. [MICHAEL A.] FEIGHAN [of Ohio]: Mr. Chairman, I raise the point of order that the amendment is entirely new legislation and not germane or relevant to the resolution under discussion, or any of the 48 statutes included therein.

In defending the amendment, the proponent, Mr. James C. Davis, of Georgia, stated:

> The immediate need of this country is not to initiate new legislation which must be . . . brought to the floor of the House through the various stages of parliamentary procedure involved in the progress of every bill. The immediate need of the country is for the production of steel to be resumed. The President on yesterday emphasized that need. He told us that there are two principal methods open to achieve that goal: Namely, first, Government operation of the steel mills; and, second, the use of the Taft-Hartley law. He specially asked Congress to make a choice between these two methods. . . .
>
> In my opinion, the use of the Taft-Hartley law in this present emergency is the quickest method by which steel production can be resumed.

The Chairman,[5] in ruling on the point of order, stated:[6]

> The gentleman from Georgia offers an amendment to House Joint Resolution 477. . . . The Chair finds that the amendment of the gentleman from Georgia pertains to the invoking of permanent law under certain circumstances, whereas the joint resolution under consideration refers to the extension of certain specified temporary powers. The subject matter contained in the amendment offered by the gentleman from Georgia is, under the rules of the House, within the jurisdiction of the Committee on Education and Labor and not within the jurisdiction of the Committee on the Judiciary which reported the pending resolution. The Chair finds therefore that the amendment is not germane to the pending joint resolution.

Defense Production Act—Amendment Empowering President To Seize Plants Threatened by Work Stoppages

§ 39.10 To a bill extending and amending a law containing

4. *Id.* at p. 7069.

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

6. 98 CONG. REC. 7070, 82d Cong. 2d Sess., June 11, 1952.

provisions for settlement of labor disputes by reliance upon negotiation by the parties to the disputes, an amendment empowering the President to take possession of and operate certain plants closed by or threatened with work stoppages was held to be not germane as constituting a change of labor law.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,[7] the following amendment was offered:[8]

> Amendment offered by Mr. [Richard W.] Bolling [of Missouri]: On page 3, line 15, insert the following section:
>
> Sec. 103. Title II of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new section:
>
> "Sec. 202. (a) Whenever the President of the United States . . . shall find that the national defense is endangered by a stoppage of production or a threatened stoppage of production in any one or more plants, mines, or facilities, as a result of the present management-labor dispute in the steel industry, the President is empowered and authorized to take possession of and to operate such plants, mines, or facilities. . . .
>
> "(b) During the period in which the United States is in possession of any plant under this section, the duly designated representatives of the employees and the management of the plant shall be obliged to continue collective bargaining for the purpose of settling the issues in dispute. . . .
>
> "(d)(1) When possession of any plant has been taken by the United States . . . a compensation board of five members shall be established. . . . The compensation board shall determine (i) the amount to be paid as just compensation to the owner of any plant of which possession is taken and (ii) fair terms and conditions of employment of the employees in any such plant for the period of operation by the United States, other than changes relating to union shop, maintenance of membership, and similar arrangements between employers and employees. . . ."

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

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is out of order on the ground that it is not germane to this section or to this bill; that it is affirmative legislation not within the purview of the jurisdiction covered by the language of this act.

Subsequently, Mr. Howard W. Smith, of Virginia, stated:[9]

> Mr. Chairman, a point of order. . . .
>
> Mr. Chairman, the point of order is that the amendment is not germane to the pending bill, it involves labor legislation exclusively within the jurisdiction of the Committee on Education and Labor.

7. H.R. 8210 (Committee on Banking and Currency).

8. 98 CONG. REC. 7654, 82d Cong. 2d Sess., June 19, 1952.

9. *Id.* at p. 7655.

The Chairman,[10] in ruling on the point of order, stated:

> The Chair has had an opportunity to study the amendment offered by the gentleman from Missouri [Mr. Bolling] and it is the opinion of the Chair that the amendment proposes to make basic changes in our labor legislation. The amendment proposes further to amend title II of the Defense Production Act of 1950, which is the authority to requisition property. The amendment goes beyond, as the Chair understands the amendment, the mere requisition of property and, as the Chair has stated, proposes to make changes in our labor laws.
>
> In view of the fact that it goes beyond the scope of title II of the Defense Production Act of 1950, the Chair is constrained to sustain the point of order made by the gentleman from Pennsylvania [Mr. Fulton].

Economic Opportunity Act—Amendment Reactivating Program That Had Expired

§ 39.11 To a bill expanding the war on poverty by amending and increasing the authorizations contained in the Economic Opportunity Act of 1964, an amendment reactivating a program, which had been contained in the original act as a nongermane provision but had expired, providing for certain indemnity payments to dairy farmers, was held to be not germane.

On July 22, 1965,[11] during consideration of the Economic Opportunity Act of 1965,[12] Mr. Carlton R. Sickles, of Maryland, offered an amendment relating to certain indemnity payments to dairy farmers. In describing the purposes of the amendment, he stated:

> Mr. Chairman, section 331 of the Economic Opportunity Act, unless extended, will terminate on June 30, 1965. This section authorizes indemnity payments to be made to dairy farmers who, through no fault of their own, have had their milk barred from commercial markets because the milk contained minute residues of pesticides that were approved for use by the Federal Government at the time of their use. It is imperative that the Congress not let this pesticide indemnity law die on June 30 but act immediately to extend it to June 30, 1967. . . .

Mr. Adam C. Powell, Jr., of New York, having made the point of order that the amendment was not germane, the following exchange ensued:[13]

> MR. [MELVIN R.] LAIRD [of Wisconsin]: I would like to point out that this language is currently in the present law and is part of the poverty program as now in existence. This is section 331(c)(1) of the present Eco-

10. Wilbur D. Mills (Ark.).

11. 111 CONG. REC. 17949, 89th Cong. 1st Sess.

12. H.R. 8283 (Committee on Education and Labor).

13. 111 CONG. REC. 17950, 89th Cong. 1st Sess.

nomic Opportunity Act. It has been carried in the law for the last 12 months. It is a part of the poverty program as we know the poverty program now. . . .

MR. POWELL: Mr. Chairman, this law expired on June 30. It is not part of the law now.

MR. SICKLES: The whole law expired.

The Chairman,[14] in ruling on the point of order, stated:

The gentleman offers an amendment at page 7 after line 16 with regard to the continuation of indemnity payments to dairy farmers. . . . It would appear to the Chair that this bill does not have anything to do with this particular subject with regard to indemnity payments to dairy farmers. Therefore, the Chair is constrained to rule that the amendment is subject to the gentleman's point of order and the point of order is sustained.

Provisions Affecting Specific Agricultural Commodity Broadened by More General Amendment

§ 39.12 To a bill extending those provisions that excluded "boiled peanuts" from the definition of "peanuts" under the Agricultural Adjustment Act of 1938, an amendment proposing to exclude from the Act's provisions "all peanuts produced" was held to be not germane.

In the 88th Congress, a bill[15] was under consideration to extend for two years the definition of "peanuts" in effect under the Agricultural Adjustment Act of 1938, which was an act to establish acreage allotments and marketing quotas. An amendment was offered[16] as described above, and the following point of order was made:[17]

MR. [WATKINS M.] ABBITT [of Virginia]: . . . I make the point of order that the amendment is not germane. The bill simply deals with a class of peanuts. The amendment deals with an entirely different class, and is not in order, as it would change the entire concept of the legislation, as well as wipe out the peanut program. . . .

The Chairman,[18] in ruling on the point of order, stated:[19]

As a general rule, one individual proposition may not be amended by any other individual proposition, even though the two may belong to the same class.

Also citing to an instance in which, "To a bill amendatory of one section of an existing law an amendment proposing further

14. John J. Rooney (N.Y.).

15. H.R. 101 (Committee on Agriculture).

16. See 109 CONG. REC. 12777, 88th Cong. 1st Sess., July 17, 1963.

17. *Id.* at pp. 12777, 12778.

18. John James Flynt, Jr. (Ga.).

19. 109 CONG. REC. 12778, 88th Cong. 1st Sess., July 17, 1963.

modification of the law was held not to be germane," the Chair sustained the point of order.

§ 39.13 To a bill extending those provisions that excluded "boiled peanuts" from the definition of "peanuts" under the Agricultural Adjustment Act of 1938, an amendment proposing to enlarge the excluded class to "any agricultural commodity, which prior to being marketed as a foodstuff is boiled and dried," was held to be not germane.

In the 88th Congress, a bill[20] was under consideration to extend for two years the definition of "peanuts" in effect under the Agricultural Adjustment Act of 1938, which was an act to establish acreage allotments and marketing quotas. An amendment was offered, as follows:[1]

> Amendment offered by Mr. [Robert J.] Dole [of Kansas]: On page 1, line 8, strike the period and insert the following: "and the first paragraph of such Act is amended by striking the period at the end thereof and by adding the following: '*Provided,* That notwithstanding any other provision of law, the exemption from acreage allotments and marketing quotas as provided for herein for boiled peanuts shall also apply to any agricultural commodity, which prior to being marketed as a foodstuff is boiled and dried.'"

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

> MR. [WATKINS M.] ABBITT [of Virginia]: Mr. Chairman, I make the point of order that this amendment is not germane and it is apparent on its face. This amendment deals not only with peanuts but with all commodities, therefore, it is not in order.

The Chairman,[2] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Kansas would extend the legislation to other commodities than those covered by the pending legislation. While the amendment offered by the gentleman from Kansas would amend the general law, the Chair rules that the amendment is not germane to the pending bill and, therefore, sustains the point of order.

Mexican Farm Labor Program

§ 39.14 To a bill continuing for one year the Mexican farm labor program, an amendment modifying the program by requiring the Secretary of Labor to determine that reasonable efforts have been made to hire domestic work-

20. H.R. 101 (Committee on Agriculture).

1. 109 CONG. REC. 12778, 88th Cong. 1st Sess., July 17, 1963.

2. John James Flynt, Jr. (Ga.).

ers under working conditions comparable in specified instances to those provided to foreign workers was held to be germane.

In the 88th Congress, during consideration of a bill[3] extending the Mexican farm labor program, an amendment was offered[4] as described above, specifying the areas respecting which the Secretary's determination would be made. The areas included workmen's compensation, housing, and transportation. A point of order was raised against the amendment, as follows:

> MR. [WATKINS M.] ABBITT [of Virginia]: Mr. Chairman, I make a point of order against the amendment for two reasons.
>
> Mr. Chairman, first, I make the point of order that the amendment to section 503 of Public Law 78 is not germane to H.R. 8195, on the basis that the amendment being offered to section 503 deals not with a proposition providing for Mexican farm labor, but rather with a proposition providing for domestic migratory labor, and is within the purview of the precedents set forth in sections 2953, 2954, and 2955 of volume 8, Cannon's Precedents.
>
> Section 2953 states:
>
> > To a proposition providing for a class, a proposition providing for another related class is not germane. . . .
>
> Section 503 of the act deals with the conditions under which the Mexican laborer will be allowed to work. This requires that the imported labor not be allowed to work until the conditions of this section are met.
>
> The proposed amendment should be considered in a separate bill covering working conditions of American workers, and should be considered by the Education and Labor Committee. . . .
>
> Mr. Chairman, I also make the point of order that the amendment to section 503 of the act is not germane to the bill, H.R. 8195.
>
> The bill simply extends a program which deals with a class of farmworkers, in this case Mexican nationals. The amendment deals with an entirely different class of workers—U.S. citizens who are migratory farm laborers. . . .

The Chairman,[5] in ruling on the point of order, stated:[6]

> Under the rule of germaneness, an act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act.
>
> The Chair rules that the amendment is germane, and the point of order is overruled.

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3. H.R. 8195 (Committee on Agriculture).

4. 100 CONG. REC. 20728, 88th Cong. 1st Sess., Oct. 31, 1963. For discussion of another amendment held to be germane to the same bill, even though such amendment modified terms of the program being extended, see § 29.2, supra.

5. William H. Natcher (Ky.).

6. 109 CONG. REC. 20729, 88th Cong. 1st Sess., Oct. 31, 1963.

§ 39.15 To a bill extending that part of the Agricultural Act of 1949, as amended, authorizing the Secretary of Labor to assist in supplying agricultural workers from Mexico, an amendment requiring the Secretary of Agriculture, after consultation with the Interstate Commerce Commission, to prescribe employer regulations for the adequate safety, health and welfare of workers being transported, was held to be germane.

In the 84th Congress, during consideration of a bill[7] extending provisions of the Agricultural Act of 1949, the following amendment was offered:[8]

> Amendment offered by Mr. Rogers of Colorado to the committee amendment: Page 2, after line 18, insert the following:
>
> Sec. 4. Title V of such act, as amended, is further amended by adding at the end thereof the following new section:
>
> "Sec. 10. The Secretary of Agriculture, after consultation with the Interstate Commerce Commission, shall prescribe such regulations as may be necessary to require employers to provide adequately for the safety, health, and welfare of workers while they are being transported from reception centers to the places of their employment and returned from such places to reception centers after termination of employment. Any person who violates any such regulation shall, for each violation, be fined not more than $1,000 or imprisoned not more than 6 months or both."

The following exchange concerned a point of order raised against the amendment:

> MR. [EZEKIEL C.] GATHINGS [of Arkansas]: The amendment is not germane inasmuch as it calls for consultation by the Secretary of Agriculture with the Interstate Commerce Commission, and the Interstate Commerce Commission is not in anywise affected by this legislation. Furthermore, the Secretary of Agriculture does not administer this program; the program is administered by the Secretary of Labor. I think therefore the amendment clearly is not germane. . . .
>
> MR. [BYRON G.] ROGERS of Colorado: Mr. Chairman, I think it is very evident that the amendment itself only directs that the Secretary of Agriculture after consultation with the Interstate Commerce Commission shall prescribe such regulations as may be necessary. The fact is that this legislation is given to the Secretary of Agriculture for administration, and we leave it with him for that purpose with consultation merely a factor so that he may be assisted in proper regulations as far as they may be enforced by the Interstate Commerce Commission. Therefore the amendment is germane.
>
> THE CHAIRMAN:[9] . . . From a reading of the amendment it is apparent

7. H.R. 3822 (Committee on Agriculture).

8. 101 CONG. REC. 10019, 84th Cong. 1st Sess., July 6, 1955.

9. Jamie L. Whitten (Miss.).

that all the actions are required of the Secretary of Agriculture; no specific action is required of the Interstate Commerce Commission.

The amendment attempts to change the provisions of the bill having to do with employee safety, health, and welfare; and it is quite clearly, in the opinion of the Chair, germane to the bill.

The point of order is overruled. . . .

Agricultural Price Support Program

§ 39.16 To a bill extending the agriculture price support program, an amendment proposing to change the method of computing the parity price of a commodity was held to be not germane.

In the 80th Congress, a bill[10] was under consideration whose basic purpose was to provide for continuation of agricultural price support programs. The bill stated in part:[11]

> *Be it enacted, etc.,* That, notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations—
>
> (a) to support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts harvested before December 31, 1949, if producers have not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is harvested. The price support authorized by this subsection shall be made available as follows:
>
> (1) To cooperators (except cooperators outside the commercial corn-producing area, in the case of corn) at the rate of 90 percent of the parity price for the commodity as of the beginning of the marketing year; . . .
>
> (3) To noncooperators (except noncooperators outside the commercial corn-producing area, in the case of corn) at the rate of 60 percent of the rate specified in (1) above and only on so much of the commodity as would be subject to penalty if marketed.
>
> All provisions of law applicable with respect to loans under the Agricultural Adjustment Act of 1938, as amended, shall, insofar as they are consistent with the provisions of this section, be applicable with respect to loans or other price-support operations authorized under this subsection.
>
> (b) To support until December 31, 1949, a price to producers of commodities with respect to which the Secretary of Agriculture by public announcement pursuant to the provisions of the act of July 1, 1941, as amended, requested an expansion of production of not less than 60 percent of the parity or comparable price therefor nor more than the level at which any such commodity was supported in 1948. The comparable price for any such commodity shall be determined and used by the Secretary for the purposes of this subsection if the production or consumption of such commodity has so changed in extent or character since the base period as to result in a price out of line with parity prices for the commodities referred to in (a) hereof.

10. H.R. 6248 (Committee on Agriculture).

11. 94 CONG. REC. 7904, 80th Cong. 2d Sess., June 11, 1948.

(c) Sections 1 and 3 of the act approved August 5, 1947 (Public Law 360, 80th Cong.), are amended by striking out in each section the date "1948" wherever it appears and inserting in lieu thereof the date "1949."

(d) It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof) shall be carried out so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c), and the ability of producers to bring supplies into line with demand.

An amendment was offered[12] stating that, "For the purpose of computing the parity price of Maryland tobacco, the base period shall be the period August 1936 to July 1941 in lieu of the period August 1919 to July 1929." The following exchange concerned a point of order raised against the amendment:

MR. [CLIFFORD R.] HOPE [of Kansas]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

Mr. Chairman, this bill, and the section to which the amendment is offered, merely extends the price-support program. It does not in any way deal with the parity formula or with the base period upon which parity may be computed. The amendment offered by the gentleman from Maryland deals with one subject only, and that is, it sets up a new base period upon which to compute parity for Maryland tobacco. It clearly does not have any place in this bill which does not in any way deal with the subject of parity or the parity formula.

MR. [LANSDALE G.] SASSCER [of Maryland]: As I understand, the bill relates to parity, and in order to get loans you have to have a base to get the parity. This relates to the base, and my contention is that the two are interlocked; that you cannot have parity without a base. . . .

THE CHAIRMAN:[13] . . . The gentleman from Maryland offers an amendment which has, as its principal purpose, a change in computing the parity price for Maryland tobacco. The Chair feels . . . that this is beyond the scope of the bill presently under consideration and therefore sustains the point of order.

Agricultural Trade Development and Assistance Act—Amendment Providing Food Stamp Program

§ 39.17 An amendment providing a new and comprehensive food stamp plan for the distribution of surplus products was held to be germane to a bill amending

12. 94 CONG. REC. 8013, 80th Cong. 2d Sess., June 12, 1948.

13. John Z. Anderson (Calif.).

and extending the Agricultural Trade Development and Assistance Act of 1954, where the 1954 act had authorized the Commodity Credit Corporation to make surplus agricultural products available for needy persons in the United States.

In the 86th Congress, during consideration of a bill[14] amending the Agricultural Trade Development and Assistance Act of 1954, the following amendment was offered:[15]

> Amendment offered by Mrs. [Leonor K.] Sullivan [of Missouri]: On page 8, after line 23, insert the following new section 14 . . .
>
> Sec. 14. Title III of the Agricultural Trade Development and Assistance Act of 1954, as amended, is further amended by adding at the end thereof the following new section:
>
> "Sec. 306. (a) In order to promote the general welfare, raise the levels of health and of nourishment for persons whose incomes prevent them from enjoying adequate diets, and dispose in a beneficial manner of food commodities acquired by the Commodity Credit Corporation or the Department of Agriculture in carrying out price support operations or diverted from the normal channels of trade and commmerce under section 32 of the Act of August 24, 1935, as amended, the Secretary of Agriculture . . . is hereby authorized to promulgate and put into operation . . . a program to distribute to needy persons in the United States through a food stamp system such surplus food commodities. . . ."

A point of order was raised against the amendment, as follows:[16]

> MR. [CHARLES B.] HOEVEN [of Iowa]: Mr. Chairman, I make the point of order that the amendment is not germane to the extension of Public Law 480, as incorporated in the bill H.R. 8609.
>
> The amendment proposes to establish a new distribution system within the United States. H.R. 8609 contains no such provision to which this proposed amendment is germane.
>
> In addition, the proposed amendment would suspend the operation of section 416 of the Agricultural Act of 1949, as amended, which is not before us.
>
> The bill, H.R. 8609, contains only one reference to section 416, but this provision deals only with the labeling of surplus foods, not with the system of distributing these commodities.
>
> This is an amendment which is entirely foreign to the legislation now under discussion and as presented is not germane to the bill.

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

> . . . H.R. 8609 is a bill to amend the Agricultural Trade Development and Assistance Act of 1954, as amended, extending certain authorities provided for in that law, and for other purposes. The Agricultural Trade Development

14. H.R. 8609 (Committee on Agriculture).

15. 105 CONG. REC. 16567, 16568, 86th Cong. 1st Sess., Aug. 20, 1959.

16. *Id.* at p. 16568.

and Assistance Act of 1954, as amended, known as Public Law 480, contains provisions not only for the foreign sale, barter and donation of surplus food but it also contains the relevant provisions of law authorizing domestic donations of surplus food to our own needy. This is contained in titles II and III of the law.

The bill before us amends titles II and III in several respects. The bill before us furthermore contains language clearly applicable to the domestic distribution of surplus foods. . . .

I make one further point in contesting the point of order. "Cannon's Precedents," volume VIII, section 2941, states:

> An act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act.

Mr. Chairman, we are enacting Public Law 480 programs. This amendment is germane in that it would modify the terms of Public Law 480 dealing with the distribution of surplus food to our own needy, establishing an additional and effective means of distributing such food to our needy.

The Chairman,[17] in holding the amendment to be germane and overruling the point of order, stated in part:

The bill presently before the Committee provides in two sections for amendments to title III, the general provisions title of Public Law 480. . . .

The language cited by the gentlewoman from Missouri of section 302 of the basic law, Public Law 480, is very much to the point, and the Chair will repeat it for the purpose of the Record:

Sec. 302. Section 416 of the Agricultural Act of 1949 is amended to read as follows:

> Sec. 416. In order to prevent the waste of commodities acquired through price-support operations . . . the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest . . . to donate such commodities . . . to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority . . . [for] the assistance of needy persons. . . .

School Milk Program

§ 39.18 To a bill extending the school milk program and establishing a school breakfast program, and making "preschool programs operated as part of the school system" eligible for benefits under the programs, an amendment further extending such benefits to programs operated by nonprofit institutions in depressed areas, was held to be not germane.

On Sept. 1, 1966,[18] the Committee of the Whole had under consideration the Child Nutrition Act of 1966,[19] which stated in part:[20]

17. Richard W. Bolling (Mo.).

18. 112 CONG. REC. 21652, 21656, 89th Cong. 2d Sess.

19. H.R. 13361 (Committee on Agriculture).

20. 112 CONG. REC. 21652, 21653, 89th Cong. 2d Sess.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Act of 1966."

DECLARATION OF PURPOSE

Sec. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn . . . it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children. . . .

SPECIAL MILK PROGRAM AUTHORIZATION

3. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1967, not to exceed $110,000,000; for the fiscal year ending June 30, 1968, not to exceed $115,000,000; and for each of the two succeeding fiscal years not to exceed $120,000,000, to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. . . .

PRESCHOOL PROGRAMS

13. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system. . . .

An amendment was offered:[1]

The Clerk read as follows:

Amendment offered by Mr. [William F.] Ryan [of New York]: On page 39, line 22, insert after "system" the following: ", or operated by nonprofit institutions or organizations and draw attendance from areas in which poor economic conditions exist". . . .

MR. [HARLAN F.] HAGEN of California: . . . I make the point of order that this amendment is not germane to the section sought to be amended.

Mr. Chairman, the entire thrust of this bill deals with programs administered by the public schools of the United States.

Mr. Chairman, the gentleman from New York offers an amendment, which if adopted, would extend these programs en masse into operations by nonprofit institutions or organizations.

Mr. Chairman, it has nothing to do with the substance of this bill, which is to implement programs administered by the public schools. . . .

MR. RYAN: . . . [T]he amendment . . . is quite relevant to section 13 which it would amend.

Mr. Chairman, section 13 provides that the Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

My amendment would extend that to include preschool programs operated by nonprofit institutions or organizations which draw attendance from areas in which poor economic conditions exist.

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1. *Id.* at p. 21656.

In other words, Mr. Chairman, this would deal with those children enrolled in those Headstart programs which are not a part of the local school system. . . .

I might also point out that other sections of the bill do cover nonprofit institutions. . . . This bill is clearly not restricted to school systems. . . .

THE CHAIRMAN:[2] In the opinion of the Chair, section 13 on page 39 is confined to school feeding programs including preschool programs as part of these school systems. Therefore, the Chair sustains the point of order.

Elementary and Secondary Education Act—Amendment To Restrict School Busing

§ 39.19 To a bill amending and extending the Elementary and Secondary Education Act, an amendment proposing further modification of that act to provide that no funds appropriated pursuant to the act be used for the transportation of students or teachers "in order to meet . . . provisions of" the Civil Rights Act of 1964 was held to be germane.

In the 91st Congress, during consideration of a bill[3] extending the Elementary and Secondary Education Act, an amendment was offered whose purpose was explained in these terms by the proponent:[4]

MR. [JAMES M.] COLLINS [of Texas]: . . . [This amendment] relates to neighborhood schools. It simply boils down to the fact that there will be no Federal funds available for busing of students. . . .

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

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, it appears to me that this is an amendment to title VI of the Civil Rights Act and its effect would be to amend title VI of the Civil Rights Act. Therefore, Mr. Chairman, it would not be germane to the bill under present consideration.

The Chairman,[5] in ruling on the point of order, stated:

The Chair has examined the amendment and the Chair finds that they appear to be amendments to the bill under consideration and do not appear to be specific amendments to the Civil Rights Act. Therefore, the Chair overrules the point of order.

Foreign Trade Agreements—Amendment Affecting Period Prior to Extension

§ 39.20 To an amendment modifying a bill extending the period during which the

2. Arnold Olsen (Mont.).
3. H.R. 514 (Committee on Education and Labor).
4. 115 CONG. REC. 10067, 91st Cong. 1st Sess., Apr. 23, 1969.
5. Charles M. Price (Ill.).

President is authorized to enter into foreign trade agreements under certain provisions of the Tariff Act of 1930, a substitute amendment which did not modify those provisions of the Tariff Act but which provided for suspension of trade agreement tariff concessions where imports injure domestic producers was held to be not germane, having retroactive application and not confined to the extension of the law.

On Feb. 7, 1951, during consideration of the Trade Agreements Extension Act of 1951,[6] the following proposition was being debated:[7]

Amendment offered by Mr. [Carl T.] Curtis of Nebraska: Page 1, after line 9, insert the following:

Sec. 3. The act entitled "An act to amend the Tariff Act of 1930," approved June 12, 1934, is hereby amended by adding after section 4 the following new subsection:

"Sec. 5. (a) If as the result of unforeseen developments and of the effect of any obligation (including any tariff concession) incurred by the United States under a foreign trade agreement entered into under section 350 of the Tariff Act of 1930 any article is imported into the United States in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in the United States of like or directly competitive products, the President shall suspend the obligation in whole or in part or withdraw or modify the concession. . . ."

An amendment was offered as follows:[8]

MR. [CLEVELAND M.] BAILEY [of West Virginia]: Mr. Chairman, I offer a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. Bailey as a substitute for the amendment offered by Mr. Curtis of Nebraska: Add a new section to be known as section 3, as follows:

Sec. 3. (a) If in the course of a trade agreement entered into by the United States under the provisions of section 350 of the Tariff Act of 1930 . . . any product on which a concession has been granted is being imported into the territory of one of the contracting parties . . . under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting parties shall be free, in respect of such product . . . to suspend . . . or modify the concession. . . .

(b) Upon the request of the President, upon its own motion, or upon application of any interested party the United States Tariff Commission shall make an investigation to determine whether [an] article . . . is being imported . . . under such conditions as to cause or threaten serious injury to a domestic industry. . . .

Should the Tariff Commission find . . . that serious injury is being

6. H.R. 1612 (Committee on Ways and Means).

7. See 97 CONG. REC. 1070, 82d Cong. 1st Sess.

8. *Id.* at p. 1073.

caused or threatened through the importation of the article in question, it shall recommend to the President the witdrawal or modification of the concession. . . .

In arriving at a determination in the foregoing procedure the Tariff Commission shall deem a downward trend of production, employment, and wages in the domestic industry concerned, or a decline in sales and a higher or growing inventory attributable in part to import competition, to be evidence of serious injury or a threat thereof.

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

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to the bill before the House, H.R. 1612. The amendment is retroactive in its effect as well as prospective. The bill before the House has to do with an extension of the President's authority to enter into trade agreement negotiations for a period in the future.

The Chairman,[9] in ruling on the point of order, stated:[10]

Of course, the distinction between the substitute amendment and the amendment offered by the gentleman from Nebraska [Mr. Curtis] is that the amendment offered by the gentleman from Nebraska is to section 350 of the Tariff Act. The substitute offered by the gentleman from West Virginia is in effect an amendment to the bill before us now, H.R. 1612. The Chair would like to point out to the gentleman that casual examination of his amendment discloses that the effect is, among other things, retroactive, and the point of order is sustained.

§ 39.21 To a bill providing merely that the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930 is extended for a further period of three years, an amendment directing the President to prevent the application of reduced tariffs or other concessions heretofore or hereafter entered to imports from Communist nations was held to be not germane.

In the 82d Congress, a bill[11] was under consideration which provided that the period during which the President was authorized to enter into foreign trade agreements under the Tariff Act of 1930 be extended for a further period of three years. The following amendment was offered:[12]

Amendment offered by Mr. Byrnes of Wisconsin: After line 9, insert a new section, as follows:

9. Francis E. Walter (Pa.).

10. 97 CONG. REC. 1074, 82d Cong. 1st Sess., Feb. 7, 1951.

11. H.R. 1612 (Committee on Ways and Means).

12. 97 CONG. REC. 1037, 82d Cong. 1st Sess., Feb. 7, 1951.

Sec. 3. As soon as practicable, but not more than 90 days after enactment of this act, the President shall take such action as is necessary to withdraw or prevent the application of reduced tariffs or other concessions . . . contained in any trade agreement heretofore or hereafter entered into under authority of section 350 of the Tariff Act of 1930 . . . to imports from the Union of Soviet Socialist Republics and to imports from any nation or area thereof which the President deems to be dominated . . . by the foreign government or foreign organization controlling the world Communist movement.

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

MR. [WILBUR D.] MILLS [of Arkansas]: Mr. Chairman, I make a point of order against the amendment. . . . The purpose of the bill before us, and the sole purpose, is to extend the authority of the President to negotiate reciprocal trade agreements. The gentleman's amendment goes far beyond that purpose. . . .

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

MR. [JOHN W.] BYRNES [of Wisconsin]: . . . One of the purposes of the bill before us certainly, and its major purpose is to extend the authority of the President under the Trade Agreements Act. However, in keeping with that purpose and objective, the Congress has the authority and right to either limit or extend the trade agreements authority of the President. This amendment is directed to that objective. . . I think it is certainly germane to either restrict or extend the authority of the President under the act. This amendment goes to the scope of the authority granted to the President.

Mr. Joseph W. Martin, Jr., of Massachusetts, also speaking with reference to the point of order, stated:[13]

. . . The question here today is the extension of the Reciprocal Trade Agreements Act. Congress in extending that authority is well within its own rights to adopt restrictions in its grants. . . .

Mr. Chairman, I submit that the amendment is in order. If Congress wants to bar Communist countries from special privileges given to our friendly neighbors it should have that right. We must not forget that to Congress was given the authority to regulate tariffs and it should of course be able to restrict that grant if it so desires.

The Chairman,[14] in sustaining the point of order, stated:

The amendment offered by the gentleman from Wisconsin seeks to add language to the bill providing, among other things, "that as soon as practicable, but not more than 90 days after the enactment of this act, the President shall take such action as is necessary to withdraw or prevent the application of reduced tariffs, or other concessions contained in any trade agreement heretofore or hereafter entered into under the authority," and so on.

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13. *Id.* at p. 1038.

14. Francis E. Walter (Pa.).

The bill before the committee at this time provides merely that the period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of 3 years, from June 12, 1951.

The Chair rules that the amendment offered by the gentleman from Wisconsin is not germane to the bill under consideration and therefore sustains the point of order.

Transportation of Petroleum Products—Amendment Repealing Other Law

§ 39.22 To a bill extending certain provisions of law relating to the transportation of petroleum products in the United States, an amendment proposing to repeal all tariffs on crude oil and its products in order to conserve domestic oil deposits by promoting importation on oil and oil products was held to be not germane.

In the 75th Congress, a bill[15] was under consideration extending certain provisions of that act entitled, "An act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law. . . "[16] The following amendment was offered:[17]

Amendment by Mr. [Frederick E.] Biermann [of Iowa]: After section 12 of Public, No. 14, Seventy-fourth Congress, insert the following new section:

Sec. 13. In order to further conserve deposits of crude oil situated in the United States, all tariffs on crude oil and all of its products are hereby repealed.

Mr. William P. Cole, Jr., of Maryland, made a point of order against the amendment. The Chairman[18] ruled as follows:

The amendment . . . seeks to deal with matters not only not germane to this bill but over which this Committee has no jurisdiction.

The Chair sustains the point of order.

—Amendment Adding New Section to Law and Broadening Application

§ 39.23 To a bill extending certain provisions of law relating to the transportation of petroleum products in the United States, amending only one section of such law, an amendment was held to be not germane which sought to add a new section to such

15. H.R. 5366 (Committee on Interstate and Foreign Commerce).

16. See 81 CONG. REC. 5329, 75th Cong. 1st Sess., June 3, 1937.

17. *Id.* at p. 5330.

18. Clifton A. Woodrum (Va.).

law and to prohibit marketing crude oil products if engaged in production, refining, or transportation of oil.

In the 75th Congress, a bill[19] was under consideration extending certain provisions of that act entitled, 'An act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law. . . .'[20] The following amendment was offered:[1]

> Amendment offered by Mr. Biermann: At the end of the bill insert a new section as follows:
>
> Sec. 14. It shall be unlawful for any person or corporation or affiliate thereof to engage, directly or indirectly in interstate commerce, in marketing crude oil or any of the products thereof if he is engaged in production, refining, and transportation of oil or in any of these activities.

Mr. William P. Cole, Jr., of Maryland, having made a point of order against the amendment, Mr. Frederick E. Biermann, of Iowa, responded:

> . . . The bill in its present form, dealing with the production, refining, and distribution of oil, makes me believe that an amendment dealing with the last operation, marketing, is germane also.

The Chairman,[2] in ruling on the point of order, stated:

> The bill under consideration amends only one section of existing law in one particular. The amendment of the gentleman adds a new section to existing law, and is, therefore, clearly not germane.

Mutual Security Act—Modification of Statement of Policy in Act Being Extended

§ 39.24 To a bill reenacting and amending the Mutual Security Act of 1954, an amendment was held to be germane which sought to modify a statement of congressional policy contained in the act by further stating it to be the sense of Congress that the President should seek modification of certain agreements to enable the United States to exercise exclusive jurisdiction over American military personnel stationed within the boundaries of nations party to the agreements.

In the 85th Congress, during consideration of a bill[3] to amend the Mutual Security Act of 1954,

19. H.R. 5366 (Committee on Interstate and Foreign Commerce).

20. See 81 CONG. REC. 5329, 75th Cong. 1st Sess., June 3, 1937.

1. *Id.* at p. 5330.

2. Clifton A. Woodrum (Va.).

3. S. 2130 (Committee on Foreign Affairs).

the following amendment was offered:[4]

Amendment offered by Mr. [Omar T.] Burleson [of Texas]: On page 1, after line 4, insert: "Section 2 of the Mutual Security Act of 1954, as amended, which expresses a statement of policy, is amended by the addition of the following paragraph at the end of the statement:

"(d) It is the sense of the Congress that . . . the President should forthwith address to the North Atlantic Council . . . a request for revision of article VII of such agreement for the purpose of eliminating or modifying article VII so that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of parties to the treaty. . . ."

MR. [ALBERT S.J.] CARNAHAN [of Missouri]: Mr. Chairman, I make a point of order against the amendment, that it is not germane to the bill.

Mr. Chairman, I shall reserve the point of order. . . .

THE CHAIRMAN:[5] The point of order has been reserved and the gentleman from Texas [Mr. Burleson] is recognized on his amendment.

Subsequently, the following remarks were made in support of the point of order:[6]

MR. CARNAHAN: . . . This legislation does not provide for the conduct, management, or regulation of American forces abroad.

Consequently, the amendment is not germane. . . .

MR. VORYS: Mr. Chairman, on page 407 of the Rules of the House of Representatives on the matter of germaneness appears the statement that to a bill modifying an existing law as to one specific particular an amendment relating to the terms of the law other than those dealt with by the bill is not germane. . . .

Mr. Chairman, this amendment attempts to amend the purpose clause of the mutual security law, which is a part of the bill which is not amended by the amendments contained in the bill, S. 2130, which is now before the House. In addition, this amendment purports to deal with treaties which under the Constitution, are the responsibility of the President and the Senate and with which the House does not deal. . . . In addition, the amendment, if carried out, would amend the Uniform Code of Military Justice. Article 14 of the code provides that under such regulations as the Secretary concerned may prescribe, a member of the Armed Forces accused of an offense against civil authority may be delivered upon request to the civil authority for trial. . . .

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

Attention is . . . invited to the fact that the amendment does not seek to amend the treaty-making powers, it does not seek to amend the Code of Military Justice. . . .

After analysis of the pending amendment and the bill and the reference

4. 103 CONG. REC. 12007, 12008, 85th Cong. 1st Sess., July 17, 1957.

5. Jere Cooper (Tenn.).

6. 103 CONG. REC. 12008, 12009, 85th Cong. 1st Sess., July 17, 1957.

7. *Id.* at p. 12010.

made to the Mutual Security Act of 1954, as amended, the Chair is of the opinion that the amendment is an additional expression of the sense of Congress in line with the expressions of the sense of Congress contained in the Mutual Security Act of 1954, it is germane to the pending bill, and, therefore, overrules the point of order.

Loan of Aircraft Carrier to France—Limitation on Extension of Authority

§ 39.25 To a bill extending existing authority for the loan of a small aircraft carrier to France, an amendment requiring in part that such carrier be immediately returned to the United States if used for the transportation of troops or supplies to or from any French colony was held to be germane as a limitation on the extension of authority.

In the 84th Congress, a bill[8] as described above was being considered under Consent Calendar procedures. An amendment was offered[9] which provided that, "such carrier shall be immediately returned to the Government of the United States if it is used at any time for the transportation of troops, supplies, or material to or from any French colony, or if it is used at any time in support of any of the activities of the French Armed Forces in any French colony." Mr. John W. McCormack, of Massachusetts, having made the point of order that the amendment was not germane to the bill, Speaker Sam Rayburn, of Texas, stated:

The Chair must say that the Chair thinks that is a proper limitation to put upon the bill and therefore overrules the point of order.

Veterans' Loans—Tax Treatment of Veterans' Loans

§ 39.26 To a bill continuing for one year the provisions of a law authorizing home and farmhouse loans to veterans, an amendment providing that interest on certain guaranteed veterans' loans should, for income tax purposes, be excluded from income was held not germane.

In the 83d Congress, during consideration of the Veterans' Home and Farmhouse Loan Extension,[10] the following amendment was offered:[11]

Amendment offered by Mr. Multer: On page 2, after line 8, insert a new

8. S. 1139 (Committee on Armed Services).

9. 101 Cong. Rec. 10729, 84th Cong. 1st Sess., July 18, 1955.

10. H.R. 8152 (Committee on Veterans' Affairs).

11. 100 Cong. Rec. 3799, 83d Cong. 2d Sess., Mar. 24, 1954.

section appropriately numbered to read:

> Interest on veterans' loans: Interest upon any loan which bears interest at a rate of not exceeding 3½ percent per annum, and any part of which is guaranteed under title III of the Servicemen's Retirement Act of 1944 as amended, shall not be included in gross income for income tax purposes and shall be exempted therefrom.

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

> MR. [WILLIAM H.] AYRES [of Ohio]: Mr. Chairman, I make a point of order that the gentleman's amendment cannot be considered on a bill involving direct home and farmhouse loan authority, that the amendment would have to be considered by the appropriate committee of the House. It is not germane to this bill.

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

> MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, the bill now being considered is entitled "to extend to June 30, 1955, the direct home and farmhouse loan authority of the Administrator of Veterans' Affairs under title III of the Servicemen's Readjustment Act of 1944, as amended, to make additional funds available therefor, and for other purposes."
>
> . . . [My amendment] will make more funds available to the program, it will extend the program to more veterans who can then acquire the benefits thereof by the simple expedient of making this low interest rate tax exempt.

The Chairman,[12] in ruling on the point of order, stated:

> The amendment offered by the gentleman from New York is too broad. It deals with a problem which comes within the jurisdiction of the Committee on Ways and Means and goes entirely outside of the purposes of this bill. The Committee on Veterans' Affairs does not have jurisdiction over gross income for income tax purposes. For the reasons stated, the Chair is constrained to sustain the point of order.

Authority of Administrator of Veterans' Affairs

§ 39.27 To a bill extending the authority of the Administrator of Veterans' Affairs to establish a maximum interest rate for insured loans to veterans, an amendment materially altering provisions of existing law and modifying the authority of the Administrator with respect to management of the loan program was held to be not germane.

On Sept. 29, 1969, a bill[13] extending the authority of the Administrator of Veterans' Affairs to set interest.[14]

> Strike out all that follows the enacting clause and insert in lieu thereof the following:

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12. Antoni N. Sadlak (Conn.).

13. H.R. 13369 (Committee on Veterans' Affairs).

14. See 115 CONG. REC. 27341, 91st Cong. 1st Sess.

That notwithstanding the provisions of section 1803(c)(1) of title 38, United States Code, the Administrator of Veterans' Affairs is authorized, until October 1, 1971, to establish a maximum interest rate for guaranteed or insured loans to veterans under chapter 37 of title 38, United States Code, not in excess of such rate as he may from time to time find the loan market demands.

Thereafter, the following amendment was offered:[15]

Amendment offered by Mr. Patman to the committee amendment: On page 2, line 9, immediately after the period, insert the following:

. . . (C)hapter 37 is further amended by adding at the end of subchapter III thereof the following new section:

"1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter.

"(a) When issuing a commitment to guarantee a proposed home mortgage loan under section 1810 of this chapter, the Administrator is authorized and is hereby directed to issue, if such is requested by the lender-mortgagee, a non-assignable commitment to purchase the completed loan from such lender-mortgagee. . . .

"(b) There is hereby established in the Treasury of the United States a revolving fund to be known as the National Service Life Insurance Investment Fund. . . . The . . . Fund shall be available to the Administrator for all operations under this section. . . . To provide the Administrator with the funds necessary to purchase loans as the consequence of commitments issued . . . pursuant to subsection (a) of this section, the Secretary of the Treasury shall transfer such funds from the National Service Life Insurance Fund . . . to the Investment Fund. . . ."

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

MR. [WILLIAM H.] AYRES [of Ohio]: . . . The amendment offered by the gentleman is a whole new scheme to take funds from the national service life insurance trust fund and make them available for housing loans. I submit, Mr. Chairman, that this is a subject alien to the central purpose of H.R. 13369, and I insist upon my point of order that the amendment of the gentleman is not germane to the bill.

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

MR. [WRIGHT] PATMAN [of Texas]: . . . Mr. Chairman, the plainly expressed legal purpose and effect of the committee amendment is to extend and enlarge the authority of the Administrator of Veterans' Affairs to carry on programs of guaranteed and insured loans to veterans under chapter 37 of title 38 of the United States Code. The committee amendment expressly refers to chapter 37, and directly affects the powers of the Administrator under that chapter. It enlarges those powers by giving the Administrator authority over interest rates—authority he would not otherwise possess under chapter 37. My amendment relates directly to this interest rate authority by giving the Administrator further power to control or influence the rates on chapter 37 loans. . . .

The Chairman,[16] in ruling on the point of order, stated:

15. *Id.* at pp. 27342, 27343.

16. Charles E. Bennett (Fla.).

> The proposition before the Committee has a narrow purpose: To grant the Administrator of Veterans' Affairs authority, for a 2-year period, to establish a maximum interest rate for guaranteed or insured veterans loans. . . .
>
> . . . [T]he precedents indicate that where a bill is drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. . . .
>
> The committee amendment under consideration extends only the authority of the Administrator. It does not "extend existing law" in the sense that it reenacts it and could possibly open up the basic law to modification. The Chair therefore holds that the amendment offered by the gentleman from Texas [Mr. Patman] which materially alters the provisions of chapter 37 of title 38, United States Code, is not germane to the limited proposition under consideration. The Chair therefore sustains the point of order.

In response to points raised by Mr. Patman, the Chairman also stated:

> . . . [T]he provisions of this piece of legislation only relate to the interest rates and not to title 38, United States Code, chapter 37, as a whole.

Bill Extending Federal Energy Administration—Amendment Abolishing Agency and Transferring Functions

§ 39.28 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended; thus, to a bill reenacting a law to extend the existence of the Federal Energy Administration (which agency under that law would otherwise terminate with a consequent transfer of its functions to other agencies), an amendment in the nature of a substitute abolishing the agency and some of its functions and transferring other functions to existing agencies was held germane as another reorganization proposal closely related to that contained in the law being amended.

On June 1, 1976,[17] the Committee of the Whole had under consideration a bill (H.R. 12169) reenacting a law, to extend the existence of the Federal Energy Administration. That law provided, in the absence of such extension, for termination of the agency and a consequent transfer of its functions to other agencies. An amendment in the nature of a substitute was offered which itself provided for termination of the agency and the transfer of certain of its functions to other agencies—

17. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

matters deemed to be within the jurisdiction of committees other than that which reported the bill:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs. . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission. . . .

Mr. John D. Dingell, of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor. . . .

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the

sense of amendments which might be presented to them. . . .

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute, which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions.

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, the rules of the House under rule X(i)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore, the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us both as it was originally drawn and as it is amended, does only two things, and as amended, it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Agency Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the language of the bill. Therefore, the bill be-

fore the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions, and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore, it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations. . . .

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and modify certain functions within the jurisdiction of the committee dealing with the bill on the floor. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: . . . The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514 of the Rules of the House of Representatives:

> . . . Thus 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 [was held germane].

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

Several days ago the gentlewoman from Colorado (Ms. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Ms. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal

18. William H. Natcher (Ky.).

Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—public law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

—*Amendment Providing Reorganization Plan Offered as Substitute for Amendment Establishing Termination Date for Agency*

§ 39.29 For an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was held to be not germane.

During consideration of H.R. 12169 in the Committee of the Whole on June 1, 1976,[19] the Chair sustained a point of order against a substitute for the following amendment:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.'". . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts: The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals

19. 122 CONG. REC. 16051–56, 94th Cong. 2d Sess.

with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act.

This is a sweeping and very different amendment than that which is before the House in the Fithian amendment.

Now, Mr. Chairman, there is a second ground on which the point of order lies and that is that the amendment to the amendment in the nature of a substitute is not even germane to the bill. It is my strong suggestion, Mr. Chairman, that the quick way to dispose of this matter is by disposal of the point of order. . . .

MR. MYERS of Pennsylvania: Mr. Chairman, I am sure the subcommittee chairman did not mean to mislead the Chairman on the point of order. The subcommittee chairman has read in toto all the amendments I read this afternoon, including the GS and ES schedules, which are not included in this amendment.

This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan, which the gentleman from Texas would not yield sufficient time during the previous amendment for me to present even the issues in this respect.

Mr. Chairman, I present that as my case on the point of order, that it simply amends the termination of the act.

THE CHAIRMAN:[20] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

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20. William H. Natcher (Ky.).

—*Amendment Limiting Discretionary Authority Conferred in Law*

§ 39.30 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended; thus, to a bill reenacting a law to extend the existence of the Federal Energy Administration, including the authority under a section of that law for the Administrator to conduct energy programs delegated to him, an amendment to that section of the law restricting the method of submitting energy action proposals to Congress was held germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill.

On June 1, 1976,[1] during consideration of H.R. 12169, it was held that to a bill extending the Federal Energy Administration Act, including the Administrator's authority under that Act to conduct energy programs delegated to him, an amendment seeking to restrict the manner in which the Administrator was to submit energy action proposals to Congress was germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill:

> The Clerk read as follows:
>
> Amendment offered by Mr. Eckhardt: Page 10, after line 4, insert the following:
>
> LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS
>
> Sec. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:
>
> "(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act". . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).
>
> Mr. Chairman, the Dingell bill's fundamental purpose is to authorize ap-

1. 122 CONG. REC. 16045, 16046, 94th Cong. 2d Sess.

propriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.

Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.

The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.

Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:

> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.

Then I cite section 5.11, Mr. Chairman, which says the following:

> To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. . . .

. . . [T]he amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169. . . .

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c)(1):

> Any such amendment which, with respect to a class of persons or class of transactions (including transactions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c)(1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the nation. To that end, they shall make such plans and direct and conduct such programs related to the

production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. . . .

THE CHAIRMAN:[2] The Chair is ready to rule.

The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment offered by the gentleman from Texas (Mr. Eckhardt) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Administration act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman Flynt ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

—Amendment Restricting Use of Funds

§ 39.31 To a bill extending the existence of the Federal Energy Administration and authorizing appropriations for that agency, an amendment requiring that agency to promulgate regulations to as-

2. William H. Natcher (Ky.).

sure that the agency hearings funded by the bill are conducted in the areas to be affected by that agency's actions was held germane as a restriction on the use of funds authorized by the bill.

On June 1, 1976,[3] during consideration of H.R. 12169, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment to the bill. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: Page 10, immediately after line 4, insert the following:

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

Sec. 3. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

(D)(i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit; or

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State.". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order. . . .

[T]he amendment is not germane. If my colleagues will observe, we have a lengthy amendment here which embodies a number of things including extensive requirements for hearings in different parts of the country. But in addition to this it vests broad new discretion in the Administrator of FEA by saying that he can have a hearing or not have a hearing, or determine none is appropriate.

It also provides new quasi-judicial powers to the Administrator of the FEA to consolidate these hearings, raising great questions. There is also a series of cross-references to a large number of other parts of the Federal Energy Agency Act and of the EPCA, and as a result it is impossible to discern very quickly just what discretions and what authorities and what requirements are imposed upon the Administrator. . . .

MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Chairman, to alleviate any doubts any of my colleagues may have regarding the germaneness of this amendment, let me stress this is an amendment dealing not with just any hearings but would be one specifically tied to any hearing with respect to the disagreement over an expenditure of FEA funds. My amendment would assure that in connection with the administrative expenses paid out for FEA, the hearings—and it does not require any hearings to be held which are not now required to be held—will

3. 122 CONG. REC. 16057, 16058, 94th Cong. 2d Sess.

be held within the jurisdictions affected. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. Lagomarsino) is limited to hearings paid for by the funds authorized in this bill. The amendment restricts the uses to which such funds may be used and is germane. The Chair therefore overrules the point of order.

—*Amendment Changing Date of Termination Offered to Substitute Abolishing Agency*

§ 39.32 Where the Committee of the Whole had under consideration a bill extending the Federal Energy Administration Act and an amendment in the nature of a substitute abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies, an amendment offered to such substitute changing the date for termination of such agency was held to be germane.

On June 1, 1976,[4] during consideration of H.R. 12169 in the Committee of the Whole, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30, 1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

4. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

Authorization Bill—Amendment to Permanent Law

§ 39.33 A bill authorizing appropriations to an agency for one year but not amending the organic law by extending the existence of that agency does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill; accordingly, to a bill providing an annual authorization for the Energy Research and Development Administration, but not amending the basic law which created that agency, an amendment to such law, extending the existence of the Energy Resources Council (an entity not referred to in the pending bill), was held to be not germane.

During consideration of H.R. 13350 in the Committee of the Whole on May 20, 1976,[5] the

5. 122 CONG. REC. 14912, 14913, 94th Cong. 2d Sess.

See also §§ 39.35 and 41.14, infra, for similar instances in which a bill extended only an authorization. Compare §§ 39.28, 39.30–39.32, supra, in which the bill sought to ex-

Chair sustained a point of order against the following amendment:

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Goldwater: On page 32, between lines 6 and 7, insert a new section to read as follows:
>
> "Sec. 405. Section 108(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5818(d)) is amended by striking the words 'two years' and inserting therein 'four years', and at the end thereof adding the following:
>
> "'Beginning February 1, 1977, the Council shall annually provide to Congress a detailed report of the actions it has taken or not taken in the preceding fiscal year to carry out the duties and functions referred to in subsection (b) of this section, together with such recommendations, including legislative recommendations, the Council may have concerning the development and implementation of energy policy and the management of energy resources. The report shall include such other information as may be helpful to the Congress and the public.'". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to H.R. 13350.

The bill authorizes appropriations for 1 year for the programs administered by the Energy Research and Development Administration.

The amendment would have the effect of making permanent the Energy Resources Council, a body established within the Executive Office of the President. Such an amendment is clearly beyond the scope of a 1-year authorization bill and is, therefore, not germane.

Mr. Chairman, I would ask that the point of order be sustained, and I specifically refer to rule XVI, clause 7. . . .

MR. GOLDWATER: . . . Mr. Chairman, the amendment is directly related to subject matter of the bill—ERDA's programs and how they are carried out under the Energy Reorganization Act.

The Reorganization Act created ERDA and its programs and also the Energy Resources Council to insure the full and complete coordination of those programs and all other energy agencies and programs. ERDA's programs and the ERC go hand and glove in a programmatic sense.

FUNDAMENTAL PURPOSE AS TEST

The fundamental purpose of the amendment is to continue our only statutory mechanism for coordinating our energy programs to insure they are effective and not duplicative.

Last year, section 309 of the Authorization Act stated:

> The administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication.

My amendment addresses that same goal—avoiding duplication and maximizing effectiveness.

COMMITTEE JURISDICTION

The Science Committee and JAEC have sole jurisdiction over energy R. & D. programs.

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tend the existence of an agency, and amendments to the organic law creating that agency were held to be germane to the bill if germane to the basic law.

Once the ERC was established, it came under the jurisdiction of the energy committees who must have responsibility for legislating effective energy programs. If we do not have it, no one does.

The ERC does not have a separate staff. It uses agency personnel on assignment in the agency's area of responsibility. So ERDA personnel can and do staff ERC functions. This bill provides the funds in program support for those employees. Therefore, this bill actually will fund the extended activities of ERC in fiscal year 1977 under my amendment.

GENERAL VERSUS SPECIFIC

This is specific amendment to the general provisions. It is an ERDA program-wide provision, that is to have a continued, statutory mechanism for coordination of all energy programs.

AMENDMENT TO EXISTING LAW

The amendment merely extends the ERC for 2 years by a minimal change in the Energy Reorganization Act. The thrust is basically programmatic in nature, not a substantive change.

The bill is under the Reorganization Act, and further the Reorganization Act requires in section 305 that there be an annual authorization for "appropriations made under this act."

The Reorganization Act, the ERDA program and the ERC—under section 108—of the act are all tied together.

KEY POINT

The amendment is germane, because this bill includes program support for the salaries of ERDA employees who staff parts of the Energy Resources Council.

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

The Chair has examined the amendment and has listened to the argument in support of the point of order and to the argument presented by the gentleman from California (Mr. Goldwater) very carefully and it, indeed, is an argument which deserves the careful attention of the Chair.

The Chair would call attention to the fact that the amendment offered by the gentleman from California (Mr. Goldwater) seeks to amend the Energy Reorganization Act of 1974 by extending the life of the Energy Resources Council.

The point of order is made that the amendment is not germane and that the amendment goes beyond the scope of the bill before us.

The bill before the committee at this time is an annual authorization bill. It is a bill to authorize appropriations for the Energy Research and Development Administration and does not amend the basic organic statute which established ERDA.

The Chair is constrained to state that, in his opinion, the amendment offered by the gentleman from California (Mr. Goldwater) goes beyond the scope of the bill which is pending before the committee at this time in that that bill does not directly amend the Energy Reorganization Act of 1974 nor does it deal with the Council as a separate entity.

The Chair would refer to Deschler's Procedure, chapter 28, section 33, and the numerous precedents set out there concerning amendments changing existing law to bills not citing that law.

6. J. Edward Roush (Ind.).

The Chair, therefore, sustains the point of order.

Revenue-Sharing Program: Authorization for One Year—Amendment To Extend Program for Three Years

§ 39.34 To a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year) an amendment to extend the appropriation or authorization to another year is not germane; thus, to an amendment in the nature of a substitute extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for three years was held broader in scope and not germane.

During consideration of H.R. 7112 [7] in the Committee of the Whole on Nov. 13, 1980,[8] it was demonstrated that the test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill. The proceedings were as follows:

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:

Section 1. Short Title.

This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

Sec. 2. Extension of Program.

(a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .

An amendment was offered:

Amendment offered by Mr. Wydler to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out section 2 and insert in lieu thereof the following:

Sec. 2. Extension of Program.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assist-

7. The State and Local Fiscal Assistance Act Amendments of 1980.

8. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

ance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time.

The rule is quite clear on this matter. To admit such an amendment would cause great confusion in the legislative process of the House. It should be ruled out of order, Mr. Chairman. . . .

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is contained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

THE CHAIRMAN:[9] The Chair is prepared to rule.

In the opinion of the Chair, the fundamental purpose of the amendment offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their fundamental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Nuclear Regulatory Commission Authorization Act—Amendment Making Permanent Changes in Organization

§ 39.35 An amendment making permanent changes in the

9. Gerry E. Studds (Mass.).

law relating to the organization of an agency is not germane to a title of a bill only authorizing annual appropriations for such agency for one fiscal year.

On Dec. 4, 1979,[10] during consideration of H.R. 2608[11] in the Committee of the Whole, Chairman Leon E. Panetta, of California, sustained a point of order against the amendment described above. The proceedings were as follows:

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated: . . .

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lujan: On page 8, after line 11, insert the following:

Sec. 107. Section 201 (a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after paragraph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . [T]he amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained. . . .

MR. LUJAN: Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

THE CHAIRMAN: . . . [T]he Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the

10. 125 CONG. REC. 34083, 34089, 34090, 96th Cong. 1st Sess.

11. The Nuclear Regulatory Commission Authorization Act.

Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

§ 40. Amendment Continuing Temporary Law to Bill Amending That Law

National Housing Act

§ 40.1 To that part of a bill making certain substantive changes in a section of the National Housing Act solely to limit the aggregate amount of liability for all insurance thereunder, an amendment was held to be not germane which also proposed to extend for an additional period the temporary operation of provisions of such section of the act.

In the 75th Congress a bill[12] was under consideration to amend the National Housing Act. The bill stated in part:[13]

> Sec. 2. The third sentence of subsection (a) of section 2 of the National Housing Act, as amended, is amended to read as follows: "The total liability incurred by the Administrator for all insurance heretofore and hereafter granted under this section and section 6, as amended, shall not exceed in the aggregate $100,000,000."

The following amendment was offered to the bill:[14]

> Amendment offered by Mr. [Byron N.] Scott [of California]: Page 2, line 24, strike out all of lines 24 and 25 and insert:
>
> > Sec. 2. Section 2(a) of the National Housing Act, as amended, is amended by striking out "April 1, 1936, and prior to April 1, 1937" and inserting in lieu thereof "April 1, 1937, and prior to April 1, 1938", by striking out "April 1, 1936, exceed 10 percent" and inserting in lieu thereof "April 1, 1937, exceed 5 percent", and by amending the third sentence thereof to.

Mr. Henry B. Steagall, of Alabama, made the point of order that the amendment was not germane to the section or to the bill, and The Chairman,[15] without elaboration, sustained the point of order.

§ 41. Amendment Changing Existing Law to Bill Citing or Making Minor Revisions in That Law

It has been noted above[16] that where a bill amends existing law,

12. S. 1228 (Committee on Banking and Currency).

13. 81 Cong. Rec. 3350, 75th Cong. 1st Sess., Apr. 9, 1937.

14. *Id.* at p. 3351.

15. Paul R. Greever (Wyo.).

16. For more general discussion of the principles governing the germane-

the germaneness of an amendment that further amends such law may depend on the extent of the change in law contemplated by the bill. If a bill seeks only to modify the law in a limited respect, an amendment will not be germane if it seeks to broaden the scope or alter the applicability of such law.[17] A bill narrowly amending a law in one respect does not necessarily allow as germane other amendments to that law which are not related to the subject of the bill;[18] and a bill narrowly amending one subsection of existing law for a single purpose does not necessarily open the entire section of the law to amendment.[19]

To a bill proposing a temporary change in law, an amendment making other permanent changes in that law is not germane,[20] and a bill extending or increasing an authorization for an agency but not substantively amending the permanent law does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill.[1]

To a bill citing but not amending a law on another subject, an amendment incorporating that law by reference to broaden its application to the subject of the bill is not germane.[2]

Right To Enter into Union Shop Agreements—Amendment To Make Agreements Inapplicable to Members of Certain Religious Organizations

§ 41.1 To a bill repealing a part of the National Labor Relations Act and making conforming changes in two related sections of labor law, but having as its sole purpose the enunciation of the right of employers and labor unions to enter into union shop agreements under certain conditions, an amendment was held to be not germane which sought to make any such agreement inapplicable to members of certain religious organizations.

ness of amendments to bills which amend existing law, see the introduction to § 35, supra.

17. See § 41.12, infra.

18. See § 41.5, 41.23, infra.

19. See § 41.22, infra.

20. See § 41.15, infra.

1. See § 41.14, infra. See also § 41.16, infra, in which an amendment to limit the use of authorized funds was ruled out as beyond the scope of an organizational bill transferring existing programs to a new department in that the amendment sought to affect substantively the laws governing administration of the programs.

2. See § 41.21, infra.

In the 89th Congress, a bill[3] was under consideration which stated:[4]

H.R. 77

A bill to repeal section 14(b) of the National Labor Relations Act, as amended, and section 705(b) of the Labor-Management Reporting and Disclosure Act of 1959 and to amend the first proviso of section 8(a)(3)) of the National Labor Relations Act, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 14 of the National Labor Relations Act, as amended, is hereby repealed.

(b) The first proviso of paragraph 3 of subsection (a) of section 8 of such Act is amended to read as follows: *Provided,* That nothing in this Act, or in any other statute of the United States or in any constitution or law of any State or political subdivision thereof, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in section 8(a) of this Act as an unfair labor practice) to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective-bargaining unit covered by such agreement when made, and (ii) unless following an election held as provided in section 9(e) within one year preceding the effective date of such agreement, the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement:

(c) Subsection (b) of section 705 of the Labor-Management Reporting and Disclosure Act of 1959 is hereby repealed.

To such bill, the following amendment was offered:

Amendment offered by Mrs. [Edith S.] Green of Oregon: Page 2 on line 16 after the word "agreement" insert the following:

. . . except that no agreement under this subsection requiring membership in a labor organization will be applicable to any employee who (i) is a bona fide member of a religious sect . . . the established . . . teachings of which oppose a requirement that a member of such sect . . . join or financially support any labor organization.

A point of order was raised against the amendment, as follows:[5]

MR. [ADAM C.] POWELL [Jr., of New York]: [The amendment] is not germane and it has language . . . that is not embodied in the bill before us. . . .

Mr. James C. Wright, Jr., of Texas, asked to be heard on the

3. H.R. 77 (Committee on Education and Labor). See also §§ 37.1, 37.2, supra, for further discussion of amendments offered to this bill.

4. 111 CONG. REC. 18631, 89th Cong. 1st Sess., July 28, 1965.

5. *Id.* at pp. 18631, 18632.

point of order, and, arguing on the basis of a number of precedents which he cited, he stated in part:[6]

> Mr. Chairman, it seems quite clear to me . . . that the amendment offered by the gentlewoman from Oregon [Mrs. Green] is clearly an exception to, or a limitation upon, the provisions contained in the bill before us. . . .
>
> . . . "[T]o a provision delegating certain powers, a proposal to limit such powers is germane."
>
> Mr. Chairman, it seems obvious that the present bill would delegate certain powers to employers and the amendment would limit those powers. Therefore, in harmony with that principle, it would appear to be germane.
>
> . . . "[T]o a proposal to grant certain authority, an amendment proposing to limit such authority is germane."
>
> Mr. Chairman, the bill now before us grants certain authority and the amendment offered by the gentlewoman from Oregon limits that authority. . . .
>
> "To a section dealing with a designated class, an amendment exempting from the provisions of the section a certain portion of that class may be germane."
>
> Obviously, Mr. Chairman, the bill deals with a designated class; namely, those workers engaged under a common employment by a common employer.
>
> The amendment offered by the gentlewoman from Oregon exempts from the provision of the section one portion of that class; to wit, those belonging to certain religious organizations and holding certain religious convictions. . . .
>
> . . . [I]t is stated in Cannon's Precedents that provisions restricting authority may be modified by amendments providing exceptions. The bill before us today restricts authority, and the amendment offered by the gentlewoman from Oregon [Mrs. Green] provides certain exceptions. . . .
>
> "To a proposition extending certain benefits to a class, a proposal to establish qualifications limiting the number of individuals in that class . . . is germane.". . .
>
> On the question of an amendment which acts as a limitation upon the provisions of the section to which it is attached, or one which excepts or exempts from those provisions a certain group or number or specific portion of the general class, the precedents seem clear.

Mr. James G. O'Hara, of Michigan, arguing that the amendment was not germane, responded:[7]

> Mr. Chairman, the bill, H.R. 77, deals with only one subject, it has only one purpose, it deals with only one particular of the law, and that is so-called right-to-work laws.
>
> . . . The bill repeals section 14(b) which deals only with State right-to-work laws and makes only such other changes as are required to effectuate that single purpose.
>
> Mr. Chairman, it is elementary that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill to which it is offered. . . .

6. *Id.* at p. 18632.

7. *Id.* at pp. 18632, 18633.

The fundamental purpose of the amendment offered by the gentlewoman from Oregon has to do with a question of religious conscience and not with State right-to-work laws in any sense. . . .

When a bill amends an existing law as to one particular, an amendment relating to the terms of the law rather than to those of the bill is not germane. . . .

Nor does the fact that the amendment is in the nature of a limitation free it from the requirements of the rule of germaneness. While a nongermane limitation upon an appropriation may sometimes be permitted, this is a legislative bill and amendments in the nature of limitations are subject to the same germaneness requirements as any other amendment. . . .

The Chairman,[8] in ruling on the point of order, stated:[9]

The Chair anticipated that questions might arise with respect to the germaneness of various amendments which were discussed during the consideration of the rule and under general debate on this bill and has reviewed the bill, the rules, and the precedents appertaining to the question of germaneness. Language in the bill and the provisions of existing law to which the bill refers have been examined with great care. The Chair thinks that the matter contained in the pending bill is very narrow in its scope.

The bill refers solely to the establishment of a uniform Federal rule governing union security agreements—the so-called right-to-work issue; and although the pending bill repeals section 14(b) of the National Labor Relations Act and section 705(b) of the Labor-Management Reporting and Disclosure Act of 1959, and affirmatively amends section 8(a) of the National Labor Relations Act, it is but a single subject that is affected by the aforementioned sections—the right-to-work issue.

It seems to the Chair that the pending bill deals only with one particular aspect of existing law and that an amendment relating to the terms of either law, including section references not within the pending bill or touching other aspects of section 14(b), 8(a), or 705(b) not relating to the question of the right to work, would be nongermane.

The Chair desires to call the attention of the Committee to a ruling made by Chairman McCormack on April 21, 1939. The then pending bill amended the Gold Reserve Act in two specific instances. He held that an amendment seeking to amend the act in a third particular instance which was not related to the pending bill was not germane.

Again, on April 11, 1940, Chairman Jones, of Texas, was presiding over the Committee during consideration of a bill proposing to amend an act in several particulars. He held that an amendment proposing to modify the act but not the bill was not germane.

The Chair would also like to direct the attention of the Committee to volume VIII of "Cannon's Precedents" of the House; sections 2946, 2947, and 2948.

In section 2946 the Chair held: "To a bill amending the Federal Reserve Act

8. Leo W. O'Brien (N.Y.).

9. 111 CONG. REC. 18633, 89th Cong. 1st Sess., July 28, 1965.

in a number of particulars an amendment relating to the Federal Reserve Act but to no portion provided for in the pending bill" was not germane.

In section 2947 the ruling was:

> To a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill was held not to be germane.

In section 2948 there was a similar ruling:

> To a bill amendatory of one section of an existing law an amendment proposing further modification of the law was held not to be germane.

The Chair might also call to the attention of the Committee an even older precedent which goes back to the turn of the century. In volume V of "Hinds" Precedents," section 5806, it was held that "to a bill amendatory of an existing law as to one specific particular, an amendment relating to the terms of the law rather than to those of the bill" was not germane. Sections 5807 and 5808 are to similar effect.

The Chair believes that the cases cited clearly demonstrate the rule of germaneness stated in clause 7 of rule XVI. That rule provides that no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

For the reasons heretofore stated the Chair holds the amendment not germane and sustains the point of order.

—*Amendment Relating to Union Elections*

§ 41.2 To a bill repealing a part of the National Labor Relations Act and making conforming changes in related laws in order to permit employers and labor unions to enter into union shop agreements under some conditions, an amendment affecting another part of the act and pertaining to union elections and bargaining representation was held to be not germane to the bill.

In the 89th Congress, during consideration of a bill[10] relating to union shop agreements, the following amendment was offered:[11]

> Amendment offered by Mr. Ashbrook: On page 2, between lines 16 and 17, insert a new subsection (c) as follows:
>
> (c) That subsection (a) of section 9 of the National Labor Relations Act, as amended, is amended as follows:
>
> By adding after the phrase "conditions of employment:" the following: "*Provided*, such bargaining representatives shall have been certified by the Board as the result of an election conducted in accordance with section 9(c) hereof. . . ." And further that subsection (c) of section 10 of the Labor Management Relations Act of 1947, as amended, is amended as follows:

10. H.R. 77 (Committee on Education and Labor). See also § 41.1, supra, for further discussion of the bill. And see §§ 37.1, 37.2, supra, for further discussion of amendments offered to this bill.

11. 111 CONG. REC. 18633, 89th Cong. 1st Sess., July 28, 1965.

By adding after the phrase "The same regulations and rules of decision shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization national or international in scope." the following:

"*Provided further,* the Board shall not issue an order to bargain in any case in which the bargaining representative shall not have been certified as a result of an election conducted in accordance with section 9(c) hereof. . . ."

Mr. Adam C. Powell, Jr., of New York, made the point of order that the amendment was not germane. Speaking in response, Mr. John M. Ashbrook, of Ohio, stated:[12]

The purpose of H.R. 77 is to prohibit a State government from outlawing a union shop agreement under certain conditions. It would therefore seem that any measure which is directed toward prescribing the conditions which must exist as a prerequisite to the prohibition of State action would be germane.

By providing that the labor organization must be the representative of the employees—I refer to page 2, lines 8 and 9—"as provided in section 9(a)" it says that H.R. 77 has incorporated at least by reference the first clause of this key section. Accordingly, it should be as much in order to offer amendments to section 9(a) of the act as it would be if H.R. 77 had repeated in full the language of the section. . . .

. . . [T]he fundamental purpose of the amendment is germane and pertinent to the fundamental purpose of the bill itself.

12. *Id.* at pp. 18633, 18634.

The Chairman,[13] in sustaining the point of order, stated:[14]

. . . The Chair will say that precedents recited by the Chair in connection with the point of order raised against the amendment offered by the gentlewoman from Oregon[15] are persuasive.

For the reasons heretofore stated the Chair holds the amendment not germane and sustains the point of order.

—Amendment To Require Secret Ballot in Selection of Bargaining Unit

§ 41.3 To a bill repealing parts of the National Labor Relations Act and the Labor Management and Disclosure Act and amending a part of the National Labor Relations Act for the purpose of establishing a uniform federal rule governing union security agreements, an amendment modifying one of the sections of law in question to require that the selection of a labor organization bargaining unit be by secret ballot was held to be not germane.

13. Leo W. O'Brien (N.Y.).

14. 111 CONG. REC. 18634, 89th Cong. 1st Sess., July 28, 1965.

15. See the discussion of the Green amendment in § 41.1, supra.

The ruling of the Chair in this instance,[16] made in response to a point of order raised by Mr. Adam C. Powell, Jr., of New York, was based on a prior ruling made with respect to an amendment that had been offered by Mrs. Edith S. Green, of Oregon, to the same bill.[17]

—*Amendment as Beyond Scope of Bill Although Modifying Same Sections of Law*

§ 41.4 To a bill repealing a part of one law and making conforming changes in related laws for purposes of permitting employers and labor unions to enter into union shop agreements under some conditions, an amendment in the nature of a substitute proposing to modify the same portions of existing law in respects beyond the scope of the bill was held to be not germane.

In the 89th Congress, a bill[18] was under consideration which sought to repeal or modify portions of existing law and which had as its objective to remove the power of states to prohibit closed shop agreements.[19]

An amendment in the nature of a substitute was offered to the bill by Mr. Robert P. Griffin, of Michigan.[20] Such amendment, while having the same general objective as the bill, provided further that any closed shop agreement would be illegal if the union involved had engaged in any of several specified "unfair labor practices." Such practices included restricting memberhsip or privileges on racial or religious grounds; using dues for political purposes; ousting members for exercising civil rights; and requiring membership of persons having religious convictions against joining labor organizations. That portion of the National Labor Relations Act setting forth the law as to unfair labor practices was not within the purview of the bill. Mr. Adam C. Powell, Jr., of New York, made a point of order against the amendment,[1]

16. See 111 CONG. REC. 18645, 89th Cong. 1st Sess., July 28, 1965. The Chairman was Leo W. O'Brien (N.Y.).

17. See § 41.1, supra, for further discussion of the bill under consideration, H.R. 77 (Committee on Education and Labor), and the basis of the Chair's ruling with respect to the Green amendment. See also §§ 37.1, 37.2, supra.

18. H.R. 77 (Committee on Education and Labor).

19. For further discussion of the bill and amendments thereto, see § 37.1, 37.2, and 41.1–41.3, supra.

20. 111 CONG. REC. 18634, 89th Cong. 1st Sess., July 28, 1965.

1. *Id.* at p. 18635.

stating that it was not germane and noting the fact that the amendment embodied language[2] that had already been held not to be germane. Responding to the point of order, Mr. Griffin stated:[3]

> The purpose of this bill H.R. 77, as indicated in the report, is to establish a uniform Federal rule governing union security agreements. I point out that my substitute bill would repeal section 14(b), as the committee bill does, although my bill attaches certain conditions and limitations. My substitute, like H.R. 77, would provide for a uniform Federal rule governing union security agreements.
>
> The report goes on to point out that the provisions of the Committee bill be controlling as to the validity of union security provisions. My provisions of my substitute bill go to the validity of union security provisions. My substitute bill would not restrict labor organizations generally. It would apply only to those labor organizations which enter into union shop agreements.
>
> Mr. Chairman, if the House through the bill before us can pass on the complete, outright repeal of section 14(b), we ought to be able to do something less. . . .

The Chairman[4] sustained the point of order,[5] observing that the amendment included a proposition previously held not to be germane.

Federal Deposit Insurance Act—Amendment Affecting Amount of Deposit Insurance Not Germane to Proposition Concerning Interest Rates

§ 41.5 To a substitute amendment proposing to modify several banking acts with respect to interest rates, and to amend in a limited way a part of the Federal Deposit Insurance Act, an amendment proposing further amendment of the Federal Deposit Insurance Act on the subject of amount of deposit insurance was held to be not germane to the issue of interest rates.

The following ruling, during consideration of a bill[6] relating to temporary interest rate controls, was made on Sept. 8, 1966:[7]

> THE CHAIRMAN:[8] . . . The amendment offered to the substitute by the gentleman from California (Mr. Hanna) proposes to amend the Federal Deposit Insurance Act and the National Housing Act to increase the

2. See the Green amendment discussed in § 41.1, supra.
3. 111 CONG. REC. 18634, 18636, 89th Cong. 1st Sess., July 28, 1965.
4. Leo W. O'Brien (N.Y.).
5. 111 CONG. REC. 18636, 89th Cong. 1st Sess., July 28, 1965.
6. H.R. 14026 (Committee on Banking and Currency).
7. 112 CONG. REC. 22043, 89th Cong. 2d Sess.
8. Edward P. Boland (Mass.).

amount of insurance on bank deposits and savings and loan accounts from $10,000 to $20,000.

The substitute amendment before the Committee, proposed by the gentleman from Georgia (Mr. Stephens), narrowly amends one of the laws—the Federal Deposit Insurance Act—touched by the amendment. The substitute amends section 18(g) of that act to permit the Board of Directors of the FDIC some flexibility in the regulation of interest rates on time and savings deposits. . . .

The Chair feels that the amendment is not germane. It deals with a different subject than that covered by the substitute. It falls within the general rule that where it is proposed to amend existing law in one particular, an amendment to further amend the law in another respect not covered by the bill is not germane. (Cannon's Precedents (VIII, sec. 2937).)

The Chair sustains the point of order.

Salaries of Government Employees—Amendment Relating to Salaries of Other Classes of Employees

§ 41.6 To a bill establishing a commission to regulate salaries of certain government employees, an amendment repealing existing law and seeking to abolish a commission regulating salaries of other classes of employees was held not germane.

In the 91st Congress, a bill[9] was under consideration which sought to establish a Federal Employee Salary Commission for purposes of achieving comparability of salary between government employees and employees in private industry. The bill sought to raise the salaries of certain groups of employees covered by the bill and by the Federal Salary Act of 1967. An amendment, offered as a new section to the bill,[10] sought to repeal certain portions of the Federal Salary Act of 1967, so as to abolish the Federal Commission on Executive, Legislative and Judicial Salaries. Mr. Morris K. Udall, of Arizona, raised the point of order that the amendment was not germane to the bill, stating that the pending bill did not seek to affect the Salary Act of 1967. The proponent of the amendment, Mr. Edward J. Derwinski, of Illinois, responding to the point of order, cited the rule that an amendment offered as a separate section to a bill need be germane only to the subject matter of the bill as a whole rather than to any particular section of the bill.[11] The Chairman[12] ruled that the

9. H.R. 13000 (Committee on Post Office and Civil Service).
10. 15 Cong. Rec. 29972, 91st Cong. 1st Sess., Oct. 14, 1969.
11. *Id.* at p. 29972.
12. Charles M. Price (Ill.).

amendment was not germane, stating:[13]

> The Chair will point out . . . that the purposes of the bill under consideration are to set up a permanent method of adjusting the pay of Federal employees who are paid under one of the . . . statutory pay schedules—general schedule, postal field service schedules, foreign service schedules, and the schedules relating to physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans' Administration, and the elimination of the long-standing inequity in relation to the pay schedule of postal employees.
>
> The amendment . . . repeals section 225 of the Federal Pay Schedule Act relating to the (commission charged with regulating salaries of) Senators, Members of the House, cabinet officers, Justices, and judges. This particular bill deals with the setting up of a commission that has to do with the regulation of salaries for employees, and does not relate to the commission established by section 225. . . .

Bill Amending Agriculture Laws—Amendment Relating to Section Amended by Bill

§ 41.7 To bills amending several laws concerning the general subject of agriculture, including one section of the Soil Conservation and Domestic Allotment Act, amendments further relating to that section of the act was held to be germane.

On July 27, 1961, a bill[14] was under consideration[15] which, in part, sought to amend the Soil Conservation and Domestic Allotment Act by, first, adding a new feed grains program, and, second, amending the Great Plains conservation program. An amendment offered by Mr. Henry S. Reuss, of Wisconsin,[16] sought by further amending such Act to prohibit drainage of wet lands upon a finding being made and reported by the Secretary of the Interior to the effect that wildlife preservation would be materially harmed by the proposed drainage. The nature of the bill and the proposed amendment are revealed in the following discussion, which concerned a point of order raised against the amendment by Mr. H. Carl Andersen, of Minnesota:

> MR. ANDERSEN [of Minnesota]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill itself.
>
> Title II deals with the extension and amendment of Public Law 480 of the 83d Congress. Title II deals with the

13. 115 CONG. REC. 29973, 91st Cong. 1st Sess., Oct. 14, 1969.

14. H.R. 8230 (Committee on Agriculture), the Agricultural Act of 1961.

15. See portions of the bill at 107 CONG. REC. 13765, 13766, 87th Cong. 1st Sess.

16. *Id.* at p. 13770.

consolidation and simplification of the agricultural credit laws administered by the Farmers Home Administration. In title IV, we have the extension of the Great Plains conservation program, the extension of the special milk programs for children, the Armed Forces and veterans' dairy program, and the expansion of the food donations to certain State penal institutions.

Nowhere, Mr. Chairman, do we have anything in this bill to do with the ACP payments or the manner in which they shall be paid. The gentleman's amendment is clearly out of order and is not germane to the subject under discussion. . . .

MR. REUSS: . . . Mr. Chairman, I submit the amendment is germane to H.R. 8230, and to the page and line on which it is offered.

H.R. 8230 is an omnibus farm bill, known as the Agricultural Act of 1961. Among the purposes listed in its declaration of policy is "to reduce the cost of farm programs by preventing the accumulation of surpluses."

H.R. 8230 purports to amend section 16 of the Soil Conservation and Domestic Allotment Act of 1938, as amended, in two particulars: by setting up a special feed grains agricultural conservation program for 1962—section 132—and by amending the Great Plains conservation program—section 401. The Soil Conservation and Domestic Allotment Act of 1938 is the basic legislation setting up Federal cost-sharing for farm practices. Section 16, as amended, is a catchall provision: subsection (a) limits the obligations that may be incurred in any one calendar year, subsection (b) sets up the Great Plains conservation program, and subsection (c) sets up a special agricultural conservation program for the year 1961.

The Reuss amendment would prevent misuse of the Soil Conservation and Domestic Allotment Act by denying its benefits where a proposed drainage of farm wet lands would materially harm wildlife preservation.

The Reuss amendment would amend not only the Soil Conservation and Domestic Allotment Act of 1938 in general, but in the very part—section 16—in which it is sought to be amended by two provisions of H.R. 8230, pages 17 and 59.

The precedents are clear that the proposed amendment is germane. In 8 Cannon's Precedents, section 2942, it is stated:

> To a bill amending a law in several particulars, an amendment proposing modification in another particular was held to be germane. . . .

The Chairman[17] overruled the point of order, stating:

> The Chair would point out that the bill pending at this time amends the Soil Conservation Act in several instances. The amendment offered by the gentleman from Wisconsin [Mr. Reuss] places a further restriction on the Soil Conservation Act. It is therefore germane.

A substantially similar amendment was offered to the Food and Agricultural Act of 1962[18] in the second session of the 87th Con-

17. Paul J. Kilday (Tex.).

18. H.R. 11222 (Committee on Agriculture).

gress. The proceedings on June 20, 1962, were as follows:[19]

MR. REUSS: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Reuss: Page 2, line 13, after line 12, strike out lines 13, 14, and 15 and insert the following:

(4) by adding the following new subsections at the end of section 16 of said Act:

"(e) The Secretary of Agriculture shall not enter into an agreement in the States of North Dakota, South Dakota, and Minnesota to provide financial or technical assistance for wetland drainage on a farm under authority of this Act, if the Secretary of the Interior has made a finding that wildlife preservation will be materially harmed on that farm by such drainage. . . ."

MR. ANDERSEN of Minnesota: Mr. Chairman, a point of order.

THE CHAIRMAN:[20] The gentleman will state it.

MR. ANDERSEN of Minnesota: May I ask the gentleman from Wisconsin if this is not the same amendment that has already been passed on by the House and is now lying over in the Senate in the form of a separate bill?

MR. REUSS: The language of this amendment is identical.

MR. ANDERSEN of Minnesota: Mr. Chairman, I make the point of order that this particular amendment has already cleared the House and is awaiting action in the other body which does not care to act upon the matter. It has no place in the bill.

MR. REUSS: A point of order against the amendment on July 23, 1961, was overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The question raised by the gentleman from Minnesota was raised when the same question came up last year. The Chairman at that time overruled the point of order holding that it was germane.

The point of order is overruled.

Foreign Assistance Act—Amendment to Act Referred to in Foreign Assistance Act

§ 41.8 Where a bill sought to amend the Foreign Assistance Act of 1961, and such act had provided for amendment of, and authorized use of funds generated under the Agricultural Trade Development and Assistance Act of 1954, an amendment proposing to amend the latter act was held to be germane.

During consideration of the Foreign Assistance Act of 1962,[1] an amendment was offered[2] which sought to amend the Agricultural Trade Development and Assistance Act of 1954 and which related to the power of the President to negotiate agreements with

19. 19. 108 Cong. Rec. 11211, 87th Cong. 2d Sess.

20. Francis E. Walter (Pa.).

1. H.R. 11921 (Committee on Foreign Affairs).

2. See 108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962.

foreign nations for sale of surplus commodities in exchange for foreign currencies. Mr. Robert R. Barry, of New York, the proponent, explained the purposes of the amendment, as follows:

> Mr. Chairman, the amendment which I am proposing is intended to assure that our surplus farm commodities are sold on best possible terms—specifically, at rates of exchange not less favorable than the highest rates legally obtainable from the governments, or government agencies, of the purchasing countries. . . .
>
> A point of order was raised against the amendment, as follows:
>
> MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, the amendment here is to Public Law 480, which is the Agricultural Act, and the particular section to which it is addressed is section 101(f) of Public Law 480. That is not now before the House. The gentleman's amendment is not germane to any section of the bill. I therefore insist on the point of order.

The Chairman,[3] speaking with reference to an exchange between Mr. Barry and himself, stated that, "The burden of proof is always on the person who proposes an amendment." The Chairman then overruled the point of order. He stated:[4]

> The bill before the Committee, H.R. 11921, to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, refers, of course, to the act of 1961. In the act of 1961 itself specific provision was made for amendment of the Agricultural Trade Development and Assistance Act of 1954, to which the amendment offered by the gentleman from New York refers.
>
> The Chair believes that the subject matter of the Agricultural Trade Development and Assistance Act of 1954 is included within the purview of the Foreign Assistance Act of 1961, which is the bill before the Committee and, therefore, feels that the amendment offered by the gentleman from New York [Mr. Barry] is germane to the bill. The Chair overrules the point of order.

Bill Citing Neutrality Act—Amendment Affecting Provisions of Neutrality Act

§ 41.9 To a proposition that, "Nothing in this act . . . be construed" to authorize movements of American vessels in violation of the Neutrality Act of 1939, an amendment offered as a substitute which in effect amended the Neutrality Act by imposing certain obligations upon the President was held to be not germane.

In the 77th Congress, during proceedings related to a bill[5] promote the defense of the United

3. Wilbur D. Mills (Ark.).

4. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962.

5. H.R. 1776 (Committee on Foreign Affairs).

States, the following proposition came under consideration:[6]

> (e) Nothing in this act shall be construed to authorize or permit the authorization of the entry of any American vessel into a combat area in violation of section 3 of the Neutrality Act of 1939.

Subsequently, a substitute for the above proposition was offered. Such substitute stated:[7]

> Nothing in this act shall be construed to repeal or suspend any of the provisions of section 2 or 3 of the Neutrality Act approved November 4, 1939. . . . Neither the President nor any governmental agency under authority of this act or otherwise shall send or cause to be sent any American merchant ship to any belligerent nation or into or through any combat area, unless the President by proclamation shall have declared that such nation has in fact ceased to be a belligerent or that such area has in fact ceased to be a combat area.

A point of order against the amendment was made as follows:

> MR. [SOL] BLOOM [of New York]: Mr. Chairman, I make the point of order against the amendment that it is an amendment changing the Neutrality Act and is not germane to this section.

The following exchange ensued with respect to the point of order:[8]

> MR. LUTHER A. JOHNSON [of Texas]: . . . (The objection) is that the amendment . . . seeks to change the neutrality law. That is the ground upon which the objection is made . . . that it does not simply adhere to the neutrality law but goes beyond the neutrality law and changes it. In other words, the gentleman seeks to change another act of Congress by this amendment.
>
> MR. [JAMES W.] MOTT [OF OREGON]: By what language? . . .
>
> MR. LUTHER A. JOHNSON: By this language. The amendment arbitrarily states that certain things shall and shall not be done, whereas the Neutrality Act leaves the question of danger zones to the executive discretion of the President. . . .
>
> MR. MOTT: . . . There are in this language things that limit the authority proposed to be granted under H.R. 1776, but, certainly, nothing that changes the provisions of the Neutrality Act; on the contrary, all of this language strengthens the provisions of sections 2 and 3 of the Neutrality Act.

The Chairman,[9] in ruling on the point of order, stated:

> The gentleman from New York [Mr. Bloom] has offered an amendment to the pending bill. The gentleman from Oregon [Mr. Mott] has offered an amendment in the nature of a substitute for the amendment offered by the gentleman from New York [Mr. Bloom]. . . . [T]he amendment offered by the gentleman from New York [Mr. Bloom] does not seek to amend or alter or change the existing law known as the Neutrality Act. . . .

6. 87 CONG. REC. 753, 77th Cong. 1st Sess., Feb. 7, 1941.

7. *Id.* at p. 757.

8. *Id.* at p. 758.

9. Jere Cooper (Tenn.).

. . . [T]he effect of the amendment is to make reference to and recognize the Neutrality Act, whereas the amendment offered by the gentleman from Oregon, after providing certain language in the first part of the amendment . . . goes further and imposes certain restrictions or obligations upon the President that would be a change of the so-called existing Neutrality Act. Therefore . . . the scope of the substitute amendment is much broader than the scope of the amendment offered by the gentleman from New York and would embrace sufficient additional provisions as to make the substitute amendment not germane to the pending amendment. Therefore the Chair sustains the point of order.

Rescission of Appropriations and Contract Authorizations—Amendment To Enact Provisions Affecting Demobilization

§ 41.10 To a bill providing for the rescission of certain appropriations and contract authorizations, containing a provision generally that the officer and enlisted personnel of the armed services shall be demobilized at a rate not less than would be necessary to keep within the amounts available for their pay, unless the President otherwise shall direct, an amendment seeking to enact into substantive law a proviso requiring the release of such personnel under certain conditions therein set out, was held not germane.

In the 79th Congress, a bill[10] was under consideration which stated in part:[11]

Be it enacted, etc., That the appropriations and contractual authorizations of the departments . . . available in the fiscal year 1946, and prior year unreverted appropriations, are hereby reduced in the sums hereinafter set forth. . . .

The officer and enlisted personnel strengths of the Army, Navy, Marine Corps, and Coast Guard shall be demobilized at a rate not less than would be necessary to keep within the amounts available for their pay in consequence of the provisions of this act, unless the President otherwise shall direct. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. Rankin: On page 36, line 7, after the word "direct", strike out the period, insert a colon and the following:

Provided, That (a) there shall be discharged from . . . active duty . . . without delay, any person who requests such discharge . . . and who—

(1) has served on active duty 18 months or more since September 16, 1940; or

(2) has, at the time of making such request, a wife or a child . . . or

10. H.R. 4407 (Committee on Appropriations).

11. See 91 Cong. Rec. 9846, 9868, 79th Cong. 1st Sess., Oct. 19, 1945.

(3) has . . . a mother or father dependent upon him for chief support; or

(4) desires to resume his education or training by enrolling in an educational or training institution. . . .

Mr. Emmet O'Neal, of Kentucky, made the point of order that the amendment was not germane to the bill.[12]

The following exchange then occurred:[13]

MR. [JOHN E.] RANKIN [of Mississippi]: . . . As the Chairman knows, the question of germaneness is one of procedure. . . . It is whether or not the amendment proposed injects new or extraneous matter into the bill or the provision to which it is offered. . . .

Suppose I had added some other provision there for additional money, or to take away a part of the appropriation, you would have said it was germane. In other words, it would be germane for me to cut off the soldier's supply of food, according to the argument of the opposition but not germane for me to ask for his discharge. . . .

MR. O'NEAL: . . . If you will read the gentleman's amendment offered to this paragraph, you will find that he goes into the question of defining the various classes of men in the Army, and writes a ticket going way beyond anything in the bill. This is a rescission bill cutting off money from all the departments of the Government, the Army included. The amendment attempts to define how demobilization shall take place, how people shall be judged, according to their families and how many children they have, and whether the children are going to school or not. This is writing a legislative bill in here. It is so far beyond anything in this bill. . . .

The Chairman,[14] in ruling on the point of order, stated:[15]

The amendment offered by the gentleman from Mississippi is clearly a general legislative expression and proposes substantive law, whereas the provision in the bill to which the amendment is offered is merely the expression of a hope that within the amounts available for their pay and in consequence of the provisions of this act demobilization will be carried on as rapidly as possible.

In the opinion of the Chair, clearly, under the limitations of the general provision on page 36, this amendment, being a general legislative provision with reference to demobilization and having the effect of substantive law, and not being restrictive is not germane. The Chair therefore sustains the point of order.

Mr. Rankin appealed from the ruling of the Chair, whereupon Mr. O'Neal moved to lay the appeal on the table. The Chairman having stated that, "The motion to lay on the table is not in order in the Committee," the issue of the appeal was debated under the five-minute rule. The Chairman left the chair to permit Mr. Jere

12. *Id.* at p. 9869.

13. *Id.* at pp. 9869, 9870.

14. Fritz G. Lanham (Tex.).

15. 91 CONG. REC. 9870, 79th Cong. 1st Sess., Oct. 19, 1945.

Cooper, of Tennessee, to preside and to put the question:[16]

> THE CHAIRMAN: The question is: Shall the decision of the Chair stand as the judgment of the Committee of the Whole?
>
> The question was taken: and the Chair announced that the "ayes" had it.
>
> So the decision of the Chair stands as the judgment of the Committee of the Whole.

Civil Rights—Amendment To Prohibit Discrimination in Membership of Professional Organizations

§ 41.11 To a bill amending several laws relating to civil rights, including one title of the Civil Rights Act of 1964, an amendment further modifying such act was held to be germane.

On Aug. 9, 1966, the Civil Rights Act of 1966,[17] a comprehensive civil rights bill prohibiting discrimination in the conduct of a number of public and private activities, was under consideration. The bill amended several laws in the civil rights field, including the Civil Rights Act of 1964 which dealt in part with fair employment practices. An amendment was offered to the bill which proposed to amend the Civil Rights Act of 1964 to prohibit discrimination in the membership of professional organizations and societies.[18] Explaining the purpose of the amendment, the proponent, Mr. Joseph Y. Resnick, of New York, stated:[19]

> Mr. Chairman, this amendment would bring professional societies and associations—as defined in the amendment—under the broad umbrella of employment rights in title VII of the Civil Rights Act of 1964, the equal employment opportunity title. This would mean that in addition to the numerous persons and groups listed in title VII, professional associations would also be prohibited from discriminating because of race, color, religion, sex, or national origin.
>
> Specifically, the amendment would make it an unlawful employment practice for a professional group to exclude or expel from its membership or otherwise discriminate against any individual because of his race, as is the current practice. . . .

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

> MR. [JACK] EDWARDS [of Alabama]: Mr. Chairman, I make the point of order that the amendment is not germane, that it seeks to inject private organizations into the bill, the title of

16. *Id.* at p. 9870.
17. H.R. 14765 (Committee on the Judiciary).
18. 112 CONG. REC. 18728, 18729, 89th Cong. 2d Sess.
19. *Id.* at p. 18729.

which makes it clear that public organizations only are involved. I insist upon my point of order.

In defense of the amendment, the proponent stated as follows:[20]

MR. RESNICK: . . . Mr. Chairman, this bill is an omnibus civil rights bill. It covers a wide variety of activities in the civil rights and human rights field. In addition, the bill in many places would amend titles of the Civil Rights Act of 1964. It does not do it in 1 place; it does not do it in 2 places; it does it in 17 places. The amendment, very simply, would amend it in still another place. Therefore, I believe my amendment is germane and is not subject to a point of order.

The Chairman,[1] in ruling on the point of order, stated:[2]

The gentleman from New York [Mr. Resnick] offers an amendment which proposes the addition of a new title VIII to the pending amendment in the nature of a substitute. The gentleman's proposal would further extend the writ of the Civil Rights Act of 1964, an act which is elsewhere amended in the proposal before the Committee, to prevent discrimination in the membership of certain professional societies and organizations. The Chair has examined the amendment and the provisions of existing law it amends. In view of the fact that the pending bill amends several laws dealing with the subject of civil rights, including the Civil Rights Act of 1964, and is comprehensive in its scope, touching on various aspects of civil rights, the Chair feels the amendment offered by the gentleman from New York is germane. He therefore overrules the point of order.

—Amendment Enlarging Scope of Law To Include Interference With Rights by Actions of United Nations Not Germane to Bill Increasing Penalties for Interference With Rights Under Existing Law

§ 41.12 To a bill proscribing interference with certain civil rights and amending existing law to increase the penalty for depriving, under color of law, an individual of constitutional rights, an amendment was held to be not germane which sought to enlarge the scope of existing law to include protection of individuals against such deprivation of their rights as might result from actions of the United Nations.

In the 90th Congress, a bill[3] was under consideration prescribing penalties for interference

20. *Id.* at pp. 18729, 18730.

1. Richard Bolling (Mo.).

2. 112 CONG. REC. 18730, 89th Cong. 2d Sess., Aug. 9, 1966.

3. H.R. 2516 (Committee on the Judiciary).

with certain civil rights. The bill stated in part:[4]

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) chapter 13, Civil Rights, title 18, United States Code, is amended by inserting immediately at the end thereof the following new sections, to read as follows:
>
> "§ 245. Interference with civil rights
>
> "Whoever, whether or not acting under color of law, by force or threat of force, knowingly—
>
> "(a) injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with any person because of his race, color, religion, or national origin, while he is lawfully engaging or seeking to engage in—
>
> "(1) voting or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher, or any legally authorized election official, in any primary, special, or general election; . . .
>
> "(3) participating in or enjoying any benefit, service, privilege, program, facility, or activity provided or administered by the United States or by any State or subdivision thereof; . . .
>
> "(7) participating in or enjoying the benefits of any program or activity receiving Federal financial assistance; or
>
> "(8) enjoying the goods, services, facilities, privileges, advantages, or accommodations of any inn, hotel, motel, or other establishment which provides lodging to transient guests or of any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility which serves the public and which is principally engaged in selling food for consumption on the premises, or of any gasoline station, or of any motion picture house, theater, concert hall, sports arena, stadium, or any other place of exhibition or entertainment which serves the public, or of any other establishment which serves the public and which is located within the premises of any of the aforesaid establishments or within the premises of which is physically located any of the aforesaid establishments; or
>
> "(b) injures, intimidates, or interferes with, or attempts to injure, intimidate or interfere with any person (1) to discourage such person or any other person or any class of persons from lawfully participating or seeking to participate in any such benefits or activities without discrimination on account of race, color, religion, or national origin, or (2) because he has so participated or sought to so participate, or urged or aided others to so participate, or engaged in speech or peaceful assembly opposing any denial of the opportunity to so participate . . . shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life."
>
> "(b) Title 18, United States Code, is amended by adding to the analysis of chapter 13 at the end thereof the following:
>
> "Sec. 245. Interference with civil rights."
>
> Sec. 12. (a) Section 241 of title 18, United States Code, is amended by striking out the final paragraph thereof and substituting the following:
>
> "They shall be fined not more than $10,000 or imprisoned not more than ten years, or both; and if death results, they shall be subject to impris-

4. 113 CONG. REC. 22691, 90th Cong. 1st Sess., Aug. 15, 1967.

onment for any term of years or for life."

(b) Section 242 of title 18, United States Code, is amended by striking out the period at the end thereof and adding the following: "; and if death results shall be subject to imprisonment for any term of years or for life."

The following amendment was offered to the bill:[5]

Amendment offered by Mr. Rarick: On page 9, line 19, after (b), strike out lines 19, 20, 21, and 22, and insert:

(b) Section 242 of title 18, United States Code, is amended to read as follows:

"§ 242. Deprivation of rights under color of law

"Whoever, under color, of any law . . . regulation, or custom [including measures related to giving effect to United Nations decisions] willfully subjects any inhabitant of any State . . . or possession of the United States to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws . . . shall be fined . . . or imprisoned. . . .

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

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane in that in the bill before us all we do with reference to section 242 is to amend the penalties.

But in the amendment as offered by the gentleman from Louisiana the entire section and substance of section 242 of title 18 of the United States Code is added to the bill. . . .

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

MR. [JOHN R.] RARICK [of Louisiana]: Mr. Chairman, the bill before us today in subsection (b) does provide for amendment by additional penalties under section 242 of title 18, United States Code.

In substance the amendment that I have offered only provides that in addition to the penalties against States and State officials acting under color of law, an American citizen may also have his constitutional rights denied him by treaties and orders, et cetera, emanating from the United Nations and from other sources.

Therefore, Mr. Chairman, I certainly feel that the amendment is germane. . . .

The Chairman,[6] in ruling on the point of order, stated:

. . . [The amendment] goes well beyond the proposition before the House and adds additional penalties to title 18, section 242, which are not germane to the bill. . . .

Assistance to Localities in Control of Crime—Amendment To Make Employment Benefits Applicable to "Public Safety Officers"

§ 41.13 To a bill relating to assistance for localities in con-

5. 113 CONG. REC. 22768, 90th Cong. 1st Sess., Aug. 16, 1967.

6. Richard Bolling (Mo.).

trolling crime, which proposed to amend the Omnibus Crime Control and Safe Streets Act of 1968 and to effect administrative changes through amendment of the appropriate title of the United States Code, an amendment was held to be not germane which proposed through modification of another part of that title to extend certain benefits under the Federal Employees' Compensation Act to "public safety officers" and their survivors.

In the 91st Congress, a bill[7] was under consideration which sought to amend the Omnibus Crime Control and Safe Streets Act of 1968. The following amendment was offered to the bill:[8]

> Amendment offered by Mr. Jacobs: On page 15, line 18 after "Sec. 9" insert "(a)"
>
> On page 15, after line 20, add the following new subsections:
>
> (b) Section 8191 of title 5, United States Code, is amended to read as follows:
>
> "§ 8191. Determination of eligibility
>
> The benefits of this subchapter are available . . . to eligible public safety officers . . . and their survivors. For the purposes of this Act, an eligible officer is any person who is determined by the Secretary of Labor in his discretion to have been on any given occasion—
>
> "(1) employed as a law enforcement officer or fireman by a State or a political subdivision. . . ."
>
> (c) The heading at the beginning of subchapter III of chapter 81 of title 5, United States Code, and the item relating to such subchapter in the table of sections at the beginning of such chapter are amended by striking out 'Law Enforcement' and inserting in lieu thereof "Public Safety". . . .

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. It refers to compensation and to personal liability and it has no relation whatsoever to the bill under consideration, which concerns law-enforcement assistance.

In defense of the amendment, the proponent stated as follows:[9]

> MR. [ANDREW J.] JACOBS [Jr., of Indiana]: . . . Mr. Chairman, the amendment that is proposed would simply extend to any policeman or fireman in the United States who is killed or totally disabled in line of duty benefits under the Federal Employees' Compensation Act.
>
> The amendment is offered as an amendment to section 9 of the pending legislation. Section 9 of the pending legislation deals with title V of the

7. H.R. 17825 (Committee on the Judiciary).

8. 116 CONG. REC. 21870, 91st Cong. 2d Sess., June 29, 1970.

9. *Id.* at pp. 21870, 21871.

United States Code, which contains the Employment Compensation Act. . . .

Under the rule . . . that the amendment must be "clearly and distinctly connected logically with the general scope and intent of the bill," the policeman and fireman amendment would be germane in the sense that it is offered as an amendment ultimately to the Omnibus Crime Control and Safe Streets Act of 1968.

This amendment, to provide survivor benefits to families of police and firemen killed in the line of duty, would provide essentially a form of additional compensation. Section 301, subsection (b) of the Safe Streets Act allows that up to one-third of any grant made under this section may be expended for compensation of personnel, which shows a germaneness. . . .

The Chairman,[10] in ruling on the point of order, stated:[11]

. . . The bill amends the Omnibus Crime Control and Safe Streets Act of 1968 to assist States and local government to control crime and violence. It authorizes appropriations for 3 additional years; changes management from the 3-member board to a single administrator; sets up a new matching grant program relating to correctional facilities; and provides for matching grants for enforcement assistance and education.

The amendment of the gentleman from Indiana proposes upon a determination by the Secretary of Labor to make State and local policemen, as well as firemen, or their survivors, eligible for benefits under the Federal employee compensation for work injuries statutes.

The Chair does not believe that the amendment of the gentleman from Indiana is germane to the bill and therefore sustains the point of order.

Bill Increasing Authorization for Commission on Marihuana and Drug Abuse—Amendment To Increase Regulation of Amphetamines

§ 41.14 A bill extending or increasing an authorization for an agency but not substantively amending the permanent law does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill; thus, to a bill amending one section of the Comprehensive Drug Abuse Prevention Act to increase the authorization of appropriations for the Commission on Marihuana and Drug Abuse, an amendment proposing to modify another section of that law for purposes of facilitating increased regulation of amphetamines was held to be not germane.

10. Daniel D. Rostenkowski (Ill.).

11. 116 Cong. Rec. 21871, 91st Cong. 2d Sess., June 29, 1970.

In the 92d Congress, a bill[12] was under consideration to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to increase the appropriation authorization for the Commission on Marihuana and Drug Abuse. An amendment[13] offered by Mr. Glenn M. Anderson, of California, sought to transfer amphetamines from "schedule III" to "schedule II" of the act, the effect of which was explained by Mr. Anderson as follows:[14]

> . . . Under current law, amphetamines are under schedule III. Under this schedule, all that a manufacturer, distributor, or dispenser of amphetamines must do, is notify the Justice Department that they are dealing in amphetamines. In order to obtain amphetamines from a manufacturer, a dispenser has no order forms. He simply writes a letter on his own stationery. In addition, there is no limit on the production of amphetamines and, in order to import or export amphetamines, a dispenser simply is required to notify the Justice Department.
>
> Under schedule II, first, a manufacturer, distributor, or dispenser of amphetamines would be required to register with the Department of Justice and prove that he has a legitimate operation and need for amphetamines. Second, in order to dispense amphetamines, a physician would be required to order them with Justice Department order forms. Thus, the Attorney General would be aware of who ordered how much. Third, the Department of Justice would give the manufacturer a production quota to coincide with the medical needs of the United States. Fourth, in order to import or export amphetamines, a dealer must obtain an authorization from the Department of Justice.
>
> Thus, Mr. Chairman, under schedule III, we can readily see that amphetamine production and distribution is very loosely controlled. Whereas under schedule II, amphetamines would be limited to the legitimate needs of the medical community, and its use would be severely restricted. . . .

A point of order was raised against the amendment, as follows:[15]

> MR. [HARLEY O.] STAGGERS [of West Virginia]: . . . I believe the amendment is not germane to the bill. This amendment deals with the existing law and this bill is simply for the authorization of additional expenditures. Therefore it is not germane.

Mr. Anderson responded to the point of order by citing the principle that an amendment offered as a separate section need not be germane to any particular section of the bill to which offered but merely should be germane to the subject matter of the bill as a whole, and pointing out that both

12. H.R. 5674 (Committee on Interstate and Foreign Commerce).

13. See 117 CONG. REC. 12318, 12319, 92d Cong. 1st Sess., Apr. 28, 1971.

14. *Id.* at p. 12319.

15. *Id.* at p. 12320.

the bill and his amendment sought to amend the Drug Abuse Prevention and Control Act. The Chairman,[16] in ruling on the point of order, stated:

> The bill under consideration amends section 601 of the Comprehensive Drug Abuse Prevention Act of 1970 to increase the authorization for the Commission on Marihuana and Drug Abuse from 1 to 4 million. No other section of the basic act is amended by the bill.
>
> The amendment, which is the text of H.R. 6825, proposes to amend section 202 of the Controlled Substances Act to move amphetamines and certain other stimulant substances from schedule III to schedule II of the act.
>
> Where a bill proposes to amend a law in one particular, it is well established that amendments relating to the terms of the law rather than to the bill are not germane. This bill contains only one section.
>
> The Chair believes that the amendment goes to a subject not under consideration in the pending bill and sustains the point of order that the amendment is not germane.

Parliamentarian's Note: See also Sec. 39.33, supra, for a similar ruling wherein the bill merely extended an authorization of appropriations, and an amendment permanently changing the law was held to be not germane.

16. William S. Moorehead (Pa.).

Temporary Increase in Debt Ceiling—Amendment Proposing Permanent Changes in Liberty Bond Act

§ 41.15 To a bill proposing a temporary change in law, an amendment making other permanent changes in that law is not germane.

On Nov. 7, 1973,[17] during consideration of a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year, but not directly amending the Second Liberty Bond Act, an amendment was offered proposing permanent changes in that Act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees).

> The Clerk read as follows:
>
> Sec. 2. Effective on the date of the enactment of this Act, section 101 of the Act of October 27, 1972, providing for a temporary increase in the public debt limit for the fiscal year ending June 30, 1973 (Public Law 92–599), as amended by the first section of Public Law 93–53, is hereby repealed.
>
> MR. [H.R.] GROSS [of Iowa]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gross: On page 2, line 3, after the period,

17. 119 CONG. REC. 36240, 36241, 93d Cong. 1st Sess.

insert the following: *Provided further*, that the expenditures of the Government during each fiscal year, including reduction of the public debt in accordance with the provisions of section 3, shall not exceed its revenues for such year except—

(1) in time of war declared by the Congress . . .

Sec. 3. Section 21 of the Second Liberty Bond Act, as amended (31 U.S.C. 757b), is amended by inserting "(a)" after "Sec. 21." and by adding at the end thereof the following:

"(b) The public debt limit set forth in subsection (a) is hereby reduced as follows:

"(1) Effective on July 1, 1974, by an amendment equal to 2 percent of the net revenue of the United States for the fiscal year ending June 30, 1973;

"(2) Effective on July 1, 1975, by an amount equal to 3 percent of the net revenue of the United States for the fiscal year ending June 30, 1974;

"(3) Effective on July 1, 1976, by an amount equal to 4 percent of the net revenue of the United States for the fiscal year ending June 30, 1975;

"(4) Effective on July 1, 1977, and July 1 of each year thereafter, by an amount equal to 5 percent of the net revenue of the United States for the fiscal year ending on June 30, of the preceding year."

Sec. 4. (a) The Budget submitted annually by the President pursuant to section 201 of the Budget and Accounting Act, 1921, as amended, shall be prepared, on the basis of the best estimates then available, in such a manner as to insure compliance with the first section of this Act.

(b) Notwithstanding any obligational authority granted or appropriations made except such with respect to the legislative and judicial branches of the Government, the President shall from time to time during each fiscal year take such action as may be necessary (by placing funds in reserve, by apportionment of funds, or otherwise) to insure compliance with the first section of this Act.

Sec. 5. The Congress shall not pass appropriations measures which will result in expenditures by the Government during any fiscal year in excess of its estimated revenues for such year (as revenues have been estimated in the budget submitted by the President), except—

(1) to the extent of any additional revenues of the Government for such fiscal year resulting from tax legislation enacted after the submission of the budget for such fiscal year; or

(2) in time of war declared by the Congress; or

(3) during a period of grave national emergency declared in accordance with the first section of this Act; but, subject to paragraph (1) of this section, appropriations measures which will so result in expenditures in excess of estimated revenues may be passed by the Congress only during such a period of grave national emergency.

Sec. 6. This Act shall apply only in respect of fiscal years beginning after June 30, 1974.

MR. [AL] ULLMAN [of Oregon]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:[18] The gentleman will state his point of order.

MR. ULLMAN: Mr. Chairman, the bill before us provides for a temporary change in the debt ceiling in conformity with the Second Liberty Bond Act. The amendment offered by the gentleman from Iowa makes a permanent change in the Second Liberty Bond Act, and therefore is not germane to this bill. . . .

MR. GROSS: . . . Mr. Chairman, the entire thrust of the bill before us is the

18. William H. Natcher (Ky.).

national debt and the ceiling of that debt. The main thrust of this amendment is to control the Federal debt and reduce the ceiling.

Mr. Chairman, I believe the amendment is in order.

THE CHAIRMAN: The Chair is ready to rule on the point of order.

The bill presently before the House provides for a temporary change in the debt limit for this fiscal year, and the amendment constitutes a permanent change in the law.

In addition, the amendment also goes to the preparation of the budget under the Budget and Accounting Act which is under the jurisdiction of another committee. Volume 8 of the precedents of the House provides under section 2914 the following:

> To a section proposing legislation for the current year, an amendment rendering such legislation permanent was held to be not germane.

The Chair sustains the point of order.

Administration of Existing Programs Transferred to New Department of Education—Amendment To Prohibit Use of Authorized Funds for School Busing

§ 41.16 Although it is ordinarily germane by way of amendment to limit the uses to which an authorization of appropriations carried in a bill may be applied, that principle normally applies to annual authorization bills reported by the committees having legislative and oversight jurisdiction over the statutes for which the funds are authorized; but where the Committee on Government Operations has reported an organizational bill to create a new department in the executive branch, which transfers the administration of existing statutes and programs to that department without modifying such statutes and programs, and which contains a general authorization of appropriations for the department to carry out its functions under the Act, such a bill is not necessarily open to amendments which change the substantive laws to be administered.

On June 19, 1979, the Committee of the Whole had under consideration H.R. 2444, reported from the Committee on Government Operations, to establish a new Department of Education, and transferring to such Department the administration of federally funded programs within the jurisdiction of other committees. The bill contained an authorization of appropriations to carry out its provisions and to enable the Department to perform the func-

tions transferred to it, subject to existing laws limiting appropriations applicable to any of those functions.[19] An amendment was offered[20] to prohibit the use of any funds appropriated under such authorization to provide for transportation of students or teachers for purposes of establishing racial or ethnic quotas in schools. The amendment was ruled out as not germane, on the grounds that the bill was merely organizational in nature and only transferred the administration of educational laws to the Department without modifying those laws; and because the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

Amendment offered by Mr. Dornan: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

Sec. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . . (T)he language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the house.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill. . . .

19. 125 CONG. REC. 14717, 96th Cong. 1st Sess., June 13, 1979.

20. 125 CONG. REC. 15570, 96th Cong. 1st Sess., June 19, 1979.

MR. [ROBERT K.] DORNAN [of California]: . . . Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse discrimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this, since they have already had a chance to look at it once.

I just simply state that it is germane in more than one section and not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981. . . .

THE CHAIRMAN:[1] The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them. . . .

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable

1. Lucien N. Nedzi (Mich.).

to infer that the thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as authorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in an organizational bill, be open to amendments which redirect the administration of educational programs in ways not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

Annual Authorization—Amendment Changing Permanent Law Relating to Organization of Agency

§ 41.17 An amendment making permanent changes in the law relating to the organization of an agency is not germane to a title of a bill only authorizing annual appropriations for such agency for one fiscal year.

On Dec. 4, 1979,[2] during consideration of H.R. 2608[3] in the Committee of the Whole, Chairman Leon E. Panetta, of California, sustained a point of order against the amendment described above. The proceedings were as follows:

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated: . . .

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lujan: On page 8, after line 11, insert the following:

Sec. 107. Section 201 (a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after para-

2. 125 CONG. REC. 34083, 34089, 34090, 96th Cong. 1st Sess.

3. The Nuclear Regulatory Commission Authorization Act.

graph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate. . . .

MR. [MORRIS K.] Udall [of Arizona]: . . . (T)he amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained. . . .

MR. LUJAN: Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

THE CHAIRMAN: . . . [T]he Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

Temporary Authorization Bill Restricting Agency's Use of Funds—Senate Amendment Affecting Policy Over Several Years

§ 41.18 To a temporary authorization bill affecting existing law only to the extent of restricting an agency's use of funds authorized therein, a Senate amendment contained in a conference report, which was not limited to that agency's use of funds but rather proposed a multiyear change in policy under the organic law governing that agency's operations, was conceded to be not germane.

On Dec. 2, 1982,[4] during consideration of the conference report on H.R. 2330, the Nuclear Regulatory Commission authorization for 1982 and 1983, a point of order was made, pursuant to Rule XXVIII, clause 4, against a Senate amendment contained in the conference report. The Senate amendment as modified in the conference report stated in part as follows, and the point of order was made by Mr. Bill Frenzel, of Minnesota, as indicated below:

uranium supply

Sec. 23. (a)(1) Not later than 12 months after the date of enactment of

4. 128 CONG. REC. 28537, 97th Cong. 2d Sess.

this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives. . . .

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"Sec. 170B. Uranium Supply.

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section. . . .

"e. (1) During the period 1982 to 1992, if the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, then the Secretary shall immediately revise criteria for services offered under paragraph (A) of section 161 v. to enhance the use of source material of domestic origin for use in utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act. . . .

"f. In order to protect essential security interests of the United States, upon the initiation of an investigation under subsection e. to determine the effects on the national security of imports of source material or special nuclear material pursuant to section 232 of the Trade Expansion Act of 1962, it shall be unlawful to execute a contract or option contract resulting in the import of additional source material or special nuclear material from foreign sources, which is intended to be used in domestic utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act. This prohibition shall remain in effect for a period of two years or until the President has taken action to adjust the importation of source material and special nuclear material so that such imports will not threaten to impair the national security, whichever first occurs.". . .

MR. FRENZEL: Mr. Speaker, I have a point of order against section 23 of the conference report substitute. . . .

I make a point of order that the matter contained in section 23 of the conference report would not be germane to H.R. 2330 under clause 7 of rule XVI if offered in the House and is, therefore, subject to a point of order under clause 4 of rule XXVIII.

THE SPEAKER PRO TEMPORE:[5] Does the gentleman from Arizona (Mr. Udall) desire to be heard?

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5. William H. Natcher (Ky.).

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, we concede the substance of the point of order the gentleman is making.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

MR. FRENZEL: Mr. Speaker, pursuant to the provisions of clause 4, rule XXVIII, I move that the House reject section 23 of the conference substitute recommended in the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from Minnesota (Mr. Frenzel) is recognized for 20 minutes on his motion.

Authorization for Nuclear Regulatory Commission for Two Years—Senate Amendment To Amend Atomic Energy Act

§ 41.19 To a House bill authorizing appropriations for two years for the Nuclear Regulatory Commission but not amending the Atomic Energy Act with respect to nuclear energy policy, provisions in a Senate amendment contained in a conference report amending several sections of that Act making permanent changes in the law relating to limitation on use of special nuclear material, disclosure of Department of Energy information, and deadlines for promulgation of environmental standards by EPA and NRC for uranium mill tailings were conceded to be nongermane under Rule XXVIII, clause 4, permitting a divisible motion to reject those portions of the conference report.

On Dec. 2, 1982,[6] a point of order was made against portions of a conference report pursuant to Rule XXVIII, clause 4, which permits such points of order against nongermane matter contained in conference reports. The conference report stated in part as follows, and the point of order was made by Mr. Samuel S. Stratton, of New York, as indicated below:

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

Sec. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.". . .

18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section"

(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date

6. 128 CONG. REC. 28544, 97th Cong. 2d Sess.

on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator. . . .

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed. . . .

MR. STRATTON: Mr. Speaker, I make a point of order that the matter contained in sections 14, 17, and 18 of the substitute for the Senate amendment in the conference report would not be germane to H.R. 2330 if offered in the House and is, therefore, subject to a point of order under the rules of the House.

I make this point of order, Mr. Speaker, because sections 14, 17, and 18 would be permanent changes in law and this bill is a 2-year authorization bill; also, the three sections contain matters that fall within the jurisdiction of the Armed Services Committee.

THE SPEAKER PRO TEMPORE:[7] The Chair recognizes the gentleman from Arizona (Mr. Udall).

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Speaker, I concede the point of order and wish to be heard in the regular order on the motion.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

MOTION OFFERED BY MR. STRATTON

MR. STRATTON: Mr. Speaker, I offer a motion.

THE SPEAKER PRO TEMPORE: The Clerk will report the motion.

The Clerk read as follows:

> Mr. Stratton moves that the House reject sections 14, 17, and 18 of the substitute recommended in the conference report.

THE SPEAKER PRO TEMPORE: The gentleman from New York (Mr. Stratton) will be recognized for 20 minutes, and the gentleman from Arizona (Mr. Udall) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New York (Mr. Stratton).

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7. William H. Natcher (Ky.).

Mr. Stratton, in the ensuing debate, further addressed the issue of germaneness:

> Section 14 of the conference report . . . is nongermane as an amendment to the House bill authorizing appropriations for the Nuclear Regulatory Commission. Section 14 was a Senate amendment that deals with special nuclear material by amending the Atomic Energy Act of 1954, but special nuclear material is material that is used for the purpose of making nuclear weapons and is, therefore, under the jurisdiction of the Committee on Armed Services.
>
> The language of section 14, as adopted by the conferees, would therefore have been nongermane had such an amendment been offered in the House.
>
> Section 17, which was a Senate amendment to the House bill, is also nongermane since it would revise permanent law through a 2-year authorization. This section would revise a statute dealing with the release of information concerning security measures by the Secretary of Energy, and other matters that involve the nuclear weapons program of the Department of Energy.

Parliamentarian's Note: The motion to reject the nongermane portions of the conference report was substantively and grammatically divisible, so that a division of the question on any of the three sections could have been demanded by any Member prior to the Chair's putting the question on the motion to reject, in order to avoid a subsequent point of order against one of the sections just to obtain a separate subsequent vote on a motion to reject that one section.

Individual Proposition Not Germane to Another Individual Proposition—Amendment to Act Not Directly Amended by Bill

§ 41.20 To a portion of an amendment in the nature of a substitute regulating the importation of liquefied natural gas, but not directly amending the Natural Gas Act, an amendment to the Natural Gas Act to prohibit the Federal Power Commission from regulating the price of natural gas at the well-head was held to be not germane.

On Dec. 14, 1973,[8] during consideration of H.R. 11450[9] in the Committee of the Whole, it was demonstrated that an amendment changing existing law in order to achieve one individual purpose is not germane to a proposition which does not amend that law and which seeks to accomplish another individual purpose. The proceedings were as follows:

> MR. [ROBERT D.] PRICE of Texas: Mr. Chairman, I offer an amendment to

8. 119 CONG. REC. 41723–25, 93d Cong. 1st Sess.

9. The Energy Emergency Act.

the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Price of Texas to the amendment in the nature of a substitute offered by Mr. Staggers:

Page 37, line 5 is amended to read as follows:

Sec. 118. Deregulation of the Price of Natural Gas and Importation of Liquefied Natural Gas.

Page 37, line 6, insert "(a)" before "The Emergency".

Page 37, after line 18, insert the following new subsection:

(b)(1) Section 2(6) of the Natural Gas Act is amended by inserting before the period at the end thereof the following: ", except that such term does not include a person engaged in the production or gathering and sale of natural gas whether or not such person is affiliated with any person engaged in the transmission of natural gas to consumer markets or the distribution of natural gas to the ultimate consumer".

(2) Section 4(a) is amended by inserting before the period at the end thereof the following: ": *Provided*, however, That the Commission shall have no power to deny, in whole or in part, that portion of the rates and charges made, demanded, or received by any natural-gas company for or in connection with the purchase of natural gas from a person exempt under section 2(6)". . . .

MR. [HARLEY O.] STAGGERS [of West Virginia]: The amendment in the nature of a substitute does not contain provisions governing price regulations of natural gas. The gentleman's amendment proposes a direct amendment to provisions of the Natural Gas Act.

It is, therefore, not germane and out of order, because this pricing authority is assigned to the Federal Power Commission under that act and we do not deal with it in any way in our bill.

MR. PRICE of Texas: Mr. Chairman, in the report on page 5, section 106, coal conversion and allocation, it deals with the provision that is a primary energy source. . . .

. . . To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. . . .

It is further mentioned in section 118, importation of liquefied natural gas. Section 9 says:

Sec. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country. . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . Mr. Chairman, the requirements of the rule of germaneness are that the amendment be germane, first to the bill and second to the language of the section to which it is offered.

There is nothing in the bill dealing with deregulation of natural gas. Therefore, the amendment fails with regard to that point. Second, there is

nothing in the section to which the amendment alludes which deals with deregulation of natural gas.

The amendment purports to amend section 118 and it changes the title, deregulation of the price of natural gas and importation of liquefied natural gas. The section to which it alludes, section 118, is a section relating to the importation of natural gas.

By no distortion of the rules of the House or common logic or the English language may it be construed that deregulation of natural gas and importation are one and the same thing, or indeed are even germane to each other.

For those two reasons, Mr. Chairman, the amendment [violates] the rule of germaneness. . . .

MR. [JACK] KEMP [of Texas]: . . . Mr. Chairman, the title of the bill is as follows:

> To assure . . . that the essential energy needs of the United States are met . . .

I would suggest and submit that that certainly makes this amendment in order, as well as the section the gentleman in the well has alluded to in his remarks.

THE CHAIRMAN:[10] The Chair is ready to rule.

For the reasons essentially given by the gentleman from Michigan, which the Chair will repeat at least in part, very briefly, the amendment is not germane.

Those reasons are that the amendment which the committee is considering does not amend the Natural Gas Act. It should also be noted that the section deals with a single subject, and under the germaneness rule an individual proposition is not germane to another individual proposition.

Therefore, the Chair sustains the point of order.

Bill Citing But Not Amending Clayton Act—Amendment Making Provisions of Clayton Act Applicable to Subject of Bill

§ 41.21 To a bill citing but not amending a law on another subject, an amendment incorporating that law by reference to broaden its application to the subject of the bill is not germane; thus, to a title of a bill regulating financial institutions, referring to but not amending the Clayton Act, an amendment providing that the provisions of that title (relating to interlocking directorates) are deemed to be provisions of the Clayton Act, and authorizing the Attorney General to prosecute violations of such provisions in the same manner, and with the same authority, as under the Clayton Act, was held not germane.

During consideration of H.R. 13471[11] in the Committee of the Whole, the Chair sustained a

10. Richard Bolling (Mo.).

11. The Financial Institutions Regulatory Act of 1978.

point of order against the amendment described above. The proceedings of Oct. 5, 1978,[12] were as follows:

TITLE II—INTERLOCKING DIRECTORS

Sec. 201. This title may be cited as the "Depository Institution Management Interlocks Act". . . .

Sec. 206. A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title. . . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. St Germain: . . .

Page 90, immediately after line 23, insert the following:

Sec. 205. Service as a management official of a depository institution or a depository holding company and as a management official of any other company not affiliated therewith shall be prohibited if such depository holding company and other company not affiliated therewith are or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws. . . . For purposes of this section, the term "antitrust laws," shall have the definition assigned that term in the Act entitled "An Act to supplement existing laws against unlawful restraint and monopolies, and for other purposes," approved October 15, 1914 (Clayton Act, 38 Stat. 732, as amended). Renumber succeeding sections accordingly. . . .

Page 93, strike out lines 6 through 9, and insert in lieu thereof the following:

(6) the Attorney General with respect to any company. Whenever this title is enforced by the Attorney General, the provisions of this title shall be deemed provisions of the Clayton Act and a violation of this title shall be deemed a violation of the Clayton Act. All of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General to enforce compliance by any reason with this title, irrespective of any jurisdiction tests in the Clayton Act, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of the Clayton Act. All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations of this title in the same manner as if such possible violations were possible violations of the Clayton Act. . . .

MR. [GARRY] BROWN of Michigan: Mr. Chairman, I insist upon my point of order. . . .

12. 24 CONG. REC. 33814–18, 95th Cong. 2d Sess.

Mr. Chairman, I would point out to the Chair that the amendment offered by the gentleman from Rhode Island goes far beyond the scope of the present legislation. It attempts circuitously to amend the Clayton Act. It is not germane and, therefore, should not be part of this legislation and, furthermore, it is within the jurisdiction of the Committee on the Judiciary. . . .

MR. ST GERMAIN: . . . Mr. Chairman, this amendment simply expands the provisions of title II. It does not raise issues outside the scope of the title. Title II, as adopted by the committee, deals with interlocking directorates among financial institutions and the anticompetitive effect of such interlocks.

This amendment simply extends anticompetitive tests to interlocks between banks and other types of financial institutions and is clearly germane.

It does not amend the Clayton Act and is not subject to challenge on this point.

The amendment does refer to the Clayton Act—but so does the title II adopted by the committee. The amendment does refer to the authority of the Attorney General—but again so does the title adopted by the committee. Clearly the reference to the Clayton Act and the Attorney General cannot be ruled nongermane when the bill itself already contains reference to both. . . .

THE CHAIRMAN:[13] The gentleman from Michigan (Mr. Brown) has made a point of order against the amendment offered by the gentleman from Rhode Island (Mr. St Germain) on the ground that the amendment is not germane.

The amendment seeks to prohibit certain interlocking directorates or other related functions between the management official of the depository institution and any other company. This includes any other company which might be in competition with a depository holding company.

The amendment would bring into play functions and powers of the Attorney General under the Clayton Act and give the Attorney General all the power he would have under that Act to enforce certain anticompetitive practices.

Based on the argument made by the gentleman from Michigan (Mr. Brown) and the Chair's reading of the amendment, that it shall be deemed to be part of the provisions of the Clayton Act and that violations of the amendment would be deemed violations of the Clayton Act, and because title II of the bill does not in fact amend the Clayton Act but merely refers to that law in a manner which does not change that law's application, the Chair holds the amendment not germane to title II.

The Chair sustains the point of order.

Bill Relating to One Criminal Activity—Amendment Changing Effective Date of Law Relating to Other Activities

§ 41.22 A bill narrowly amending one subsection of existing law for a single purpose does not necessarily open the

13. Mike McCormack (Wash.).

entire section of the law to amendment; thus, to a bill narrowly amending one subsection of existing law relating to one specific criminal activity, an amendment postponing the effective date of the entire section, affecting other criminal provisions as well as the one amended by the bill, and affecting other classes of persons, was held not germane.

During consideration of S. 869[14] in the Committee of the Whole on May 16, 1979,[15] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 207 of title 18, United States Code, as amended by the Act of October 26, 1978 (Public Law 95–521, section 501(a); 92 Stat. 1864) is amended as follows: In clause (ii), strike "concerning" and insert "by personal presence at"; and in subparagraph (3), before "which was" insert ", as to (i)," and after "responsibility, or" insert ", as to (ii)." . . .

MR. [ROBERT] MCCLORY (of Illinois): Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McClory: On page 2, following line 2, add the following new section:

"Sec. 2. Section 503 of Public Law 95–521 is amended by striking "July 1, 1979" and inserting "January 1, 1980" in lieu thereof.". . .

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I will make the point of order now.

Mr. Chairman, the gentleman's amendment would add a section 2 to amend section 503 of Public Law 95–521 by striking "July 1, 1979" and inserting "July 1, 1980" in lieu thereof. I respectfully point out that the bill before us does not deal with section 503 of the bill Public Law 95–521. It does not deal with that section and, therefore, the gentleman's amendment would not be germane to the bill before us. . . .

MR. MCCLORY: Mr. Chairman, the amendment which I have offered relates to Public Law 95–521, which is the law which is referred to in the legislation which we have under consideration at the present time. The amendment which I have offered would delay the effective date of the entire legislation, including the section to which the gentleman from California (Mr. Danielson) has made reference, and which is referred to specifically in the measure, and would keep that part and the rest of the legislation from becoming effective until January 1, 1979.

It is, in my view, entirely germane. It is precisely relevant to the subject about which we are giving consideration now. sInstead of papering over something with a so-called technical amendment, what we are doing is to delay the effective date of the entire

14. A bill relating to clarification of conflict of interest restrictions on former government employees.

15. 125 CONG. REC. 11466, 11467, 11470, 96th Cong. 1st Sess.

act in order that we can handle the subject not only technically but substantively as well. I urge that the Chairman overrule the point of order.

THE CHAIRMAN:[16] . . . This act applies to subsection (b) of section 207 of title 18, and it is a very narrowly drafted and defined bill as amended at this point. The amendment which the gentleman has offered seeks to extend the time for the entire act covering categories of persons other than those under subsection (b) of section 207, and under the precedents that the Chair has examined, the Chair will sustain the point of order accordingly.

Agency's Regulatory Authority Regarding Certain Toxic Wastes—Amendment Addressing Compensation to Those Affected by Wastes

§ 41.23 A bill narrowly amending a law in one respect does not necessarily allow as germane other amendments to that law which are not related to the subject of the bill; thus, to a bill amending the Solid Waste Disposal Act relating to an agency's regulatory authority to prevent improper disposal of solid wastes, and containing one section amending another law only with respect to reimbursement to states from the fund provided therein, an amendment proposing another unrelated amendment to that law, providing for payments from that fund for a new category of assistance for community relocation, was held not germane, since the bill did not address in a comprehensive way compensation for damages caused by previous toxic waste disposals.

On Oct. 6, 1983,[17] during consideration of H.R. 2867[18] in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above:

HAZARDOUS WASTE FACILITIES OWNED BY STATES OR POLITICAL SUBDIVISIONS

Sec. 10. Section 104(c)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by—

(1) striking out "owned" and substituting "owned and operated" in subparagraph (C)(ii); and

(2) adding the following at the end thereof: "In the case of any State which has paid, at any time after the date of the enactment of this Act, in excess of 10 per centum of the costs of remedial action at a facility owned, but not operated by, such State or by a political subdivision thereof, the President shall use money in the Fund to provide reimbursement to such State for the amount of such excess." . . .

16. E de la Garza (Tex.).

17. 129 CONG. REC. 27690, 27692, 27693, 98th Cong. 1st Sess.

18. The Hazardous Waste Control and Enforcement Act of 1983.

MR. [IKE] SKELTON (of Missouri): Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Skelton: Page 30, line 25, insert:

COMMUNITY RELOCATION

Sec. 10A. (a) The second sentence of paragraph (23) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96–510) is amended by inserting after "not otherwise provided for," the phrase "costs of permanent relocation of residents where it is determined that such permanent relocation is cost effective or may be necessary to protect health or welfare," and by striking out the semicolon at the end thereof and inserting in lieu thereof a period and the following: "In the case of a business located in an area of evacuation or relocation, the term may also include the payment of those installments of principal and interest on business debt which accrue between the date of evacuation or temporary relocation and thirty days following the date that permanent relocation is actually accomplished or, if permanent relocation is formally rejected as the appropriate response, the date on which evacuation or temporary relocation ceases. In the case of an individual unemployed as a result of such evacuation or relocation, it may also include the provisions of the assistance authorized by sections 407, 408, and 409 of the Disaster Relief Act of 1974;" . . .

(b) Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96–510) is amended by inserting before "authorized by section (b) of this section," the phrase "for permanent relocation or".

(c) Nothing in the amendments made by this section shall be construed to appropriate funds (or divert appropriated funds) for any purpose for which such funds would not otherwise be available. . . .

MR. [JAMES J.] FLORIO [of New Jersey]: Mr. Chairman, I would just say on my point of order that this amendment attempts to amend a portion of the Comprehensive Environmental Response, Compensation, and Liability act Superfund, which is not before this committee and, accordingly, is not germane.

On the merits of the proposal, I would just say that the gentleman is attempting to expand the scope of Superfund. That may very well be desirable, but it should be desirable at the appropriate time when we are dealing with that. . . .

MR. SKELTON: . . . The fact that section 10 deals with the Superfund in and of itself opens the door.

My colleague, the gentleman from New Jersey, has indicated his view that this money in the Superfund was intended for cleanup alone and that my amendment takes it beyond that purpose or that we should limit it to just that purpose.

I would remind my colleague that the very title of the Superfund law is the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Section 101, paragraph 23, which I seek to amend, clearly provides for compensation as a result of actions taken by the Administrator or the President to protect the health and welfare of our citizens. That is the central purpose of the Superfund, to protect people. . . .

I would like to point out that this is not an entitlement, but it is rather a useful tool which the Administrator can use if it is appropriate.

We do not direct him to take these actions, but merely make it clear that they are there in case he needs them.

Now, I also submit to the chairman that section 10 is far more sweeping in its effect on the Superfund than my amendment is. The previous section, section 10, changes the amount of the State's contribution for State-owned sites from 50 percent to 10 percent, because in some cases they cannot afford the expense.

All my amendment would do is to clarify that the Administrator can in his discretion in those rare instances where such action is appropriate to take actions himself to help the residents of a contaminated area.

THE CHAIRMAN:[19] The Chair is prepared to rule.

Section 10 of this bill does amend subsection 104(c)(3) of the Superfund law, Public Law 96–510, but only in a very narrow respect regarding State contributions and reimbursements from the fund. The bill does not so comprehensively amend the Superfund law as to permit further amendments to the law which are unrelated to the specific changes contained in the bill.

The amendment from the gentleman from Missouri relates to eligibility for certain community relocation assistance for the Superfund and is not related to the issue contained in the bill.

The Chair sustains the point of order.

19. Doug Barnard, Jr. (Ga.).

§ 42. Amendment Changing or Citing Existing Law to Bill Not Citing That Law

A point of order may lie against an amendment if it amends, either directly or by implication, a law which is not contemplated in the bill under consideration and which is not before the House.

Bill Amending Fair Labor Standards Act—Amendment To Change Tariff Act

§ 42.1 To a bill reported from the Committee on Education and Labor and amending the Fair Labor Standards Act, an amendment proposing to modify the Tariff Act of 1930, which was a matter within the jurisdiction of the Committee on Ways and Means, was held not germane.[20]

§ 42.2 To a bill amending two sections of the Fair Labor Standards Act and concerned with certain effects of imports on the domestic labor market, an amendment pro-

20. 113 CONG. REC. 27214, 90th Cong. 1st Sess., Sept. 28, 1967. See § 42.2, infra, for further discussion of this ruling.

posing changes in the Tariff Act of 1930 and concerned with the importation of merchandise from Communist nations, was held to be not germane.

On Sept. 28, 1967, the Fair Labor Standards Foreign Trade Act of 1967 (1) was under consideration. The bill stated in part: (2)

CONGRESSIONAL FINDING AND DECLARATION OF POLICY

Sec. 2. (a) Subsection (a) of section 2 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. sec. 202), is amended to read as follows:

(a) The Congress finds that the existence in industries engaged in commerce . . . of labor conditions detrimental to the maintenance of (a) minimum standard of living . . . and the unregulated importation of goods produced by industries in foreign nations under such conditions . . . interferes with the orderly and fair marketing of goods in commerce. . . .

Sec. 3. Subsection (e) of section 4 of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

(e)(1) Upon the request of the President, or upon resolution of either House of Congress . . . or upon application of any interested party . . . the Secretary of Labor shall promptly make an investigation . . . to determine whether any product is being imported into the United States under such circumstances, due in whole or in part to the fact that such foreign goods were produced under conditions such as those referred to in subsection (a) of section 2 of this Act which are causing or substantially contributing serious impairment or threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States or to the economic welfare of the community in which any such group of workers are employed. . . .

(4) Upon receipt of the report of the Secretary containing a finding that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, the President may take such action as he deems appropriate to remove such impairment or threat of impairment, in addition to any other customs treatment provided by law. . . .

The following amendment was offered to the bill: (3)

Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 4, immediately after line 18, insert the following:

Sec. 4. (a) Section 313(h) of the Tariff Act of 1930 (19 U.S.C. 1313(h)) is amended by inserting before the period at the end thereof the following:", except that, if the imported merchandise is imported directly or indirectly from a country or area which is dominated or controlled by Communism, no drawback shall be allowed under subsection (a) or (b)." . . .

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

1. H.R. 478 (Committee on Education and Labor).

2. See 113 CONG. REC. 27212, 90th Cong. 1st Sess.

3. *Id.* at p. 27214.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Chairman, the amendment is an amendment to the Tariff Act of 1930, as amended.

This legislation represents an amendment to the Fair Labor Standards Act. The amendment, in my opinion, is not germane, since the provisions of the Tariff Act come under the jurisdiction of the Committee on Ways and Means and not under the jurisdiction of the committee or the subcommittee which it is my honor to chair. . . .

The Chairman,[4] in ruling on the point of order, stated:

The bill before the committee amends two sections of the Fair Labor Standards Act of 1938. The amendment to section 2 adds further policy declarations to that act. The amendment to section 4 modifies the provision in current law which provides for investigations by the Secretary of Labor to determine the effect of imports in the domestic labor market.

The amendment offered by the gentleman from Illinois goes to another law—the Tariff Act of 1930—a matter not touched on in the bill now under consideration. The Chair has examined a ruling made by Chairman Smith of Virginia, in the 81st Congress, where a similar situation was presented. There the committee had under consideration a bill amending the Defense Production Act of 1950, establishing a system of priorities and allocations for materials and facilities. An amendment proposing to amend the Housing and Rent Act of 1947, relating to rent controls, was ruled out as not germane—81st Congress, second session, August 3, 1950, Record, page 11751.

The Chair holds that the amendment is on a subject not before the Committee at this time and sustains the point of order that the amendment is not germane.

Defense Production Act—Amendment Affecting Application of Child Labor Laws

§ 42.3 Where a bill sought to amend and extend the Defense Production Act, which provided in part for the allocation of certain materials, for financial assistance in expanding production, and for price and wage stabilization, an amendment was held to be not germane which sought to make child labor provisions of the Fair Labor Standards Act of 1938 inapplicable in certain instances.

On June 25, 1952, during consideration of the Defense Production Act Amendments of 1952,[5] the following amendment was offered to the bill:[6]

Amendment offered by Mr. (Walter E.) Rogers of Texas: On page 6, line 11, add a new subsection to be numbered 105(f) to read as follows:

4. Jack B. Brooks (Tex.).

5. H.R. 8210 (Committee on Banking and Currency).

6. 98 CONG. REC. 8058, 82d Cong. 2d Sess.

The provisions of section 12 of the Fair Labor Standards Act of 1938, as amended (29 U.S. Code, sec. 212), relating to child labor shall not apply with respect to any employee employed in agriculture while not legally required to attend school.

Mr. Abraham J. Multer, of New York, having raised a point of order against the amendment, Mr. Rogers responded as follows:

. . . I presume that the point of order made by the gentleman from New York is based on the proposition that this is an attempt to amend another law in the Defense Production Act. My position is that this is emergency legislation, and that it does not amend another law, but merely creates an exemption during the effective period of this act, and has nothing in the world to do with amending or repealing any section of the Fair Labor Standards Act.

Mr. Multer stated:

Mr. Chairman, the point is that the amendment offered by the gentleman from Texas will amend the Fair Labor Standards Act, which is not a part of this act and, therefore, is not germane to the bill now before us.

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

The Chair is of the opinion that the amendment is not germane to the bill before the Committee since it proposes in effect an amendment to another law with reference to which the Committee on Banking and Currency would have no jurisdiction. Therefore, the point of order is sustained.[8]

—*Amendment To Change Housing and Rent Act*

§ 42.4 To the Defense Production Act of 1950, establishing in part a system of priorities and allocations for materials and facilities, an amendment proposing to amend the Housing and Rent Act of 1947 was held not germane.

On Aug. 3, 1950, during consideration of the Defense Production Act of 1950,[9] the following amendment was offered:[10]

Amendment offered by Mr. O'Hara of Illinois: On page 39, after line 14, insert the following new title:

TITLE VII—RENT CONTROL

Sec. 501. Section 4(c) of the Housing and Rent Act of 1947, as amended, is amended by striking out "June 30, 1951" and inserting in lieu thereof, "June 30, 1952, or at such earlier time as the Congress by concurrent resolution or the President by proclamation may designate". . . .

Sec. 508. Section 204(i) of the Housing and Rent Act of 1947, as amended, is amended to read as follows:

"(1) Whenever a local advisory board in any defense-rental area in

7. Wilbur D. Mills (Ark.).

8. See § 42.6, infra, in which an amendment having a similar purpose but not referring specifically to the Fair Labor Standards Act of 1938 was held to be germane, despite its lack of textual reference as merely an exemption from wage control provisions in the bill.

9. H.R. 9176 (Committee on Banking and Currency).

10. 96 CONG. REC. 11751, 11752, 81st Cong. 2d Sess.

which maximum rents were never regulated under the Emergency Price Control Act of 1942 . . . after having determined, with respect to the area over which it has jurisdiction . . . either that (A) a scarcity of rental housing has developed as a result of national defense activity . . . or (C) rents have increased or are about to increase unreasonably, recommends that such action is necessary or appropriate in order to effectuate the purposes of this title, or to promote national defense, the Housing Expediter . . . shall . . . establish such maximum rent . . . for any housing accommodations in such area . . . as in his judgment will be fair and equitable.". . .

The following exchange[11] concerned a point of order raised against the amendment:

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the subject matter of the bill. . . .

MR. [BARRATT] O'HARA [of Illinois]: Mr. Chairman, this is a bill of controls. Certainly nothing could be more germane to such a bill than control over the prices that people can charge for housing. I may say that the amendment I have offered strikes at the very heart and soul of control. . . .

THE CHAIRMAN:[12] The Chair has considered the amendment rather briefly. It seems to relate to a subject that is nowhere touched on in this present bill before the Committee.

The Chair is constrained to rule . . . that the amendment is not germane to the pending substitute. . . .

11. *Id.* at p. 11752.

12. Howard W. Smith (Va.).

—*Amendment Affecting Internal Revenue Code*

§ 42.5 To a bill to amend the Defense Production Act of 1950, a committee amendment citing and indirectly amending the Internal Revenue Code, a matter within the jurisdiction of another committee, was held to be not germane.

The following proceedings,[13] which took place during consideration of a bill[14] to amend the Defense Production Act of 1950, relate to a committee amendment and objections interposed thereto:

THE CHAIRMAN:[15] The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 12, line 7, insert:

(e) Title III of the Defense Production Act of 1950 is amended by adding at the end thereof the following new section:

"Sec. 305. (a) No construction or expansion of plants . . . or other facilities shall be (1) undertaken, or assisted by means of loans . . . by the United States under this or any other act, or (2) certified under section 124A of the Internal Revenue Code (relating to amortization for tax purposes), and

13. See 97 CONG. REC. 7978–80, 82d Cong. 1st Sess., July 11, 1951.

14. H.R. 3871 (Committee on Banking and Currency).

15. Wilbur D. Mills (Ark.).

no equipment, facilities, or processes owned by the Government shall be installed under the authority of this or any other act in any plant . . . or other industrial facility which is privately owned, unless the President shall have determined that the proposed location of such construction . . . or installation is consistent . . . with a sound policy of (1) utilizing fully the human and material resources of the Nation wherever located . . . and (3) minimizing the necessity for further concentrations of population in areas in which available housing and community facilities are presently overburdened." . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the subject matter of the bill. It has to do with an amendment to the Internal Revenue Code, in respect to the acceleration of appreciation for tax purposes. . . .

MR. [FOSTER] FURCOLO [of Massachusetts]: . . . There is nothing in the Defense Production Act of 1950 relating to amortization for taxation purposes.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, of course a committee amendment occupies no different status than an amendment offered by a Member from the floor. This amendment undertakes to add to this bill a provision which has no relation at all to the Defense Production Act of 1950. . . .

MR. [ALBERT] RAINS [of Alabama]: Mr. Chairman, this amendment in this particular act has reference to defense plants or to plants engaged in the defense effort. It is true that in this particular amendment reference is made to the Internal Revenue Act and to tax amortization certificates. After the Chair rules—I say this in order that Members may get their speeches ready—if the Chair rules it out on a point of order I have an amendment which I shall offer at this particular place that eliminates the specific reference to any other act. . . .[16]

THE CHAIRMAN: . . . The Chair calls attention to the rule on germaneness and desires to read one paragraph from Cannon's Procedure in the House of Representatives:

> While the Committee may report a bill embracing different subjects, it is not in order during consideration of the bill to introduce a new subject and the rule applies to amendments offered by the Committee as well as to amendments offered from the floor.

The amendment offered by the committee goes beyond the purview of the bill, House bill 3871, and beyond the jurisdiction of the Committee on Banking and Currency in attempting to amend other statutes in connection with this bill.

The amendment refers not only to the bill under consideration but to other acts. It also refers to section 124(a) of the Internal Revenue Code,

16. Mr. Rains subsequently offered an amendment which eliminated reference to any other acts, including the Internal Revenue Code. The amendment was held to be germane, the Chair ruling on a point of order raised by Mr. Jesse P. Wolcott (Mich.). See 97 CONG. REC. 7982, 82d Cong. 1st Sess., July 11, 1951.

invading the jurisdiction of another standing committee of the House.

The Chair is therefore constrained to sustain the point of order.

—*Exemption of Agricultural Workers From Definition of Child Labor*

§ 42.6 Where a bill sought to amend and extend the Defense Production Act, which provided in part for the allocation of certain materials, for financial assistance in expanding production, and for price and wage stabilization, an amendment was held to be germane which provided that employment of any employee in agriculture while such employee is not required to attend school be deemed not to constitute oppressive child labor, the amendment being construed merely as an exemption from the wage control provisions of the bill.

On June 25, 1952, during consideration of the Defense Production Act Amendments of 1952,[17] an amendment was offered to that portion of the bill relating, in part, to exemptions from wage control provisions of the bill. The bill stated:[18]

> Sec. 105 . . .
>
> (d) Subsection (e) of section 402 of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new paragraph:
>
> "(e) Wages, salaries, or other compensation of persons employed in small-business enterprises as defined in this paragraph: *Provided however,* That the President may from time to time exclude from this exemption such enterprises on the basis of industries, types of business, occupations, or areas, if their exemption would be unstabilizing with respect to wages, salaries, or other compensation, prices, or manpower, or would otherwise be contrary to the purposes of this act. A small-business enterprise, for the purpose of this paragraph, is any enterprise in which a total of eight or less persons are employed in all its establishments, branches, units, or affiliates.

The amendment was as follows:[19]

> Amendment offered by Mr. [Walter E.] Rogers [of Texas]: On page 6, after line 11, add a new subsection to be numbered 105(f) to read as follows:
>
> Employment of any employee in agriculture, while such employee is not legally required to attend school shall be deemed to not constitute oppressive child labor.
>
> Mr. Abraham J. Multer, of New York, having raised the point of order that the amendment was not germane, the following ruling was made:

17. H.R. 8210 (Committee on Banking and Currency).

18. See 98 CONG. REC. 7720, 82d Cong. 2d Sess., June 20, 1952.

19. 98 CONG. REC. 8058, 82d Cong. 2d Sess.

THE CHAIRMAN:[20] . . . The Chair is of the opinion that the amendment in its present form is germane in that the gentleman from Texas proposes a further exemption from the wage control provisions of the existing bill. Therefore, the Chair overrules the point of order raised by the gentleman from New York.[1]

Definition of "Agriculture" in Fair Labor Standards Act—Point of Order That Amendment Affected Other Acts

§ 42.7 To a substitute amendment modifying the definition of "agriculture" in the Fair Labor Standards Act of 1938 to include the processing of tobacco and containing diverse other amendments to that Act, an amendment adding to such definition the processing of fruit and vegetables was held to be germane.

In the 87th Congress, during consideration of a bill[2] to amend the Fair Labor Standards Act of 1938, discussion for a time focused on the following amendment, which had been offered[3] by Mr. William H. Ayres, of Ohio:

> Strike out all after the enacting clauses and insert the following:
>
> That this Act may be cited as the "Fair Labor Standards Amendments of 1961."
>
> DEFINITIONS
>
> Sec. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco. . . ."

To such amendment, the following amendment was offered:[4]

> Amendment offered by Mr. [Albert S.] Herlong [Jr.], of Florida, to the amendment offered by Mr. Ayres, of Ohio:
>
> Page 2, line 5, strike out the period and add the following: "and in the case of fruits and vegetables includes (1) transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing

20. Wilbur D. Mills (Ark.).

1. See § 42.3, supra, in which an amendment having a similar purpose was held not to be germane, inasmuch as it proposed specific changes in the application of an act not under consideration. The purport of the amendment solely as an exemption from the wage control provision of the pending bill does not appear to have been clearly demonstrated. The proponent of the amendment should have been required to show that the amendment did not affect other law.

2. H.R. 3935 (Committee on Education and Labor).

3. See 107 CONG. REC. 4797, 87th Cong. 1st Sess., Mar. 24, 1961.

4. *Id.* at p. 4806.

within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity."

Mr. Roman C. Pucinski, of Illinois, raised a point of order against the amendment, stating that the amendment was not germane. Mr. James G. O'Hara, of Michigan, elaborated upon the point of order as follows:

The amendment offered by the gentleman from Florida attempts to amend not the act before us, but Public Law 78, under which migrant labor is brought into the country, and the other act of Congress under which the U.S. Employment Service is established.

An exemption already exists under the Fair Labor Standards Act, exempting agricultural labor from the application of the Fair Labor Standards Act, and this is an attempt to amend not the Fair Labor Standards Act, but other acts passed by various Congresses.

The Chairman,[5] however, ruled that the amendment was germane; he stated:

This is unquestionably an amendment to the Fair Labor Standards Act. It specifically refers to the Fair Labor Standards Act.

The Chair overrules the point of order.

5. Francis E. Walter (Pa.).

Omnibus Agricultural Bill—Amendment Changing Act Not Otherwise Amended in Bill

§ 42.8 To an omnibus agricultural bill, amending several laws relating to agriculture, an amendment proposing changes in the Agricultural Marketing Agreement Act of 1937, which was not otherwise amended in the bill, was held to be not germane.

In the 87th Congress, during consideration of the Food and Agricultural Bill of 1962,[6] an amendment was offered[7] whose purpose was explained by the proponent, as follows:[8]

MR. [SAMUEL S.] STRATTON [of New York]: . . . This amendment provides for legalizing the compensatory payments feature of the Milk Marketing Act, which was invalidated on the 4th of June by the Supreme Court of the United States. . . .

"Compensatory payments" referred to certain amounts paid into a fund for the benefit of designated milk producers, as a condition of marketing milk in given areas. A point of order was raised

6. The "second agriculture bill" of 1962, H.R. 12391 (Committee on Agriculture).
7. 108 CONG. REC. 14191, 14192, 87th Cong. 2d Sess., July 19, 1962.
8. *Id.* at p. 14192.

against the amendment, as follows:

> MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York. The gentleman's amendment amends the Agricultural Marketing Agreement Act of 1937. The legislation which is before us does not amend that act in any way in any section. This particular amendment amending the Agricultural Marketing Agreement Act of 1937 is not germane to this bill.

The Chairman[9] ruled as follows on the point of order:

> The amendment offered by the gentleman from New York contains a matter which is in no wise related to the subject matter of the several sections under consideration. The point of order is therefore sustained.

Diverse Authorities of Secretary of Agriculture—Amendment to Act Not Amended by Title

§ 42.9 Although an amendment which changes a law not cited in a pending bill is ordinarily not germane, a title of a bill which amends several laws to address a variety of authorities of an executive department may be broad enough to admit as germane an amendment changing another existing law to add another authority of that department within the same general class; thus, to a title of an omnibus agricultural bill respecting a number of unrelated authorities of the Secretary of Agriculture as to crop set-asides, loans and sales, export sales, price supports, importation and allotment studies, an amendment amending the Agricultural Marketing Act of 1946 (not amended by the title) to require the Secretary to adopt a minimum standard for the contents of ice cream, and allowing only such ice cream as meets those standards to bear a USDA stamp of approval, was held germane since restricted to authority of the Department of Agriculture.

On July 22, 1977,[10] during consideration of H.R. 7171 (the Agricultural Act of 1977) in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

> The Clerk read as follows:

9. Francis E. Walter (Pa.).

10. 123 CONG. REC. 24558, 24559, 24569–71, 95th Cong. 1st Sess.

TITLE IX—MISCELLANEOUS COMMODITY PROVISIONS

SET-ASIDE ON SUMMER FALLOW FARMS

Sec. 901. Notwithstanding any other provision of law, for the 1971 through 1981 crops of wheat, feed grains, and cotton if in any year at least 55 per centum of cropland acreage in an established summer fallow farm is diverted to a summer fallow use no further acreage shall be required to be set aside under the wheat, feed grains, and cotton programs for such year.

LOAN EXTENSION AND SALES PROVISIONS FOR WHEAT AND FEED GRAINS

Sec. 902. The Agricultural Act of 1949, as amended, is amended by adding the following new section: . . .

FARM STORAGE FACILITY LOANS

Sec. 905. Section 4(h) of the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended; 15 U.S.C. 714b(h)) is amended by inserting immediately before the period at the end of the second sentence the following: "; . . .

SOYBEAN PRICE SUPPORT

Sec. 906. The Agricultural Act of 1949, as amended, is further amended by adding a new section 304, as follows:

"Sec. 304. Notwithstanding any other provisions of this Act, the Secretary shall make available to producers loans and purchases on each crop of soybeans at such level as he determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors.". . .

REPORT ON RECOMMENDATIONS FOR REVISED ALLOTMENT SYSTEM

Sec. 909. The Secretary shall collect and analyze currently available information pertaining to the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. . . .

MR. [CHARLES] ROSE [of North Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rose: On page 52, line 5, insert the following:

STANDARD OF QUALITY

Sec. 910. Sec. 203(c) of the Agricultural Marketing Act of 1946 is amended by inserting immediately before the period at the end thereof the following semicolon: "; *Provided* That within 30 days of enactment of the Agricultural Act of 1977, the Secretary of Agriculture shall by regulation adopt a Standard of Quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon . . . In no case shall the content of milk solids not fat be less than 6%. . . . Only those products which meet the standard issued by the Secretary shall be able to bear a symbol thereon indicating that they meet the USDA standard for "ice cream.". . .

MR. [PAUL G.] ROGERS [of Florida]: . . . I make the point of order against the amendment offered by the gentleman from North Carolina (Mr. Rose) on the ground that it is not germane to the bill under consideration and thus is in violation of rule XVI, clause 7.

The gentleman's amendment is aimed at the Food and Drug Adminis-

tration's proposed regulations which would change that agency's standard of identity for "ice cream" under the authority of section 401 of the Federal Food, Drug and Cosmetic Act. . . .

Knowing full well that any direct attempts to amend the proposed standard of identity would be nongermane, the gentleman now seeks instead to amend the Agricultural Marketing Act to provide that only products that meet statutory standards, as set forth in his amendment, could bear a symbol indicating that they meet a USDA standard for ice cream.

Now, I would base the point of order on three grounds.

First, it amends an act—the Agricultural Marketing Act of 1946—not otherwise amended by the bill, and thus is in violation of rule 16, clause 7. Three precedents support this ground. I cite the Chair's ruling on June 23, 1960, in which, to a bill amending the Agriculture Adjustment Acts of 1938 and 1949 to provide, in part, for market adjustment and price support programs for wheat and feed grains, an amendment to the Agricultural Adjustment Act of 1933 concerning the importation of agricultural products was ruled out as not germane.

On the same day, an amendment to the 1933 act to direct the President under certain conditions to consider an investigation into imports of specified agricultural products was likewise ruled not germane. These rulings are noted in Deschler's Procedure [3rd ed., 95th Cong.], chapter 28, section 33.5 and 33.7.

In addition, the point that I think is most important, on July 19, 1962, a point of order was raised to an amendment to an omnibus agricultural bill, just as this bill, a specific precedent from the same committee on the same type of legislation, seven particular laws amended in the particular section to which the amendment was offered—seven changes, there are only about three or four here—seven changes in those laws. The amendment which had been offered proposed changes in the Agricultural Marketing Agreement Act of 1937, which was not otherwise amended in the bill, just as this would be, exactly on point. The amendment was ruled not to be germane. (Deschler's Procedure, chapter 28, section 33.6.) I do not know of any point of order so much on point that I have ever read, even from the committee, even of the type in the bill.

Second, I would like to say, the proposed amendment does not relate to the title of the bill to which it is offered, nor to the bill as a whole. . . .

The provisions of title IX of H.R. 7171 pertain to set-asides under the wheat, feed grains, and cotton programs; loan extensions and sales provisions for wheat and feed grains; a special grazing and hay program for wheat acreage; export sales of wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed and cotton, farm storage facility loans, soybean price supports; reporting of export sales; restrictions on the importation of filberts, and a report by the Secretary of Agriculture on the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. In no such instance, either directly or by inference, is the Secretary of Agriculture's authority to adopt standards of quality for agricultural

products under 7 U.S.C. 1621 addressed by title IX or by the bill as a whole. . . .

MR. ROSE: . . . What this amendment attempts to do is direct, under its existing authority, the Secretary of Agriculture to develop, not a standard of identity, but a standard of quality for ice cream; a standard of quality that shall contain a certain percentage of nonfat milk solids. . . .

My distinguished friend, the chairman of the subcommittee that has direct jurisdiction over the Food and Drug Administration, has cited Deschler's Procedure, 33.5. I believe that this headnote is misleading, because I believe that if one were to carefully read that entire procedure, one would discover that this is not the actual, in fact, ruling in that case. But, I would base my main argument on section 28.51 of Deschler's Procedure [3rd ed., 95th Cong.], which states:

> To a portion of a bill amending several miscellaneous laws on a general subject—

And this is such a section—

> an amendment to another law relating to that subject is germane. (120 Congressional Record 8508, 8509, 93rd Congress, 2nd Session, March 27, 1974.). . .

THE CHAIRMAN:[11] The Chair is ready to rule.

The gentleman from Florida makes a point of order against the amendment offered by the gentleman from North Carolina on the grounds that it is not germane to the bill or to the pending portion thereof.

The amendment would add to title IX of the bill, which contains miscellaneous commodity provisions, a new section requiring the Secretary of Agriculture to promulgate a Department of Agriculture standard for ice cream based on its contents, and to allow ice cream meeting that standard to bear a USDA symbol. The amendment would accomplish that purpose by amending the Agricultural Marketing Act of 1946, which is not amended by the bill but which authorizes the Secretary of Agriculture to promulgate food standards.

The gentleman from Florida has first argued that the amendment is not germane under the precedents because it amends a law not amended by the bill under consideration. The precedents do not bear out the assertion that an amendment is necessarily out of order if amending a law not mentioned in the bill. As indicated by "Deschler's Procedure," chapter 28, section 28.51, a title of a bill amending miscellaneous laws on a general subject may be broad enough to admit the offering of an amendment changing another law on that subject. The first two precedents cited by the gentleman dealt with amendments, offered to agricultural price support bills, dealing with the importation of agricultural products, a subject not relevant to the bill under consideration and not entirely within the jurisdiction of the Committee on Agriculture. The third precedent cited by the gentleman involved an amendment to the Agricultural Marketing Act of 1937, not amended by the omnibus agriculture bill under consideration, requiring certain compensatory payments by food handlers to producers.

The basis of the Chair's ruling on that occasion, which is not reflected in

11. Frank E. Evans (Colo.).

the headnote in "Deschler's Procedure," chapter 28 . . . section 33.6, was that the amendment was not germane to the title of the bill to which it was offered; and the Chair was not called upon to rule that the amendment was not relevant to the bill as a whole. On that occasion, the title of the bill under consideration contained commodity programs dealing with conventional authorities of the Secretary as to price supports and payments through the Commodity Credit Corporation, diverted acreage, acreage allotments, and marketing quotas and levels. The amendment, however, was intended to restore competition to the dairy market by requiring not the Secretary but handlers of dairy products to make compensatory payments to producers of milk, a regulatory authority not related to the provisions of the title under discussion.

The gentleman from Florida also argues that the amendment is germane neither to the subject matter nor to the fundamental purpose of title IX to which it is offered. The title does not appear to the Chair to have any single purpose or subject matter, dealing as it does with the authorities of the Secretary of Agriculture as to set-asides, loans and sales, grazing, export sales, price supports, importation and an allotment study for various food commodities. Therefore, the addition of a new authority of the Secretary relative to the production or quality of food or the protection of agricultural producers is relevant to the broad question of the Secretary's authority contained in the title. . . .

. . . The Chair would note that the amendment offered by the gentleman from North Carolina does not regulate the labeling or marketing of ice cream but only adds a specific emphasis to be followed by the Secretary in carrying out the discretionary authority he already has under law to promulgate quality standards for food products. The subject matter of the amendment being germane to the title under consideration, the Chair finds that couching the authority contained therein as an amendment to another law dealing with general authorities of the Secretary of Agriculture does not on that basis render it subject to a point of order.

For the reasons stated, the Chair overrules the point of order.

Bill Authorizing Payments for Acreage Reserves—Amendment Affecting Other Agriculture Laws

§ 42.10 To a bill authorizing the Secretary of Agriculture to make payments for acreage reserves, an amendment was held to be not germane which provided that no individual be eligible under any other Act for price support loans or price support purchases from Commodity Credit Corporation funds in excess of a specified amount.

On May 3, 1956, during consideration of the Soil Bank Act of 1956,[12] the following amendment was offered:[13]

12. H.R. 10875 (Committee on Agriculture).

13. 102 CONG. REC. 7442, 7443, 84th Cong. 2d Sess.

Amendment offered by Mr. Oliver P. Bolton: On page 51, after line 17, add a new subsection (e).

Notwithstanding any other provision of law, the total amount of price support made available under this or any other act to any person for any year . . . shall not exceed $25,000. The term "person" shall mean any individual, partnership, firm (and the like). . . .

The following exchange[14] concerned a point of order raised against the amendment:

MR. [FRANK E.] SMITH [of Mississippi]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill in that it amends a law which is not considered in this bill and which is not before the House. . . .

MR. OLIVER P. BOLTON [of Ohio]: Mr. Chairman, it seems to me this is a point which affects all agricultural legislation. We are dealing here with a basic act of agriculture which is tied in as a full and complete subject. . . .

MR. SMITH [of Mississippi]: Mr. Chairman, I would like to point out that this is not a price-support bill, and there are no amendments to the price-support law in the pending legislation. . . .

Mr. Chairman, the rule of germaneness specifically declares that an amendment to be germane has to involve an amendment or a change in the law that is being considered in the bill before us. The bill before us involves the soil-bank matter and is entirely new as was brought out by the Secretary of Agriculture.

14. *Id.* at p. 7443.

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

The amendment offered by the gentleman from Ohio, it appears to the Chair, goes far beyond the scope of the bill under consideration. The Chair desires to read just a portion of the first sentence of the amendment, which is as follows:

Notwithstanding any other provision of law, the total amount of price support made available under this or any other act to any person—

Therefore, because the amendment goes far beyond the scope of the pending bill, the Chair is constrained to sustain the point of order.

The point of order is sustained.

Agricultural Price Support Programs—Amendment to Different Act Concerning Agricultural Imports

§ 42.11 To a bill amending the Agricultural Adjustment Acts of 1938 and 1949 to provide, in part, for market adjustment and price support programs for wheat and feed grains, an amendment to the Agricultural Adjustment Act of 1933 concerning the importation of agricultural products was held to be not germane.

In the 86th Congress, a bill[16] was under consideration which

15. J. Percy Priest (Tenn.).

16. H.R. 12261 (Committee on Agriculture).

amended the Agricultural Acts of 1938 and 1949. The following amendment was offered to the bill:[17]

> Amendment offered by Mr. Kyl: At the end of title II add the following new section:
>
> The first sentence of section 22(a) of the Agricultural Adjustment Act (of 1933) as reenacted by the Agricultural Marketing Agreement Act of 1937, is amended by inserting before the period at the end thereof the following: "; and the President shall also cause . . . an investigation to be made [with respect to imports] in the case of wheat, corn, barley, oats, rye, soybeans, flax, and grain sorghums, when a surplus exists (as defined in section 106 of Public Law 480, Eighty-third Congress)".

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

> MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make a point of order against the amendment on the ground that the author seeks to amend the Agricultural Adjustment Act of 1933, which is not before us at this time.

In defense of the amendment, the proponent, Mr. John H. Kyl, of Iowa, stated as follows:

> Mr. Chairman, this amendment concerns the importation of agricultural products and directs the President to investigate imports under certain conditions. . . .
>
> It is necessary for a very obvious reason. For instance, we have not produced the quantity of oats, barley or rye that we can consume in the United States. Yet the surplus of those commodities has mounted, and the market price has fallen because of imports. . . .
>
> Mr. Chairman, I suggest that the amendment is germane because it concerns the specific feed grains which are contained in this bill.

The Chairman,[18] in ruling on the point of order, stated:

> The Chair has examined the amendment and is of the opinion that it deals with an act which is not under consideration here today.
>
> The Chair sustains the point of order.

Price Support Program for Domestic Dairy Products—Findings Relating to Dairy Imports

§ 42.12 To a title of a bill reported from the Committee on Agriculture providing a price support program for domestic dairy products, an amendment citing applicable provisions of existing law regarding the effect of dairy imports on domestic dairy products and containing Congressional findings that tariff restrictions should be imposed on dairy imports was held to raise issues primarily within the jurisdic-

17. 106 CONG. REC. 14060, 86th Cong. 2d Sess., June 23, 1960.

18. Frank N. Ikard (Tex.).

tion of the Committee on Ways and Means and was ruled out as not germane.

The proceedings of Oct. 14, 1981, relating to H.R. 3603, the Food and Agriculture Act of 1981, are discussed in Sec. 4.71, supra.

Sale of Surplus Dry Milk by Commodity Credit Corporation—Amendment Affecting Labeling Under Federal Food, Drug, and Cosmetic Act

§ 42.13 To an amendment directing the Commodity Credit Corporation to sell surplus stocks of dry milk to domestic companies for the manufacture of casein (a matter within the jurisdiction of the Committee on Agriculture), an amendment to that amendment deeming as misbranded for purposes of the Federal Food, Drug and Cosmetic Act any food substitutes labeled as "cheese" (a matter within the jurisdiction of the Committee on Energy and Commerce), was ruled out of order as nongermane.

During consideration of The Food Security Act (H.R. 2100) in the Committee of the Whole on Sept. 26, 1985,[19] the Chair sustained a point of order against an amendment to the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Boehlert: Page 37, after line 9, insert the following:

DOMESTIC CASEIN INDUSTRY

Sec. 215. (a) The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than one million pounds annually to individuals or entities on a bid basis.

(b) The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law in order to promote the strengthening of the comestic casein industry.

(c) The Commodity Credit Corporation shall take appropriate action to assure that the nonfat dry milk sold by the Corporation under this section shall be used only for the manufacture of casein.

Redesignate succeeding sections in the subtitle accordingly. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Boehlert: At the end of section 211, after the word "date", insert the following new section:

SEC. 243. MISBRANDED FOOD SUBSTITUTES FOR CHEESE.

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19. 131 CONG. REC. 25023–25, 99th Cong. 1st Sess.

> For purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), any food which is an imitation of cheese and which does not comply with any standard of identity in effect under section 401 of such Act for any cheese shall be deemed to be misbranded if its label contains the word "cheese". . . .

MR. [E] DE LA GARZA [of Texas]: . . . Mr. Chairman, this amendment addresses the Food and Drug Act, which is under the jurisdiction of the Committee on Energy and Commerce, and it therefore would not be germane to this legislation. We have no item in the bill that this amendment would be germane to. . . .

MR. JEFFORDS: Mr. Chairman, I would like to respond by saying it is difficult for me to see how anything that talks about cheese could not be relevant to the dairy provisions of the farm bill.

I recognize that there may be some others with concurrent jurisdiction, but certainly the protection of the cheese industry and the ability of our dairy farmers to ensure that imitation products are not sold under the guise of cheese certainly ought to be within the province of this committee. . . .

THE CHAIRMAN:[20] The Chair is prepared to rule.

The Chair will rule that No. 1, the amendment offered by the gentleman from Vermont [Mr. Jeffords] is to the Boehlert amendment and not to the farm bill in general, and the Boehlert amendment deals with Commodity Credit Corporation subsidies for dry milk; and so it is not germane to that amendment.

Second, the point of order raised by the gentleman from Texas [Mr. de la Garza] is correct in regards to the committee jurisdiction argument.

So the Chair will rule that the amendment is not germane to the Boehlert amendment.

Waiving Law Within Jurisdiction of Another Committee: Bill Relating to Registration of Pesticides—Amendment Barring Award of Attorneys' Fees Notwithstanding Any Other Law

§ 42.14 To a title of a bill reported from the Committee on Agriculture amending an existing law relating to registration of pesticides, an amendment providing that notwithstanding any other law, no attorneys' fees shall be awarded in certain civil actions brought under the law being amended was held not germane, as indirectly amending another law within the jurisdiction of another committee governing fees in federal civil actions generally, where nothing in the pending title amended laws on that subject.

20. David E. Bonior (Mich.).

On Sept. 19, 1986,[1] during consideration of H.R. 2482[2] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above, demonstrating that an amendment must be germane to the pending title of the bill to which it is offered. The proceedings were as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled . . .*
>
> TITLE I—REGISTRATION
>
> Sec. 101. Preregistration access to data.
>
> Sec. 102. Criminal penalties for disclosure of information.
>
> Sec. 103. Conditional registration.
>
> Sec. 104. Definition of outstanding data requirement.
>
> Sec. 105. Reregistration of registered pesticides.
>
> Sec. 106. Administrator's authority to require data on inert ingredients.
>
> Sec. 107. Definition of ingredient statement.
>
> Sec. 108. Disclosure of inert ingredients.
>
> Sec. 109. Compensation for data on inert ingredients. . . .
>
> MR. [RON] MARLENEE [of Montana]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Marlenee: Page 43, line 7, insert after "section 16(b)," the following new sentence:
>
> "Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines." . . .

MR. [HOWARD L.] BERMAN [of California]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Montana is in violation of clause 7 of House rule XVI which prohibits the consideration of amendments on a subject different from that under consideration. Mr. Chairman, the amendment offered by the gentleman from Montana carves out an exemption from the Equal Access to Justice Act, which authorizes the awarding of legal fees in certain cases brought against the Federal Government. The bill before us, H.R. 2482, amends the Federal Insecticide, Fungicide, and Rodenticide Act which concerns itself solely with the regulation of pesticides. Neither FIFRA nor this bill address the issue of the awarding of legal fees. Indeed, the amendment offered by the gentleman says that "Notwithstanding any other provision of law," indicating clearly that he intends to reach outside the scope of this bill and the law which it amends. The amendment goes to a totally different and nongermane matter to the business before the committee, and on this basis I ask that the point of order be sustained. . . .

MR. MARLENEE: . . . Mr. Chairman, my amendment, I submit, is germane for the following reasons:

First, the title of the bill it is for "other purposes" than amending FIFRA.

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1. 132 CONG. REC. 24728–30, 99th Cong. 2d Sess.

2. Federal Insecticide, Fungicide and Rodenticide Act amendments of 1986.

Second, other examples of enactments amended by this bill or by the underlying FIFRA Act are: The Federal Hazardous Substances Act; the Poison Prevention Packaging Act; the Federal Food Drug and Cosmetics Act, and title 5 of the United States Code.

Third, the section and the bill reauthorize programs and funding for the pesticide programs. It also adds a new program (reregistration—section 3 A of FIFRA) that is amended by my amendment. Both the section and the bill relate to fees and funding for the reregistration program. Some of that funding for the reregistration program will come from fees assessed against registrants (see page 42 of the bill) and some will come from appropriated funds (section 816 of the bill).

My amendment would state how some of those funds could not be utilized and I submit does not violate the rules of the House on germaneness.

Fourth, my amendment is narrowly drawn and applies only to "fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines." . . .

Fifth, this bill, other than the section I am amending, contains provisions relating to the actions against the United States for just compensation. . . .

The bill also contains provisions relating to the false statement statute (18 U.S.C. 1001) and prosecutions thereunder.

Sixth, section 9 of the FIFRA Act gives the EPA Administrator authority to obtain and execute warrants and section 12 authorizes the Administrator to make certain certification to the U.S. Attorney General. Section 701 of the act discusses patent term extension for registrations of pesticides. . . .

Seventh, I understand, although I have not seen the basis of Mr. Berman's point of order, that it asserts the nongermaneness of my amendment based on the fact that it amends the Equal Access to Justice Act.

However, section 2412 (b) and (d) of title 28 (Equal Access to Justice Act) specifically provide with respect to fees and expenses of attorneys that those subsections only apply "Unless expressly prohibited by statute," (subsection (b)) and "Except as otherwise specifically provided by statute," (subsection (d)).

It is submitted that this bill which reauthorizes the FIFRA programs and funding can be utilized to effect the exception provided for in the Equal Access to Justice Act. It is therefore submitted that my amendment is germane to this bill.

THE CHAIRMAN:[3] The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Montana [Mr. Marlenee] is not germane to the text of title I of H.R. 5440. The amendment waives all provisions of law which would otherwise permit the awarding of attorneys fees in FIFRA related court cases.

The Chair would first note that the gentleman's argument reaches into and relates to titles of the bill which have not yet been reached in the amendment process.

The law being waived, moreover, is not the FIFRA law, but is the Equal Access to Justice Act, a law within the jurisdiction of another committee and a

3. Matthew F. McHugh (N.Y.).

law not amended or referenced in the pending title of the bill. Nothing in title I amends existing law pertaining to judicial review and procedures.

The gentleman from Montana has made the point correctly that the Equal Access of Justice Act says that there can be exceptions specified by other statutes.

However, that does not remove jurisdiction from the Judiciary Committee or necessarily change the test of germaneness of amendments to other laws. And therefore, in the opinion of the Chair, the amendment addresses an issue within the jurisdiction of another committee and is not germane to the pending title.

The Chair therefore sustains the point of order.

Amendment To Prohibit Assistance Under "Any Other Act"

§ 42.15 To a bill amending an existing law, an amendment prohibiting assistance under that Act or under any other Act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was held to be not germane.

The proceedings of May 11, 1976, relating to H.R. 12835, the Vocational Education Act amendments, are discussed in § 35.62, supra.

Amendment Waiving Other Law: Bill Establishing Emergency Price Supports for Agricultural Commodities—Amendment Relating to Export of Agricultural Commodities

§ 42.16 To a bill reported from the Committee on Agriculture establishing emergency price supports for certain agricultural commodities, an amendment restricting the authority of the Secretary of Commerce under the Export Administration Act over the export of all agricultural commodities (a matter within the jurisdiction of the Committee on International Relations and covering a more general range of commodities) was held to be not germane.

During consideration of H.R. 4296 (a bill concerning the emergency price support program for certain 1975 crops) in the Committee of the Whole on Mar. 20, 1975,[4] the Chair sustained a point of order against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

4. 121 CONG. REC. 7651, 94th Cong. 1st Sess.

Amendment offered by Mr. Symms: Page 2, line 19, after the words "such crops", insert the following: "Notwithstanding any other provision of law, neither the Secretary of Agriculture nor the Secretary of Commerce shall require or provide for the prior approval of or establish other conditions for the export sales of feed grains, wheat, soybeans, or other agricultural commodities.". . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment as not germane to the bill. The amendment offered by the gentleman from Idaho affects the implementation of the Export Administration Act. This bill deals with amendments to the Agriculture Adjustment Act of 1949, as amended. The amendment deals with restrictions on exports and is not within the jurisdiction of the Committee on Agriculture, which has brought this bill to the floor.

The well established precedent of the House is that the fundamental purpose of an amendment must be in consonance with the fundamental purpose of the bill. It is not in this case. The jurisdiction of the subject matter lies within the jurisdiction of the Committee on International Relations of the House. I make the point of order that the amendment is not germane and is in violation of rule XVI, clause 4. . . .

MR. SYMMS: . . . I would just say that the reason that we have had the difficulties both in the soybean market and the wheat market, which has caused the stimulation of the need for this legislation, is because of the haphazard misuse of export controls, which so much interferes with the foreign markets. Therefore, since the Secretary of Commerce has to be included, this is an appropriate amendment for the House to speak its will on this issue. . . .

THE CHAIRMAN:[5] The gentleman from Washington makes the point of order that the amendment offered by the gentleman from Idaho is not germane to the bill. The Chair is prepared to rule on this matter.

The subject of export controls administered by the Secretary of Commerce under the Export Administration Act is within the jurisdiction of the Committee on International Relations, and the issue of exportation of all agricultural commodities is beyond the purview of the pending bill. For these reasons, the Chair feels that the amendment is not germane to the bill and sustains the point of order.

—*Amendment Affecting Price Support for Additional Commodity*

§ 42.17 To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a com-

5. John Brademas (Ind.).

modity outside the class of those covered by the bill, and was held to be not germane.

On Mar. 20, 1975,[6] during consideration of the emergency price supports bill for 1975 crops[7] in the Committee of the Whole, the following amendment was ruled out as not germane:

> Amendment offered by Mr. Peyser: Page 3, immediately after line 16, insert the following new section:
>
> "Sec. 3. Notwithstanding any other provision of law, there shall be no price support for rice effective with the 1975 crop of such commodity.". . .
>
> MR. [THOMAS S.] FOLEY [of Washington]: . . . The Findley amendment to H.R. 4296 amends section 103, section 105, and section 107 of the Agricultural Act of 1949.
>
> The amendment of the gentleman from New York is broader than that, and notwithstanding any other provision of law, strikes out any applicable provision for price supports for rice. The rice program was originally enacted in the Agricultural Adjustment Act of 1938. . . .
>
> MR. [PETER A.] PEYSER [of New York]: . . . It seems to me there is nothing out of order dealing with price supports certainly, and certainly nothing out of order dealing with rice. It is a commodity, and it is one that the Department of Agriculture and the legislation relates to. It seems to me perfectly in order.
>
> THE CHAIRMAN:[8] The Chair is prepared to rule.
>
> The bill under consideration amends only certain sections of the Agricultural Act of 1949 and no other provision of law. The Chair feels that the amendment of the gentleman from New York waives, in the language of his amendment, "notwithstanding any other provision of law," waives a provision of law not within the scope of the bill under consideration. The Chair, therefore, rules the gentleman's amendment not germane and sustains the point of order.

Parliamentarian's Note: It should be noted that the Peyser amendment contained the language "notwithstanding any other provision of law", which had the effect of amending a statute not amended by the bill. In the absence of the reference to other law, an amendment merely adding rice to the category of commodities covered by the 1949 Agricultural Act for the same crop year covered by the bill would have been germane.

Amendment Authorizing President To Waive Other Laws

§ 42.18 For an amendment establishing procedures for designating priority projects within a federally financed synthetic fuels program and expediting procedural deci-

6. 121 CONG. REC. 7666, 7667, 94th Cong. 1st Sess.
7. H.R. 4296.
8. John Brademas (Ind.).

sion-making deadlines, but not waiving substantive laws that might affect completion of those projects, a substitute amendment authorizing the President to waive any provision of law (if not disapproved by Congress) inconsistent with the approval, construction and operation of synthetic fuel projects was held not germane as a prospective temporary repeal of those substantive laws within the jurisdiction of other committees and beyond the narrow class of procedural waivers in the original amendment.

On June 26, 1979,[9] the Committee of the Whole had under consideration an amendment to the Defense Production Act Amendments of 1979 (H.R. 3930) when the following substitute for the amendment was offered and, a point of order having been raised, was ruled out as not being germane:

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio as a substitute for the amendment offered by Mr. Udall:

Page 8, after line 13, insert the following new subsection:

"(g)(1) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

"(A) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

"(B) take final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking final action on any such permit, approval, or authorization, such officer or agency shall publish notification thereof in the Federal Register.

"(2)(A) Within 6 months after the date of the enactment of this section, and from time-to-time thereafter, the President shall—

"(i) identify those provisions of Federal law or regulations (including any law or regulation affecting the environment or land leasing policy) which the President determines should be waived in whole or in part to facilitate the construction and operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section; and

"(ii) submit any such proposed waiver to both Houses of the Congress.

"(B) The provisions of law so identified shall be waived with respect to the construction and operation of such facility to the extent provided for in such proposed waiver if 60 days of continuous session of Congress have expired after the date

9. 125 CONG. REC. 16683–86, 96th Cong. 1st Sess.

such notice was transmitted and neither House of the Congress has adopted during that period of continuous session a resolution stating in substance that such House disapproves of that waiver. The term 'continuous session of Congress' shall have the same meaning as given it in section 301 of this Act."

Redesignate the following provisions accordingly. . . .

THE CHAIRMAN:[10] Does the gentleman from Oregon (Mr. Weaver) insist on his point of order?

MR. [JAMES] WEAVER [of Oregon]: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. WEAVER: Mr. Chairman, the amendment says the President shall identify provisions of Federal law or regulations. They are unidentified law or regulations, other than to say they deal with the environment and land use policy.

If these provisions of law so identified are submitted to the Congress, they will be waived. In other words, it affects law outside the bill we have before us. It amends unidentified law. . . .

MR. BROWN of Ohio: . . . Mr. Chairman, I rise in opposition to the point of order raised against my amendment.

My amendment is clearly germane not only to the bill before us but also to the Defense Production Act which the bill amends. On page 5 of this very bill, lines 17 through 21, language similar to that contained in my amendment can be found, and I quote:

(c) Purchases, commitments to purchase, and resales under subsection (b) may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods as the President deems necessary . . .

And then it goes on, and the quotation is ended.

That relates to what I offer in my amendment with reference to the President and his opportunity to waive existing law.

Similar language to that in my amendment providing for waiver of existing laws can be found in title 3 of the Defense Production Act which section 3 of H.R. 3930 would amend.

Mr. Chairman, the Defense Production Act is a very broad bill inasmuch as it deals with our national defense. Title 50, United States Code, section 2091, says, and I quote:

Without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts.

My amendment is a broad waiver provision, but it is no broader than those waiver provisions found in the Defense Production Act and in section 3 of H.R. 3930, which again is designed to amend the Defense Production Act.

Therefore, Mr. Chairman, I would argue to the Chair that my amendment is germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The waivers of existing law found both in the amendment offered by the gentleman from Arizona (Mr. Udall) and in the bill and statute itself are, in the judgment of the Chair, waivers with respect to a very narrow class of

10. Gerry E. Studds (Mass.).

existing law. The statute itself makes reference to provisions of law relating to the "making, performance, amendment, or modification of contracts," a specific reference to a narrow phase of law.

The Chair would cite Deschler's Procedure, chapter 28, section 33:

> To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a commodity outside the class of those covered by the bill and was ruled not germane.

The amendment offered by the gentleman from Arizona (Mr. Udall) does not purport to waive all inconsistent Federal statutes. The substitute offered by the gentleman from Ohio (Mr. Brown) would permit waiver of all provisions of law within the jurisdiction of other committees and is, in the opinion of the Chair, therefore, in effect a temporary prospective repeal of any other laws which otherwise would interfere with the construction of any facility financed by this bill, and the Chair sustains the point of order.

Temporary Waiver of Law

§ 42.19 To a bill authorizing appropriations for a Department for one fiscal year and containing diverse limitations and directions to that agency for that year, an amendment further directing that agency to obtain information during that year from the private sector and rendering that information public during that period notwithstanding another provision of law is germane.

On Oct. 18, 1979,[11] the Committee of the Whole had under consideration a bill[12] authorizing appropriations for the Department of Energy for one fiscal year. An amendment was offered requiring the Department, during the fiscal year covered by the authorization, to obtain petroleum supply information from each oil supply company and to publish such information notwithstanding the Freedom of Information Act. The amendment was held germane since confined to the activities of the Department for the fiscal year covered by the bill and not constituting permanent law. The amendment stated in part:

> The Clerk read as follows:
>
> Amendment offered by Mr. Peyser: Page 79, after line 25, insert the following new title:
>
> PETROLEUM SUPPLY REPORTS
>
> Sec. 901. During the period covered by this Authorization Energy Information Administration shall obtain them from each oil company not later than the third day (excluding Saturdays, Sundays, and legal public

11. 125 CONG. REC. 28815–17, 96th Cong. 1st Sess.
12. H.R. 3000.

holidays as specified in section 6103 of title 5, United States Code) of each calendar month beginning after the date of the enactment of this title a report specifying—

(1) the total refining capacity of such company on the last day of the last previous calendar month . . .

(7) the inventory of refined petroleum products of such company, by category of products, and the location of such products, on the last day of the last previous calendar month; and

(8) the estimated inventory of refined petroleum products of such company, by category of products and the estimated location of such products, during the calendar month during which the report is submitted.

PUBLISHING AND MAKING PUBLIC REPORTS

Sec. 902. Notwithstanding section 552 of title 5, United States Code (known as the Freedom of Information Act), the Administrator of the Energy Information Administration shall publish, and make available to the public, each report submitted pursuant to section 901 not later than the sixth day . . . of each calendar month during which such report is submitted. . . .

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, this amendment is not germane. The amendment imposes new comprehensive mandatory information reporting requirements on oil companies, not the Department of Energy.

The bill which we are considering would merely authorize appropriations for the Department of Energy. The bill does not institute any new requirements directly on individuals.

Number two, Mr. Chairman, the amendment is also nongermane because it permanently changes the purpose, coverage, and extent of the Freedom of Information Act by making the Freedom of Information Act inapplicable to information gathered in reporting pursuant to proposed new comprehensive programs.

For these two reasons, Mr. Chairman, this amendment is not germane and should be ruled out of order. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, I think the gentleman does not know that the amendment does not bring about any new requirement. I believe what he has read is the old amendment, which is the reason we had the amendment read now. It no longer says that it requires the oil companies to report. It simply says that the Energy Information Agency shall obtain the information from the oil companies, which is a perfectly legitimate and germane action to take.

On the question of violation of the Information Act, Mr. Chairman, I think that is something that the Congress is going to have to decide, whether this is appropriate or not, because what this amendment is doing is saying that the information from now on will be obtained by the Department of Energy from the oil companies so the Department of Energy is the source of the information to the Congress and not the American Petroleum Institute. So it would seem to me that this is a totally germane amendment as long as we no longer have the oil companies involved in the opening of this amendment to report, and the Information Act is something that the Members here have to vote on. It certainly is not a question of germaneness, and for that reason I believe the amendment should stand, Mr. Chairman. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, the point of order is still appropriate because of the direction of the amendment to the Freedom of Information Act and the modification of that act, which is not a subject of this authorization.

THE CHAIRMAN PRO TEMPORE:[13] The Chair is prepared to rule.

The first point made by the gentleman from Texas is mooted by the change in wording, as noted by the gentleman from New York and the gentleman from Ohio, since the amendment addresses conduct of the Department and does not directly regulate the activities of others.[14]

The amendment is prefaced by the words "During the period covered by this authorization . . ."

In the opinion of the Chair, it covers activities of the Department during the fiscal year in question and does not constitute a permanent change in law.

The reference to the Freedom of Information Act does constitute an indirect waiver of its provisions, but it does not constitute a permanent change in that act. It refers only to public access to information obtained pursuant to section 901, which is a 1-year requirement.

The Chair, therefore, feels that the amendment is germane and overrules the point of order.

13. Gerry E. Studds (Mass.).

14. *Parliamentarian's Note:* The original draft of the amendment required the oil companies to report to the Department. That approach, embodied in an amendment to an authorization bill, would not have been germane.

Affecting Other Laws

§ 42.20 To an amendment to an authorization bill authorizing the use of funds therein for a specific study, an amendment authorizing the availability of funds in that or any other Act for an unrelated purpose is not germane; thus, to an amendment to the Department of Defense authorization bill, authorizing funds for the Departments of Defense and Energy to conduct research on "nuclear winter" and to contract therefor with the National Academy of Sciences, an amendment designating by the names of specific Senators any science and mathematics scholarship or fellowship programs established during the 99th Congress under the bill or any other Act was held not germane, as affecting programs in other Acts not covered by the primary amendment.

On Aug. 15, 1986,[15] during consideration of H.R. 4428, the Department of Defense authorization for fiscal 1987, in the Committee of the Whole, the Chair sustained a point of order against

15. 132 CONG. REC. 22073, 22075, 22076, 99th Cong. 2d Sess.

the amendment described above. The section, and the amendment which was offered to it, were as follows:

Sec. 3302. Nuclear Winter Study and Report.

(a) Study.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) Report.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). . . .

The Clerk read as follows:

Perfecting amendment offered by Mr. Foley to the amendment offered by Mr. Wirth, as modified as amended: At the end of the amendment, add the following:

At the end of the bill, add the following new section:

SEC. 4005. NAME OF NEW SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM.

Any program established by this Act or any other Act during the 99th Congress to establish a foundation in the executive branch of the Government to award scholarships and fellowships for study in the fields of science and mathematics in order to further scholarship and excellence in education shall be named for Barry Goldwater, Senator from the State of Arizona, and Henry M. "Scoop" Jackson, late a Senator from the State of Washington. . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . [D]oing my utmost to understand the relevance, this gentleman cannot understand the germaneness of the proposed perfecting amendment to the amendment.

I would insist on my point of order that it is not germane. . . .

THE CHAIRMAN PRO TEMPORE:[16] The Chair is prepared to rule.

Without reading further in the amendment, the Chair notes on line 3, "Any program established by this Act or any other Act,"the Chair believes goes beyond the subject matter of the pending amendment.

For that reason, the Chair sustains the point of order of the gentleman from Alabama [Mr. Dickinson].

Bill Establishing Federal Energy Administration—Amendment Repealing Emergency Daylight Saving Time Energy Conservation Act

§ 42.21 An amendment repealing existing law is not germane to a bill not amending that law; thus, to a bill reported from the Committee on Government Operations establishing a Federal Energy Administration but not amending existing laws relating to energy conservation policy, an amendment repealing the Emergency Day-

16. Thomas J. Downey (N.Y.).

light Saving Time Energy Conservation Act (reported from the Committee on Interstate and Foreign Commerce) was held not germane.

During consideration of H.R. 11793[17] in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The proceedings of Mar. 7, 1974,[18] were as follows:

MR. [BILL] GUNTER [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gunter: Page 38, line 21, add the following new section:

Sec. 22. (a) The Emergency Daylight Saving Time Energy Conservation Act of 1973, P.L. 93-182; (87 Stat. 707) is hereby repealed.

(b) This section shall take effect at 2 o'clock antemeridian on the first Sunday which occurs after the enactment of this Act.

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, this amendment amends existing law, which is not the subject matter of this bill and is therefore nongermane. I urge that the Chair rule that the amendment is out of order. . . .

MR. GUNTER: . . . Mr. Chairman, I would say and call the attention of the Members of the House to the language of the declaration of purpose in section 2(a) on page 14 of the committee bill which declares that among the purposes of this act is to require positive and effective action in order to promote the general welfare and the common defense and security.

I submit, Mr. Chairman, under this broad language and for the stated purposes of this act that the general welfare declaration permits an interpretation and a finding by the Congress that the enumerated and authorized activities established by the Federal Energy Administration, if executed within the framework of the year-round daylight saving time provisions, would not serve the general welfare. . . .

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, the language would amend the Uniform Time Act of 1930, the act to which the amendments creating a new daylight saving time limitation were directed. That act has been under the jurisdiction of the Committee on Interstate and Foreign Commerce from the very beginning when it was originally introduced in this body in 1930. Each amendment to that act has been referred to and considered exclusively by the Committee on Interstate and Foreign Commerce. That act is not transferred nor is any portion of it contained in the authority conferred upon the Administrator under the provisions of this reorganization act.

For that reason it is my opinion that it is not germane and that the point of order should be sustained.

THE CHAIRMAN:[19] The Chair is prepared to rule.

The gentleman from Florida (Mr. Gunter) offered an amendment the ef-

17. The Federal Energy Administration Act.

18. 120 CONG. REC. 5653, 5654, 93d Cong. 2d Sess.

19. John J. Flynt, Jr. (Ga.).

fect of which is to repeal an existing law which is not otherwise referred to in the bill under consideration.

The gentleman from New York (Mr. Horton) has made a point of order against the bill that it is not germane to the bill and that it attempts to repeal a separate act which is not previously mentioned in the bill under consideration.

The Chair in ruling on points of order does not rule on the merits of any amendment that has been offered.

The Chair in this case is constrained in his ruling to relate to the germaneness of the amendment to the bill under consideration.

For the reasons stated in the argument of the gentleman from New York the Chair sustains the point of order.

Bill Prescribing Functions of New Federal Energy Administration—Amendment Imposing Ceiling Prices on Petroleum Products

§ 42.22 To a bill consolidating specified existing governmental functions under a new agency, amended to limit the policy-making authority of that agency to that contained in existing law, an amendment prescribing new policy by amending a law not amended by the bill is not germane; thus, to a section of a bill reported from the Committee on Government Operations prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment to the Emergency Petroleum Allocation Act (an Act reported from the Committee on Interstate and Foreign Commerce and not otherwise amended by the bill) establishing specific ceiling prices for petroleum products was held to be not germane.

During consideration of H.R. 11793[20] in the Committee of the Whole on Mar. 5, 1974,[1] the Chair, in sustaining a point of order against the following amendment, stated, in part, that in determining the germaneness of an amendment, the Chair examines its relationship to the bill as it has been modified by prior amendment and is not bound solely by the test of committee jurisdiction.

MR. [BENJAMIN S.] ROSENTHAL [of New York]: Mr. Chairman, I offer an amendment.

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20. The Federal Energy Administration Act.

1. 120 CONG. REC. 5306–09, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Rosenthal: On page 18, line 11 change Sec. 5 to Sec. 5(a).

On page 20, after the period on line 2, add the following new subsection:

"(b) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

"(j)(1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection. . . .

"(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

"(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil for which prices are posted; and

"(B) a maximum of $1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I rise to a point of order against the amendment. My point of order is that the amendment offered by the gentleman from New York (Mr. Rosenthal) is nongermane under rule XVI, clause 7. . . .

I do not wish to imply a position for or against the amendment by making this point of order, but I do feel constrained to block it because of the importance of getting this bill through under regular procedure. We must not allow this bill to be tied up in a thousand controversies as have been other energy bills.

The germaneness rule is one of the distinctive features of the procedures of this House. It dates back to our very beginning. There have been occasions where this House has acted as though this rule was not applicable, and the legislation has been poorer as a result. I think the rule of germaneness should be strictly applied to H.R. 11793. It is a soundly conceived organization bill and we should consider it as such.

I realize there has been some question as to whether this bill does, in fact, grant policy and program authority. I have maintained from the beginning that this bill does not do so; and for that reason I was willing to support the amendment, recently adopted, which provides that nothing in the functions sections of the bill shall be considered to set policy or grant program authority. The acceptance of this amendment underscores the lack of policy and program authority in the bill; and, of course, the Chair will have to take into account the significance of the adoption of this amendment because, to quote from Cannon, volume VIII, section 2910:

> (T)he Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time at which it is offered.

Let me explain exactly what the bill does. As it states in the "declaration of purpose" section:

> (I)t is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

The bill then proceeds to establish the administration. Section 5 sets out the general areas of interest of the new Federal Energy Administration. Section 6 transfers to the Agency authority from other offices and departments in the executive branch. In no way does this bill affect any of these substantive laws other than to change the location of responsibility for their execution. My committee did not amend the substance of these transferred laws, because their substance is within the jurisdiction of other committees. The remaining sections of the bill deal with typical administrative authorities granted to departments and agencies and the necessary arrangements for the transition to the new Agency.

Clause 7, of course, holds that no propositions on a subject different from that under consideration shall be admitted under color of amendment:

> The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered does not render it germane. (Cannon, Vol. VIII, sec. 2912).

Also, the whole of the amendment must be germane—Cannon, volume VIII, section 2922, 2980. . . .

I would like to point out that this amendment cannot be held germane simply because it relates to laws being amended by this bill. Let me again quote Cannon, volume VIII, section 2909;

> [T]he rule of germaneness applies to the relation between the proposed amendment and the pending bill to which (it is) offered, and not to the relation between such amendment and an existing law of which the pending bill is amendatory.

There are, of course, numerous other precedents along the same lines, such as Cannon, volume VIII, section 3045, 2948, and 2946. The reason for this is that the House needs a way to protect itself from amendments which have not been properly considered. . . .

H.R. 11793 is a reorganization bill; it is not a policy or program bill. The House has long recognized the distinction between policy bills and organizational bills. The very fact that we have established a Government Operations Committee with responsibility for, and I quote from rule XI, clause 8: "Reorganizations in the executive branch," is evidence of the long appreciation of this House for the distinct legislative area of reorganization. If we begin to allow policy and program authority to be added to reorganization bills, an important barrier between the work of my committee and the work of other legislative committees will have been ruptured. . . .

MR. ROSENTHAL: . . . The subject matter of H.R. 11793 is the establishment of a new Federal Energy Agency whose Administrator is authorized to regulate energy prices and is admonished, in section 5, to "promote stability in energy prices." The subject matter of my amendment is the achievement of stability in energy prices, clearly the same as the subject matter of a major portion of the legislation itself.

House interpretations of the germaneness rule hold that "the fundamental purpose of an amendment must be germane to the fundamental pur-

pose of the bill" and "an amendment should be germane to the particular paragraph or section to which it is offered," House rule XVI, section 794.

My amendment goes to a fundamental purpose of the bill—bringing about stability in energy prices—and it appears as a part of the "functions" section which requires such stability.

My price rollback amendment is germane for additional reasons:

No House rule or precedent prohibits the Government Operations Committee from granting new power or creating new policy in a bill of this kind—so long as the power or policy is directly related to the purpose for which the agency is being created. In fact numerous provisions already in H.R. 11793 and in other Government Operations' bills to reorganize and consolidate, create new powers and set new policy.

For example, the committee, in the Federal Energy Act, has already expressly established new policies and created new powers not elsewhere authorized by law:

Section 4(j) amends and revises a Federal conflict of interest statute—section 203 of title 18, United States Code—technically within the jurisdiction of the Post Office and Civil Service Committee. . . .

The committee, in section 2 of the present bill—H.R. 11973—establishes as a purpose of the Federal Energy Administration the establishment of "fair and reasonable consumer prices" for energy supplies. Section 5, paragraph 5, establishes as a function of the Administrator the promotion of "stability in energy prices to consumers." My amendment merely provides a mechanism by which this purpose and function can be carried out. . . .

THE CHAIRMAN:[2] The Chair is prepared to rule on the point of order.

The gentleman from New York (Mr. Rosenthal) has offered a substantive and lengthy amendment which begins with the following words:

> Subsection (b), Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by this title is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil and refined petroleum products by adding at the end thereof the following new subsection:

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that the amendment is not germane to the bill under consideration.

The gentleman has made the further point of order that the amendment covers a subject matter not within the jurisdiction of the Committee on Government Operations, but within the legislative jurisdiction of another Committee of the House of Representatives.

The gentleman from New York, in urging the Chair to overrule the point of order, has cited many reasons. Part of the gentleman's statement deals with another section of the bill which has not been read at this time. Part of his remarks deal with the policy of the amendment, not with the parliamentary situation.

The Chair would not want to rule in this instance in such a manner that every law of the United States dealing with the energy question would be open to amendment in the pending bill.

The gentleman from New York (Mr. Rosenthal) referred during his argu-

2. John J. Flynt, Jr. (Ga.).

ment to a bill in the 89th Congress creating a new Department of Transportation and delineating the duties of its Secretary. The Chair has examined the Congressional Record for the period when that bill was under consideration. An amendment was offered on that occasion directing the Secretary of Transportation to conduct a study of "labor laws as they relate to transportation," a matter within the jurisdiction of another committee, and to recommend procedures for settlement of labor disputes. A point of order was made against that amendment, and the Chairman at that time (the Honorable Mel Price of Illinois) ruled such an amendment out of order as not being germane to the bill under consideration.

The Chair would point out that the question of committee jurisdiction is not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

But this amendment clearly seeks to amend another law, the Emergency Petroleum Allocation Act of 1973, which is not sought to be amended in the bill under consideration.

Therefore, the Chair refers to a ruling made by Mr. Speaker Carlisle on March 17, 1880:

> When it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that the proposed amendment is a motion or proposition upon a subject matter different from that under consideration.

The Chairman of the Committee of the Whole House, John J. Fitzgerald of New York, on September 27, 1914, ruled that:

> For an amendment to be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment which would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane . . . is in the interest of orderly legislation.

In passing on the germaneness of an amendment, the Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time it is offered and not as originally referred to the committee. And it has been held that an amendment which might have been in order, if offered when the bill was first taken up, may be held not germane to the bill as modified by prior amendments.

The Chair, therefore, rules that the amendment seeks to amend a separate piece of legislation, namely, the Emergency Petroleum Allocation Act of 1973, which is not amended in the bill under consideration and sustains the point of order.

Parliamentarian's Note: See § 42.23, infra, for similar ruling.

§ 42.23 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the Nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law", an amendment prescribing

guidelines to be followed by the Administrator in establishing petroleum prices (a permissible limitation on the discretionary authority conferred in that section), but also directly imposing ceiling prices on petroleum products where the Administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was held to be not germane.

On Mar. 6, 1974,[3] during consideration of H.R. 11793[4] in the Committee of the Whole, it was demonstrated that, while a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to be administered by that agency is not germane.

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Moss: Page 18, line 11, insert "(a)" after "Sec. 5.".

Page 20, after line 2 and after the Alexander amendment, insert the following:

(14) In administering any pricing authority, provide for equitable prices with respect to all sales of crude oil, residual fuel oil, and refined petroleum products in accordance with subsection (b) of this section.

(b)(1) Pricing authority of the Administrator shall be exercised so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of any regulation under pricing authority of the Administrator which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

(A) the highest posted price at 6:00 a. m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil for which prices are posted; and

(B) a maximum of $1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, the amendment offered by the gentleman from California (Mr. Moss) is nongermane to this reorga-

3. 120 CONG. REC. 5433–36, 93d Cong. 2d Sess.

4. Federal Energy Administration Act. See § 42.22, supra, for a similar ruling.

nization bill, and section 5, under XVI, clause 7.

The committee yesterday amended section 5 of the bill before us so that the functions listed would clearly not confer any new authority on the FEA Administrator. The authority available to the FEA Administrator must come from other sections of this act, or provisions of other laws which are now in existence.

As the Chair pointed out yesterday, amendments must be germane to the bill as modified by the Committee of the Whole at the time they are offered, and not as originally referred to the committee. Therefore, amendments attempting to add policy or program powers to section 5 are nongermane to that section.

The subject matter of this amendment was not considered in the committee, and is not dealt with in any other provisions in this bill; it is a subject matter completely different from the matter under consideration.

In the interest of orderly legislation . . . the amendment should be ruled out of order. It is inappropriate to section 5, because section 5 does not add any new policy or program. It amends existing law, Mr. Chairman, in ways that are not affected by the bill which is now before the committee. For example, the Economic Stabilization Act, there are sections there that are in this amendment that are not involved in this bill. . . .

MR. MOSS: . . . Section 5 of the bill before us requires the Administrator to:

> Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise. . . .

The amendment I have offered is a limitation upon the Administrator. It says he cannot go back before the prices set in May of 1973 in the exercise of his authority, excepting that he may add a total of $1.35, bringing to $5.25 a barrel the effective price of crude oil. It does provide that there can, upon certain findings by the Administrator, be an increase to $7.09. . . .

. . . We are limiting the discretion. We are limiting the authority which we are by this act itself, the proposed legislation in the Committee on Government Operations, granting to the administrator. Clearly that is germane; clearly that is within the province of this committee and of this House to limit the scope of authority conferred or being conferred upon a new office. . . .

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

The gentleman from California (Mr. Moss) has offered a substantive amendment to section 5 of this bill. The amendment has been read in its entirety and will appear in the Record of the proceedings of today.

Against this amendment the gentleman from New York (Mr. Horton) has made a point of order as follows:

> That the amendment offered by the gentleman from California (Mr. Moss) is not germane to the bill or to the section of the bill to which it is presently offered.

The Chair had, of course, anticipated that further questions regarding the

5. John J. Flynt, Jr. (Ga.).

germaneness of amendments to section 5 might arise today, and for that reason the Chair has reviewed the actions taken by the Committee of the Whole on yesterday.

The Chair has carefully read and fully attempted to analyze each line of the amendment offered by the gentleman from California (Mr. Moss).

The Chair has diligently endeavored to understand the full import and the total impact of the amendment which the gentleman from Calfiornia (Mr. Moss) has offered. Section 5 of the bill was amended by the amendment offered yesterday by the gentleman from California (Mr. Holifield), so that the preface to that section now reads as follows:

> To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this Act or any other provisions of law. . . .

There follows in section 5 a list of functions which define the broad areas in which the Administrator may act. This list on enumeration of functions, as the Chair stated yesterday, is, of course, subject to germane amendment. Whether additional functions relating to the energy needs of the Nation, if added to this list by way of amendment, would be authorized by other provisions of this bill or by other law, is a legal question and not a parliamentary question.

Whether or not a function given the Administrator under section 5 is authorized by existing law is a matter that goes to the effect of the amendment and not to the question as to whether or not it is germane.

The Chair does not, under the precedents, rule on questions of the consistency of amendments or upon their legal effect. The question upon which the Chair must now rule is, "Is the amendment in its entirety as offered by the gentleman from California germane to section 5 of the bill H.R. 11793?"

The Chair will state that section 5 sets forth the functions of the Administrator, and on yesterday the Chair enumerated some of the functions. The section includes a broad range of functions and duties, and under the rules of germaneness other related functions could be added to the list by way of amendment. Functions or duties could also be limited by way of amendment, but substantive law cannot be changed by an amendment to a section dealing with functions.

Much of what the gentleman from California (Mr. Moss) and others have said is true. Much of the amendment offered deals with functions, and part of the amendment purports to modify the Administrator's functions; but portions of the amendment extend further than defining, restricting, or limiting the functions of the Administrator.

It should be borne in mind that section 5 of this bill relates to the functions of the Administrator of the Federal Energy Administration. Although part of the amendment does define and limit the functions of the administrator, other portions of the amendment place a mandatory burden on him or, even without action on his part, effectively change existing law and pricing authority.

Therefore, the Chair sustains the point of order made by the gentleman from New York.

Policy-making Authority of New Agency Limited to That in Existing Law—Amendment Prescribing New Policy

§ 42.24 To a bill consolidating certain existing governmental functions under a new agency, amended to limit the policy-making authority of that agency to that contained in existing law, an amendment prescribing new policy by amending a law not amended by the bill is not germane.

The proceedings of Mar. 5, 1974, relating to H.R. 11793, the Federal Energy Administration Act, are discussed in Sec. 4.11, supra.

Authorization for Department of Energy—Amendment Authorizing Funds for Study of Tax Credits Affecting Energy Use

§ 42.25 Where existing law requires a Department to study and recommend changes in all laws on an annual basis to encourage energy conservation, an amendment to an annual authorization bill for that Department directing it to study and recommend changes in one category of laws with funds covered by the bill was held germane as confined to the fiscal year covered by the bill and as a specific direction within the general category of duties required by existing law.

On Oct. 18, 1979,[6] the Committee of the Whole had under consideration a bill[7] authorizing appropriations for the Department of Energy for one fiscal year, including funds for conservation programs of the Department. An amendment was offered to the bill, adding a new title authorizing appropriations for the same fiscal year for a study of legislative proposals for energy tax credits introduced in the 96th Congress, including an assessment of the costs to the United States and the savings in energy through such proposals. The amendment was held to be germane since confined to the use of funds for the appropriate fiscal year, and since the Department of Energy had the responsibility under existing law, in carrying out its conservation programs, to annually study and recommend changes in all laws to encourage energy conservation. The amendment stated:

> Amendment offered by Mr. Clinger: Page 41, after line 24, insert a new

6. 125 CONG. REC. 28763, 28764, 96th Cong. 1st Sess.

7. H.R. 3000.

title IV as follows and renumber the following titles accordingly.

TITLE IV

TAX CREDIT STUDY

Sec. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed $38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane.

Mr. Chairman, the legislation before us, H.R. 4839, is a 1-year authorization bill for the Department of Energy. It is an authorization bill which relates to the energy activities of the Department of Energy as opposed to taxable matters and taxes.

The amendment is not germane for several reasons. The first is that it relates to matters other than energy, in that it directs a study with regard to tax credits. Nowhere in the proposal before us, Mr. Chairman, do we find anything relating to tax credits in the legislation. . . .

I would point out that the Secretary of Energy, according to the language of the amendment in paragraph (b) is directed to conduct a study to assess various proposals for Federal tax credits for residential coal heating equipment as contained in the legislation in the Congress. I now quote: "During the 96th session."

Now, I assume that refers to the 96th Congress. The 96th Congress will be for this fiscal year, plus portions of the succeeding fiscal year.

I would observe that if the study includes matters which were introduced during the 96th Congress, it will include matters which were introduced after the conclusion of the fiscal year in which we find ourselves and after the conclusion of the period covered by the authorization proposal.

The amendment further in its last three lines says as follows:

> Not later than one year after the date of the enactment of this Act. . . .

That mandates actions by the Secretary of Energy 1 year after the date of enactment of this statute, which would be whatever date it might be, but it would be 1 year after at least probably the conclusion of the fiscal year in question. Again I recall to the Chair the fact that the proposal before us is a 1-year authorization bill and that this mandates actions by the Secretary well after the conclusion of the period covered in the 1-year authorization bill which is before the committee.

For that reason, I believe that the amendment is nongermane. I would urge that position on the Chair. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, I would . . .

urge upon the Chair the fact that this proposal is very vague and indefinite, in that the study shall be based on all legislation which may be introduced in the 96th Congress, which is an impossibility for the Secretary to undertake, since all of the proposals in the 96th Congress have not yet been introduced and there is no limit to when they can be introduced before the end of the 96th Congress and the impossibility of meeting this 1-year deadline is within the ambiguity of this amendment.

Therefore, for that reason, Mr. Chairman, I urge that the point of order be sustained. . . .

THE CHAIRMAN PRO TEMPORE:[8] The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania directs the Secretary of Energy with funds separately authorized by the amendment for fiscal year 1980 to conduct a study to assess legislative proposals introduced in the 96th Congress which provides Federal tax credits for residential coal heating equipment in order to evaluate the costs of those proposals and possible savings in the consumption of heating oil and natural gas that would result therefrom.

The Secretary shall report his findings not later than 1 year after enactment.

The possibility that the study might not be completed within the fiscal year 1980 does not seem to the Chair to be crucial in this case, since the study is only to be funded by fiscal year 1980 funds and since other activities of the Department of Energy funded by the bill for fiscal year 1980 are ongoing in nature and could also involve continued participation beyond September 30, 1980.

A more central question is the issue of the tax study. While ordinarily revenue matters are within the jurisdiction of the Committee on Ways and Means and would not be germane to a bill reported by another committee, in the present case the Department of Energy is mandated by its organic statute (Public Law 95–91) to annually study and recommend changes in all laws and regulations needed to encourage more conservation of energy.

The Chair would also observe that title III, which the committee has already dealt with, does address the issue of energy conservation programs in the Department.

As a new title, the amendment imposes upon the Secretary of Energy for fiscal year 1980 a more specific responsibility within the ambit of the Secretary's existing authority and confined to the fiscal year covered by the titles of the bill read to this point.

The Chair would further observe that the observation made by the gentleman from Texas (Mr. Kazen) are addressed to the merits and the substance of the amendment rather than to its germaneness.

The Chair, therefore, overrules the point of order.

Permanent Law Amendment to Authorization Bill

§ 42.26 A bill authorizing appropriations to an agency for one year but not amending the organic law by extending the existence of that agency

8. Gerry E. Studds (Mass.).

does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill; accordingly, to a bill providing an annual authorization for the Energy Research and Development Administration, but not amending the basic law which created that agency, an amendment to such law, extending the existence of the Energy Resources Council (an entity not referred to in the pending bill), was held to be not germane.

During consideration of H.R. 13350 in the Committee of the Whole on May 20, 1976,[9] the Chair sustained a point of order against the following amendment:

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: On page 32, between lines 6 and 7, insert a new section to read as follows:

"Sec. 405. Section 108(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5818(d)) is amended by striking the words 'two years' and inserting therein 'four years', and at the end thereof adding the following:

"'Beginning February 1, 1977, the Council shall annually provide to Congress a detailed report of the actions it has taken or not taken in the preceding fiscal year to carry out the duties and functions referred to in subsection (b) of this section, together with such recommendations, including legislative recommendations, the Council may have concerning the development and implementation of energy policy and the management of energy resources. The report shall include such other information as may be helpful to the Congress and the public.'". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to H.R. 13350.

The bill authorizes appropriations for 1 year for the programs administered by the Energy Research and Development Administration.

The amendment would have the effect of making permanent the Energy Resources Council, a body established within the Executive Office of the President. Such an amendment is clearly beyond the scope of a 1-year authorization bill and is, therefore, not germane.

Mr. Chairman, I would ask that the point of order be sustained, and I specifically refer to rule XVI, clause 7. . . .

MR. GOLDWATER: . . . Mr. Chairman, the amendment is directly related to subject matter of the bill—ERDA's programs and how they are

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9. 122 CONG. REC. 14912, 14913, 94th Cong. 2d Sess.

See also §§ 41.14 and 41.17, supra, for similar instances in which a bill extended only an authorization. Compare §§ 39.28 and 39.30–39.32, supra, in which the bill sought to extend the existence of an agency, and amendments to the organic law creating that agency were held to be germane to the bill if germane to the basic law.

carried out under the Energy Reorganization Act.

The Reorganization Act created ERDA and its programs and also the Energy Resources Council to insure the full and complete coordination of those programs and all other energy agencies and programs. ERDA's programs and the ERC go hand and glove in a programmatic sense.

FUNDAMENTAL PURPOSE AS TEST

The fundamental purpose of the amendment is to continue our only statutory mechanism for coordinating our energy programs to insure they are effective and not duplicative.

Last year, section 309 of the Authorization Act stated:

> The administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication.

My amendment addresses that same goal—avoiding duplication and maximizing effectiveness.

COMMITTEE JURISDICTION

The Science Committee and JAEC have sole jurisdiction over energy R. & D. programs.

Once the ERC was established, it came under the jurisdiction of the energy committees who must have responsibility for legislating effective energy programs. If we do not have it, no one does.

The ERC does not have a separate staff. It uses agency personnel on assignment in the agency's area of responsibility. So ERDA personnel can and do staff ERC functions. This bill provides the funds in program support for those employees. Therefore, this bill actually will fund the extended activities of ERC in fiscal year 1977 under my amendment.

GENERAL VERSUS SPECIFIC

This is specific amendment to the general provisions. It is an ERDA program-wide provision, that is to have a continued, statutory mechanism for coordination of all energy programs.

AMENDMENT TO EXISTING LAW

The amendment merely extends the ERC for 2 years by a minimal change in the Energy Reorganization Act. The thrust is basically programmatic in nature, not a substantive change.

The bill is under the Reorganization Act, and further the Reorganization Act requires in section 305 that there be an annual authorization for "appropriations made under this act."

The Reorganization Act, the ERDA program and the ERC—under section 108—of the act are all tied together.

KEY POINT

The amendment is germane, because this bill includes program support for the salaries of ERDA employees who staff parts of the Energy Resources Council.

THE CHAIRMAN:[10] The Chair is prepared to rule.

The Chair has examined the amendment and has listened to the argument in support of the point of order and to the argument presented by the gentleman from California (Mr. Goldwater) very carefully and it, indeed, is an argument which deserves the careful attention of the Chair.

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10. J. Edward Roush (Ind.).

The Chair would call attention to the fact that the amendment offered by the gentleman from California (Mr. Goldwater) seeks to amend the Energy Reorganization Act of 1974 by extending the life of the Energy Resources Council.

The point of order is made that the amendment is not germane and that the amendment goes beyond the scope of the bill before us.

The bill before the committee at this time is an annual authorization bill. It is a bill to authorize appropriations for the Energy Research and Development Administration and does not amend the basic organic statute which established ERDA.

The Chair is constrained to state that, in his opinion, the amendment offered by the gentleman from California (Mr. Goldwater) goes beyond the scope of the bill which is pending before the committee at this time in that that bill does not directly amend the Energy Reorganization Act of 1974 nor does it deal with the Council as a separate entity.

The Chair would refer to Deschler's Procedure, chapter 28, section 33, and the numerous precedents set out there concerning amendments changing existing law to bills not citing that law.

The Chair, therefore, sustains the point of order.

Study of Energy Conservation—Additional Study

§ 42.27 To an amendment in the nature of a substitute establishing a Federal Energy Administration and directing that agency to conduct a comprehensive study of energy conservation, an amendment directing that agency to conduct another study as to whether regulations issued under the Economic Stabilization Act were contributing to the energy shortage was held to be germane.

During consideration of H.R. 11450 (11) in the Committee of the Whole on Dec. 14, 1973,(12) the Chair held that to a proposition establishing an executive agency and conferring broad authority thereon, an amendment directing that agency to conduct a study of a subject within the scope of that authority was germane:

MR. [JAMES R.] JONES of Oklahoma: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 9, after line 22, section 104 is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

Sec 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pur-

11. The Energy Emergency Act.

12. 119 CONG. REC. 41752, 93d Cong. 1st Sess.

suant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I regretfully make a point of order against the amendment. . . .

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Of course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness. . . .

MR. JONES of Oklahoma: I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because, it does fit into the overall objective.

THE CHAIRMAN:[13] The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. Jones) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

Bill Authorizing Environmental Research and Development—Amendment Adding Permanent Regulatory Authority

§ 42.28 To a bill authorizing environmental research and

13. Richard Bolling (Mo.).

development by an agency for two years, an amendment adding permanent regulatory authority to that agency by amending a law not being amended by the bill and not within the jurisdiction of the committee reporting the bill is not germane.

On June 4, 1987,[14] the Committee of the Whole had under consideration H.R. 2355, the Environmental Research and Development Authorization for fiscal 1988 and 1989, reported from the Committee on Science, Space and Technology. The bill had as its purpose the authorization of environmental research and development programs. An amendment was offered which sought to amend the Clean Air Act, a law not amended by the bill and one that was within the jurisdiction of the Committee on Energy and Commerce. The amendment, moreover, sought to provide new regulatory authority for the agency that was to conduct the research and development programs.

The Clerk read as follows:

H.R. 2355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1987".

SEC. 2. GENERAL AUTHORIZATIONS.

(a) Environmental Research, Development, and Demonstration.—There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities, the following sums: . . .

(9) $55,866,600 for fiscal year 1988 for energy activities of which not more than $52,331,100 shall be for acid deposition research, and $56,216,900 for fiscal year 1989 for energy activities of which not more than $52,611,900 shall be for acid deposition research. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 12, after line 22, insert the following new section:

SEC. 8. ACID DEPOSITION CONTROL.

Title I of the Clean Air Act is amended by adding at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"SEC. 181. EMISSIONS FROM UTILITY BOILERS.

"(a) State Plans to Control Emissions.—Not later than one year after the enactment of this section, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for controlling

14. 133 CONG. REC. 14739, 14753–14755, 14757, 100th Cong. 1st Sess.

emissions of sulfur dioxide and oxides of nitrogen from fossil fuel fired electric utility steam generating units in the State. The plan shall meet the requirements of subsections (b) and (c). . . .

"SEC. 185. FEES.

"(a) Imposition.—Under regulations promulgated by the Administrator, the Administrator may impose a fee on the generation and importation of electric energy. Such fee shall be established by the Administrator at such level (and adjusted from time to time) as will ensure that adequate funds are available to make interest subsidy payments in the amount authorized under section 187. . . .

SEC. 102. REVISIONS OF NEW SOURCE PERFORMANCE STANDARDS FOR CONTROL OF NITROGEN OXIDE EMISSIONS.

Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

"(k) . . . The Administrator shall revise the standards of performance for emissions of nitrogen oxides from electric utility steam generating units which burn bituminous or subbituminous coal. . . .

MR. [ROBERT A.] ROE [of New Jersey]: . . . On the point of order, Mr. Chairman, the committee feels that the amendment as drafted by the gentleman from Vermont [Mr. Jeffords] has a regulatory purpose which goes beyond the R&D programs authorized by this bill. And for this reason the amendment is not germane. . . .

MR. JEFFORDS: Mr. Chairman, I would like to point out that section 2 of this bill states as follows, the first sentence after the title of section A: "There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities the following sums" and it delineates the amounts of those sums. Some of those are for activities which are authorized under the Clean Air Act. So we have money authorized here. The amendment I have will use little or no funds of those. There is nothing in here that says it is prohibited from using those funds. The amendment that I offered and as I say has no budgetary impact in addition to what is already authorized under this bill, it provides for the development of State plans to take care of the problems of acid rain. It authorizes studies which are research programs. It also authorizes development programs to control the emissions consistent with the Clean Air Act by amending the Clean Air Act to do that, both for stationary sources and mobile sources and also authorizes certain field experiments.

I believe it is well within the authority that is gathered and given by this bill which is a bill of general nature within the areas being authorized. So I feel it is well within the jurisdiction of the committee, there is no question about that and I believe it is germane.

THE CHAIRMAN:[15] . . . [T]he Chair is prepared to rule.

The Chair is ruling that the gentleman's amendment, the gentleman from Vermont, amends a law that does not come within the jurisdiction of the Committee on Science, Space, and Technology. In addition, the pending bill is research and development legislation and the gentleman concedes that he not only addresses a research issue, but addresses regulation regarding

15. Nick J. Rahall, II (W. Va.).

acid rain that is outside the jurisdiction of the committee reporting the pending bill.

The gentleman from New Jersey's point of order is sustained.

Temporary Suspension of Environmental Laws—Amendment To Prohibit Federal Assistance Under Another Law

§ 42.29 To a proposition temporarily suspending certain requirements of a law, an amendment accomplishing that result by prohibiting federal assistance under another law (within the jurisdiction of a different House committee) where there has been failure to comply with standards imposed by the amendment was held to be not germane.

On May 1, 1974,[16] during proceedings relating to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, the Committee of the Whole was considering an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements, including the temporary suspension of certain emission standards imposed upon automobile manufacturers. An amendment was offered which sought to impose restrictions on emissions, only for new automobiles, in designated geographical areas, through requirements affecting the manufacture, purchase, and registration of automobiles. The amendment also sought to withdraw state entitlements to federal assistance under the Clean Air Act or under the Federal Water Pollution Control Act. The latter Act was within the jurisdiction of the Committee on Public Works. The amendment was ruled out of order as not germane. The proceedings are discussed in greater detail in § 4.5, supra.

Temporary Suspension of Clean Air Act Requirements—Suspension of Requirements of Other Environmental Laws

§ 42.30 To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane.

The proceedings of Dec. 14, 1973, relating to H.R. 11450 (the Energy Emergency Act), are discussed in § 9.44, supra.

16. 120 Cong. Rec. 12520, 12522–24, 93d Cong. 2d Sess.

Bill Amending Federal Water Pollution Control Act—Amendment to Clean Air Act

§ 42.31 To a bill reported from the Committee on Public Works and Transportation amending the Federal Water Pollution Control Act, an amendment amending the Clean Air Act (a statute within the jurisdiction of the Committee on Energy and Commerce) to regulate "acid rain" by controlling emissions into the air was held not germane as amending a law and dealing with a subject within the jurisdiction of another committee.

On July 23, 1985,[17] during consideration of H.R. 8, the Water Quality Renewal Act of 1985, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 113, after line 13, insert the following new title:

TITLE II—ACID DEPOSITION CONTROL

SECTION. 1. SHORT TITLE.

This title may be cited as the "Water Quality Improvement and Acid Deposition Reduction Act of 1985."

SEC. 2. PURPOSE.

The purpose of this Act is to improve water quality, protect human health and preserve aquatic resources in the United States by reducing the threat of acid deposition.

Subtitle I—Acid Deposition Control and Assistance Program

SEC. 101. AMENDMENT OF CLEAN AIR ACT.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"Subpart 1—General Provisions

"Sec. 181. purpose of part.

"The purpose of this part is to decrease sulfur dioxide emissions in the 48 contiguous States by requiring certain electric utility plants and other sources to reduce their rates of sulfur dioxide emissions. The reduced rates shall be rates which (if achieved by those sources in the emissions baseline year) would have resulted in total emissions from such sources 12,000,000 tons below the actual total of sulfur dioxide which those sources emitted in the emissions baseline year. The reduction is to be achieved within 10 years after the date of the enactment of this part. Such reduction shall be achieved through—

"(1) a program under subpart 2 consisting of direct federally mandated emission limitations for 50 of the largest emitters of sulfur dioxide. . . .

MR. [M. G.] SNYDER [of Kentucky]: . . . The amendment which the gentleman offers is not germane. It is,

17. 131 CONG. REC. 20041, 20050–52, 99th Cong. 1st Sess.

with minor changes, substantially that embodied in H.R. 1030, which the gentleman introduced on February 7, 1985. The purpose of that bill was to decrease sulphur dioxide emissions by requiring certain electric utilities plants and other sources to reduce their rates of emissions. Since the bill made extensive amendments to the Clean Air Act, it was referred solely to the Committee on Energy and Commerce, who have jurisdiction of this matter.

Today we have almost identical provisions before us embodied in Mr. Conte's amendment which are far beyond the scope of the bill we are now considering, H.R. 8, and deal with the subject properly within the jurisdiction of another committee, that is, the Committee on Energy and Commerce.

The scope of H.R. 8 is limited to the Clean Water Act and does not include extensive amendments to the Clean Air Act as the gentleman has proposed. . . .

MR. CONTE: . . . Mr. Chairman, the amendment I feel is germane to the committee amendment. It deals with the same subject matter as contained in the bill.

For example, the committee amendment includes a program to address the acidification of this Nation's lakes. If implemented, this amendment would accomplish the same goal by controlling the source of this acidity. Also, the bill, as a whole, is concerned with the protection and improvement of water quality in this country. And this amendment directly addresses the protection of water quality by controlling acid rain.

For these reasons, the amendment is in order and germane to the bill. . . .

MR. [HOWARD C.] NIELSON of Utah: . . . The Public Works and Transportation Committee does have water pollution, but they do not have air pollution; they do not have air quality in their committee.

As the gentleman from Kentucky appropriately stated, this is the exclusive province of the Committee on Energy and Commerce and the Health and Environment Subcommittee of that committee. . . .

THE CHAIRMAN:[18] It is the ruling of the Chair that the amendment changes a law not amended in the pending bill and outside the jurisdiction of the reporting committee, and deals with the regulation of emissions not within the scope of the bill.

For that reason, the amendment is not germane.

Exemptions From Endangered Species Act for Economic Development Projects—Amendment Conferring New Authorities on Officials With Respect to Projects

§ 42.32 To a bill amending the Endangered Species Act to establish new procedures for determining the extent of protection to be accorded to endangered species by permitting exemptions for qualifying economic development projects, an amendment waiving the provisions of that Act and other laws to

18. Harry M. Reid (Nev.).

permit construction of certain public works projects and to require modifications of those projects by federal officials whose authorities to regulate those projects were not addressed by the pending bill, was ruled out as nongermane since broadening authorities of agencies not directly covered by the bill.

On Oct. 14, 1978,[19] during consideration of H.R. 14014 in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The pending section of the bill and the amendment offered thereto were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Sec. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.". . .

MR. [TENO] RONCALIO [of Wyoming]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) . . . and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended; and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the National Environmental Policy Act, and the Endangered Species Act; *Provided* That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Secretary of the Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after

19. 124 CONG. REC. 38134, 38140, 38141, 95th Cong. 2d Sess.

consultation as appropriate with the affected States.". . .

MR. JOHN J. CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment on the grounds it is not germane. The amendment deals with several statutes not before the House committee. It would affect the National Environment Policy Act, 42 U.S.C. 4321; the Federal Water Pollution Control Act, 16 U.S.C. 531; the Rural Electrification Act and loan guarantees and approvals thereunder, and legislation creating the Missouri Basin power project.

The amendment could have gone to the Committees on the Interior and Public Works, as those are the committees with jurisdiction over the basic statutes cited.

The amendment imposes duties and burdens specifically on the Corps of Engineers and other agencies, such as the Environmental Protection Agency, which are not subject to specific mandate in the Endangered Species Act, which we are considering today. . . .

MR. RONCALIO: . . . In the first place, the amendment seeks to change none of the statutes which my good friend, the gentleman from Omaha, has cited.

The precedents are clearly established for comparable legislation. I shall read from the most recent one, from Deschler's Procedures in the U.S. House of Representatives, page 477, at which there is cited under the amendments and the germaneness rule:

> § 5.18 For a bill authorizing the construction of a trans-Alaska oil-gas pipeline pursuant to procedures—

That bill came out of this very body not 4 years ago—

> promulgated by the Secretary of Interior and including a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted, an amendment in the nature of a substitute containing a similar series of safeguards and including an exception from the prohibition against judicial review—to provide a mechanism for expediting other actions challenging pipeline permits—was held germane. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

The holding at that time survived a challenge against it and was held germane, even though there was a prohibition against providing a mechanism for expediting other actions challenging pipeline permits, whether they be for the Corps of Engineers or any others; so the amendment is clearly germane to the proceedings today. . . .

MR. CAVANAUGH: Mr. Chairman, I just reiterate that the amendment does impose new duties and obligations upon agencies of Government not in consideration in this legislation, the National Environmental Protection Policy Act, the Federal Water Pollution Control Act, and the REA Act, and imposes new burdens and obligations upon those agencies not envisioned in this legislation. . . .

MR. RONCALIO: Mr. Chairman, the amendment imposes no burden of any kind on anybody. It imposes no burden whatever on the staffers of any of the agencies mentioned by the gentleman from Nebraska. It lets them go about their work and do nothing. It does not impose a duty of any kind.

THE CHAIRMAN:[20] . . . The Chair, in exploring the amendment in the

20. B. F. Sisk (Calif.).

very brief time in which the Chair has had to look at this and exploring the cited examples, feels that this is not a question actually of waiver, but rather a question of the expanded authority and responsibility and obligation of the Departments cited by the gentleman from Nebraska in connection with his point of order, such as that calling for expanded authority on the part of the Army Corps of Engineers and the Rural Electrification Administration—authorities not covered by the pending bill.

Therefore, based on the brief opportunity the Chair has had, the Chair would find it necessary to sustain the point of order.

A similar amendment was then offered which omitted references to other statutes except the Endangered Species Act, but was also ruled out as not germane. See § 35.104, supra.

Nuclear Regulatory Commission Authorization Bill Including Criminal Penalties for Sabotage—Amendment to Federal Criminal Code

§ 42.33 To a bill authorizing appropriations for the Nuclear Regulatory Commission, amended by several permanent changes in law relating to the organization of the Commission and to regulation of nuclear facilities, including a provision amending the Atomic Energy Act to impose a criminal penalty for sabotage of nuclear facilities, an amendment in the form of a new title amending the Federal Criminal Code to make it a felony to assault a Commission inspector was held to be germane as within the class of conduct already covered by the bill although amending a different law.

On Dec. 4, 1979,[1] the Committee of the Whole was considering H.R. 2608, the Nuclear Regulatory Commission authorization for fiscal 1981, under a special rule prohibiting, with one exception, amendments to the bill that "amend or affect" the Atomic Energy Act. The following amendment, among others, had been agreed to:[2]

Amendment offered by Mr. Harris: Page 11, after line 15, add the following new section:

Sec. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

"Sec. 235. Sabotage of Nuclear Facilities".—

"(a) Any person who willfully injures, destroys, or contaminates . . . any nuclear production facility . . . or utilization facility licensed under this Act . . . any special nuclear material or byproduct material possessed pursuant to a license issued

1. 125 CONG. REC. 34514, 34518, 34519, 96th Cong. 1st Sess.
2. *Id.* at p. 34516.

by the Commission under section 53 or section 81 of this Act . . . or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 11, after line 15, add the following new title:

TITLE IV—PROTECTION FOR INSPECTORS

Sec. 401. Section 1114 of Title 18, United States Code is amended by inserting "any construction inspector or quality assurance inspector on any Nuclear Regulatory Commission licensed project," after "Department of Justice.". . .

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, on my point of order, according to the rule, these modifications of major law are not allowed, and this is a modification of the law, so it is not appropriate at this time. It is not germane to the bill.

MR. GONZALEZ: . . . I find nothing here that conflicts with the particular wording of the rule under which this is being considered.

In the first place, it does not address itself to any revision of the Atomic Energy Commission Act.

In the second place, it addresses itself to a fundamental problem, a most significant and most disturbing problem that should concern all Members of Congress writing laws on the inspection process, which is the key and the heart of the whole deficiency that we have heard many complaints about the NRC.

Therefore, I cannot think of anything more germane than this amendment, which merely says that it shall be an offense to assault, attack or criminally intimidate an inspector. . . .

I cannot find any real reason why this would not fall squarely within the definition of the rule limitations, as well as an amendment that has already been adopted, having to do with culpability and sanctions. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . We have had what is called a modified closed rule here in which certain kind of amendments were ruled out. It seems to me that the amendment of the gentleman from Texas is not within the scope of the rule adopted by the House.

Second, the gentleman's amendment would change title 18, section 114, which is the Criminal Code of the United States and deals with protection of officers and employees of the United States in the performance of their duties.

I do not see anything in the bill that relates to that title 18.

I therefore urge the point of order be sustained.

THE CHAIRMAN:[3] . . . (T)he Chair is prepared to rule.

There are two bases for possible objection here with regard to this amendment. The first is in regard to the rule and the statement in the rule prohibiting with one exception any amendment to the bill that amends or affects the Atomic Energy Act. This amendment in no way affects or changes the Atomic Energy Act.

The second possible basis is with regard to germaneness to the bill as a

3. Leon E. Panetta (Calif.).

whole, in its amended state. There are in the bill as amended diverse permanent provisions of law that deal with civil and criminal sanctions, the most relevant of which was the Harris amendment. This amendment would impose criminal sanctions for assaults on an Atomic Energy employee, a matter within the class of general subjects related to nuclear regulations and safeguards already covered by the bill as amended.

Therefore, it is the opinion of the chair that the amendment is germane, considering the other amendment dealing with criminal violations against the Federal nuclear establishment.

Therefore, the Chair overrules the point of order on the amendment.

Parliamentarian's Note: Arguably, a showing could have been made that such an amendment as that proposed to Title 18 of the United States Code could be construed as "affecting" the criminal provisions contained in the Atomic Energy Act, which would have caused the amendment to be ruled out under the unique provisions of the special modified closed rule on the bill, which prohibited amendments that "amend or affect" the Atomic Energy Act. It is also worth noting that, while the question of committee jurisdiction was not raised with respect to the issue of germaneness, the ruling supports the proposition that committee jurisdiction over a law is not the sole test of germaneness of an amendment where the bill being amended already contains provisions on the same general subject, although not specifically amending that law.

Bill To Increase Strength of Armed Services—Amendment To Amend Internal Revenue Code

§ 42.34 To a bill, reported by the Committee on Armed Services, to provide for the common defense by increasing the strength of the armed forces, an amendment seeking to amend the Internal Revenue Code, a matter within the jurisdiction of the Committee on Ways and Means, was held not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,[4] the following amendment was offered:[5]

Amendment offered by Mr. Eberharter: Amend H.R. 6401, on page 43, line 1, by inserting after the period the following: "Section 22(b) (relating to exclusions from gross income) of the Internal Revenue Code is hereby amended by striking out 'January 1, 1949' wherever occurring therein, and inserting in lieu thereof 'January 1,

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

5. 94 CONG. REC. 8701, 80th Cong. 2d Sess., June 17, 1948.

1951.' Section 10(b) of the act of August 8, 1947 (Public Law 384, 80th Cong.), entitled 'An act to terminate certain tax provisions before the end of World War II' is hereby amended by striking out 'January 1, 1949' and inserting in lieu thereof 'January 1, 1951'."

The following exchange concerned a point of order raised against the amendment:

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, it is with great reluctance that I make a point of order against the amendment. It has to do with the revenue laws and should be considered by the Ways and Means Committee. The amendment . . . is clearly out of order on this legislation. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: . . . Section 14 of the bill provides for the pay and allowances of the members who will be inducted under this bill. My amendment has reference to their pay and allowances and merely seeks to maintain the same rate of pay as is now in existence for the men in the armed services whose rate of pay will be changed in January next. . . .

THE CHAIRMAN:[6] . . . Clearly the amendment proposes to legislate on the Internal Revenue Code which is legislation that would be within the jurisdiction of the Committee on Ways and Means. Therefore the Chair is constrained to sustain the point of order.

Military Procurement Contracts—Amendment Affecting Contracts of Other Agencies

§ 42.35 To a title of a bill reported from the Committee on Armed Services amending several laws within the jurisdiction of that committee on the subject of military procurement and military departments, an amendment amending and extending the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and covering not only the Department of Defense procurement contract profits but also contracts entered into by other agencies not within the jurisdiction of the Committee on Armed Services was held to be not germane.

On June 26, 1985,[7] during consideration of H.R. 1872[8] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: At the end of Title VIII (page 143, after line 19), add the following new section:

SEC. 802. WAR PROFITEERING PROHIBITION ACT.

(a) Section 102 of the Renegotiation Act of 1951 (50 U.S.C. App.

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

7. 131 CONG. REC. 17417–19, 99th Cong. 1st Sess.

8. The Defense Department Authorization for fiscal 1986.

1212) is amended by adding at the end thereof the following:

"(f) Certain Amounts Received After October 1, 1985.—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor during the period beginning on October 1, 1985, and ending on the date of the enactment of this subsection."

(b) The last sentence of section 102(c)(1) of the Renegotiation Act of 1951 (50 U.S.C. App. 1212(c)(1)) is amended to read as follows: "For purposes of this title, the term 'termination date' means September 30, 1988.". . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . I make a point of order on the amendment offered by the gentleman from Texas, in that it is nongermane under the rule. The subject matter falls principally outside the jurisdiction of this committee, and the Renegotiation Act to which the amendment applies includes a variety of departments in the executive branch over which this committee has no jurisdiction or oversight or authority, and nothing in this bill pertains to it or would give rise to the amendment.

So I would insist, reluctantly, on my point of order. The amendment is well intended, and I cannot argue with the thrust of that either, but I do think at this point (it) is not germane, and I do insist upon my point of order. . . .

THE CHAIRMAN PRO TEMPORE:[9] The Chair is prepared to rule on the gentleman's point of order.

The amendment would make certain changes in, and extend the provisions of, the Renegotiation Act of 1951. That act was originally in the jurisdiction of the Committee on Ways and Means, but the Committee Reform Amendments of 1974 transferred specific jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs. The act covers contracts for procurement and construction necessary for the national defense, but the act covers not only the Department of Defense and the military departments, but also the Maritime Administration, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and such other agencies having a connection with the national defense as the President may designate. The title of the bill under consideration deals with procurement for the Department of Defense and the military departments, and not with other agencies outside the jurisdiction of the Committee on Armed Services.

Since the subject matter of the amendment goes beyond the coverage of the title and bill under consideration, and since it falls squarely within the jurisdiction of another committee, the Chair sustains the point of order.

Muster-Out Pay Bill—Amendment To Amend Selective Service and Training Act

§ 42.36 To a bill providing muster-out pay for men in the armed services, an amendment seeking to amend the Selective Service and Training Act of 1940 to provide

9. Marty Russo (Ill.).

that agencies of the Selective Service System be used for the purpose of furnishing advice and assistance to members of the armed services and their heirs and representatives with regard to claims and rights, was held not germane.

On Jan. 19, 1944,[10] the Committee of the Whole had under consideration the Muster-Out Pay Bill of 1944.[11] The bill stated in part:

> *Be it enacted, etc.,* That (a) except as provided in subsection (b) of this section, each member of the armed forces who shall have been engaged in active service in the present war, and who is discharged or relieved from active service under honorable conditions on or after December 7, 1941, shall be eligible to receive mustering-out payment.
>
> (b) No mustering-out payment shall be made to—
>
> (1) any member of the armed forces who, at the time of discharge or relief from active service, is receiving base pay at a higher rate than the base pay of the third period as prescribed in section 1 of the Pay Readjustment Act of 1942, as amended. . . .
>
> Sec. 2. (a) Mustering-out payment for persons eligible under section 1 shall be in sums as follows:
>
> (1) $300 for persons who have performed active service for 60 days or more;
>
> (2) $100 for persons who have performed active service for less than 60 days. . . .
>
> (3) Any member of the armed forces entitled to mustering-out payment who shall have been discharged or relieved from active service under honorable conditions before the effective date of this act shall, if application therefor is made within 1 year after the date of enactment of this act, be paid such mustering-out payment by the War Department or the Navy Department, as the case may be, beginning within 1 month after application has been received and approved by such department. . . .
>
> Sec. 5. (a) Mustering-out payments due or to become due under this act shall not be assignable and any payments made to or on account of a veteran hereunder shall be exempt from taxation. . . .
>
> Sec. 6. As used in this act, the term "member of the armed forces" means any member of the Army or Navy of the United States, the United States Marine Corps, the United States Coast Guard, or any of their respective components. . . .
>
> Sec. 7. Appropriations for the Army and Navy, and the several components thereof, respectively, shall be available for the payments provided by this act and necessary administrative expenses. There is hereby authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this act. Amounts expended hereunder shall be included in the annual reports to the Congress by the departments concerned.

An amendment was offered, as follows:

> Amendment offered by Mr. Voorhis of California: on page 9, line 25, insert a new section as follows:
>
> Sec. 8. The Selective Training and Service Act of 1940 as amended is

10. 90 CONG. REC. 424, 78th Cong. 2d Sess.

11. S. 1543 (Committee on Military Affairs).

further amended by adding to section 8–G thereof the following: Under such rules and regulations as the Director of Selective Service may prescribe, the facilities . . . and personnel of the Selective Service System shall be available for the purpose of furnishing advice and assistance to members of the armed forces and to their heirs . . . or legal representatives in connection with their claims for any rights, benefits . . . or allowances . . . due by reason of service in the armed forces. . . .

Mr. Andrew J. May, of Kentucky, having raised a point of order against the amendment, the proponent of the amendment stated:[12]

MR. [H. JERRY] VOORHIS of California: . . . This is a bill for mustering-out pay. My amendment seeks to provide machinery which would be, in my judgment, of very marked assistance to the veteran at the time he is mustered out. . . . I think it might well be that in a great many cases the payment of this mustering-out pay, if made to the veteran, could be accompanied by advice and counsel and help which he may receive from his local draft board, and would make the payment of that mustering-out pay of greater benefit to him than would otherwise be the case.

The Chairman,[13] without elaboration, held that the amendment was not germane to the bill.

12. 90 CONG. REC. 425, 78th Cong. 2d Sess.

13. Howard W. Smith (Va.).

Bill To Amend Selective Service Act—Amendment To Amend Naturalization Laws

§ 42.37 To a bill to amend the Selective Service Act of 1948, an amendment proposing to amend the naturalization laws was held not germane.

In the 82d Congress, during consideration of a bill[14] comprising amendments to the Universal Military Training and Service Act, the following amendment was offered:[15]

Amendment offered by Mr. Sadlak:

Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country who . . . shall have been inducted into the Armed Forces of the United States pursuant to the provisions of this title, shall be eligible for full and immediate United States citizenship in accordance with the provisions of section 22 of this title."

On page 52, after line 14, insert the following new paragraph:

(y) The Selective Service Act of 1948 (62 Stat. 604), as amended, is further amended by adding at the end of title I thereof a new section, as follows:

NATURALIZATION OF PERSONS INDUCTED OR ENLISTED IN THE ARMED FORCES

Sec. 22. (a) Any person not a citizen . . . who on or after June 25,

14. S. 1–1951 (Committee on Armed Services).

15. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess., Apr. 13, 1951.

1950, and not later than June 3, 1952, has actively served or actively serves, honorably, in the Armed Forces of the United States and who, having been lawfully admitted . . . to the United States, including its . . . possessions . . . shall have been at the time of his . . . induction within any such areas may (notwithstanding the provisions of sections 303 and 326 of the Nationality Act of 1940, as amended) be naturalized upon compliance with all of the requirements of the naturalization laws, except that (1) no declaration of intention and no period of residence within the United States or any State shall be required. . . .

The following exchange[16] concerned a point of order raised against the amendment:

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: G5(17) Does the gentleman from Connecticut desire to be heard on the point of order? . . .

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, how much time will be allotted to me for that purpose?

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order. The Chair will hear the gentleman on the point of order.

MR. SADLAK: . . . Under the provisions of S. 1 aliens who are legally here in the United States will be more readily inductible into the armed services than heretofore because of the provisions that have been added to the original measure. Since we are bringing them into service under the bill and because many will continue to come within the provisions of this act voluntarily by enlistment, I feel my amendment has positive germaneness since it is directly concerned with those actively engaged in the common defense and security of the United States as is this title of S. 1. . .

THE CHAIRMAN: . . . It appears clearly that the scope of the amendment is beyond the scope covered by the pending bill and, therefore, the Chair sustains the point of order.

Direct Loans for Veterans—Use of Specified Funds for Guaranteed Mortgages

§ 42.38 To a bill encouraging new residential construction for veterans' housing by increasing the maximum authorized for direct loans, an amendment authorizing use of a portion of the National Service Life Insurance Fund for purchase of guaranteed mortgages, was held to be not germane.

On Mar. 25, 1957,[18] the Committee of the Whole had under consideration a bill[19] to encourage new residential construction for veterans' housing. The bill stated in part:

Be it enacted, etc., That section 512 of the Servicemen's Readjustment

16. *Id.* at p. 3910.
17. Jere Cooper (Tenn.).
18. 103 CONG. REC. 4312, 85th Cong. 1st Sess.
19. H.R. 4602 (Committee on Veterans' Affairs).

Act of 1944 (38 U.S.C., sec. 694 (l) is amended to read as follows:

"DIRECT LOANS TO VETERANS

"Sec. 512. (a) The Congress finds that housing credit under section 501 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

"(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed under section 501 of this title, he shall designate such rural area or small city or town as a 'housing credit shortage area', and shall make, or enter into commitments to make, loans for any or all of the following purposes in such area—

"(1) For the purchase or construction of a dwelling to be owned and occupied by a veteran as his home;

"(2) For the purchase of a farm on which there is a farm residence to be owned and occupied by a veteran as his home. . . .

Sec. 2. (a) Subsection (a) of section 513 of such act (38 U.S.C., sec. 694m) is amended (1) by striking out "June 30, 1957" and inserting "July 25, 1958," and (2) by inserting immediately before the period at the end of the second sentence thereof the following: "Retaining, however, a reasonable reserve for making loans with respect to which he has entered into commitments with veterans before such last day.". . .

Sec. 3. (a) The fourth sentence of subsection (a) of section 500 of such act (38 U.S.C., sec. 694) is amended by striking out all that follows "in this title," and inserting "is automatically guaranteed by the Government by this title in an amount not exceeding 60 percent of the loan if the loan is made for any of the purposes specified in section 501 of this title. . . .

(b) Subsection (b) of section 501 of such act (38 U.S.C., sec. 694a) is amended by striking out all that follows "(b)" to the colon immediately preceding the first proviso and inserting: "Any loan made to a veteran for any of the purposes specified in subsection (a) or subsection (c) of this section 501 is automatically guaranteed, if otherwise made pursuant to the provisions of this title, in an amount not exceeding 60 percent of the loan."

The following amendment was offered:

Amendment offered by Mr. Edmondson: On page 9, immediately after line 20, insert the following:

(d) Such section 501 (of the Servicemen's Readjustment Act) is further amended by adding at the end thereof the following new subsection:

"(d) In order to stabilize the price at which loans guaranteed under this section generally will be salable to investors, the President in his discretion may authorize the Administrator to invest and reinvest not more than 25 percent of the National Service Life Insurance Fund by purchasing, and making commitments to purchase, loans guaranteed under this section. . . ."

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

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the pending legislation. This amendment would require an amendment to the National

Service Life Insurance Act whereas the legislation here before us today relates to the Servicemen's Readjustment Act. It would also provide funds for guaranteed loans whereas the legislation now pending relates to direct loans. . . .

In defense of the amendment, the proponent stated as follows:[20]

MR. [EDMOND] EDMONDSON [of Oklahoma]: Mr. Chairman, may I say with regard to the point of order that this amendment was written with the intention to confine definitely to the scope of this bill and to the functions of this bill the additional authority over NSLI funds that was provided for the President and for the Administrator of Veterans' Affairs. It is designed entirely to bolster and support the direct and guaranteed loan program for the veterans of the United States. I personally do not see why it requires any further amendment to the national service life insurance law because it seems to me to give an implementing authority to the President consistent with his present powers. . . . The money is affected only to the extent that it is shifted from purchase of Government bonds over to a purchase of Government-insured mortgages. . . . Further, may I point out, Mr. Chairman, the legislation does contain sections which do amend the guaranteed loan program as well as amendments of the direct loan program.

The Chairman,[1] in ruling on the point of order, stated:

In the opinion of the Chair the bill before us, H.R. 4602, does deal primarily and solely with direct loans, and it is clearly shown in the title and elsewhere in the bill that that is the intent of the bill. The amendment which has been offered would include guaranteed loans, and it would bring in the national service life insurance. Therefore, new legislation would be brought into consideration, and in the opinion of the Chair the amendment is not germane. Therefore the Chair sustains the point of order.

Sale of Surplus War Housing—Amendment Proposing That Specified Instruments, Otherwise Nonnegotiable, Be Acceptable as Part Payment

§ 42.39 To a bill having for its purpose the disposal of surplus war housing, an amendment proposing that "terminal leave bonds," nonnegotiable under existing law, be acceptable as part payment in purchases of such housing was held to be not germane.

In the 80th Congress, a bill[2] was under consideration amending the National Housing Act and providing for the expeditious disposition of certain war housing. The bill provided in part:[3]

20. 103 CONG. REC. 4313, 85th Cong. 1st Sess.

1. Robert L. F. Sikes (Fla.).

2. H.R. 3492 (Committee on Banking and Currency).

3. 93 CONG. REC. 6916, 6918, 80th Cong. 1st Sess., June 12, 1947.

Be it enacted, etc., That this act may be cited as the "War Housing Disposal Act of 1947."

DEFINITIONS

Sec. 2. For the purposes of this act—

(1) The term "Administrator" means the Federal Works Administrator.

(2) The term "Lanham War Housing Act" means the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended.

(3) The term "war housing" means any interest, owned by the United States and under the control of the National Housing Agency, in (A) housing (other than temporary housing) acquired or constructed under the Lanham War Housing Act . . . or under the Second Deficiency Appropriation Act, 1944 (Public Law 375, 78th Cong.), and (B) such other property as is determined by the Administrator to be essential to the use of such housing. . . .

TRANSFER OF WAR HOUSING TO FEDERAL WORKS ADMINISTRATION

Sec. 3. (a) The functions of the National Housing Administrator and of the National Housing Agency with respect to war housing are hereby transferred to the Administrator. . . .

SALE OF WAR HOUSING

Sec. 4. (a) All war housing (except mortgages, liens, or other interests as security) transferred to the Administrator by section 3 shall, subject to the provisions of this act, be sold for cash as expeditiously as possible and not later than December 31, 1948.

The following amendment was offered to the bill on June 18, 1947:[4]

Amendment offered by Mr. Rogers of Florida: Page 4, line 10, after the period insert the following sentence: "For purposes of this subsection terminal leave bonds (at face value plus interest at the time of sale) may be transferred to, and accepted by, the Administrator in lieu of cash, but shall be held by the Administrator until said bonds are payable as may be provided by law."

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

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make the point of order against the amendment that it is not germane, that it operates in effect as an amendment to the Terminal Leave Pay Act, which is not within the subject matter of the bill under discussion.

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

MR. [DWIGHT L.] ROGERS of Florida: Mr. Chairman, I do not think there is any question that this certainly deals with how these houses may be purchased. . . . The bill says cash. I provide by this amendment that for the purposes of this section the cash payment may be reduced by the value of the bond. That is all. To my mind, Mr. Chairman, it is germane. . . .

Other remarks addressed to the point of order were as follows:

4. 93 CONG. REC. 7259, 80th Cong. 1st Sess.

MR. [JOHN W.] MCCORMACK [of Massachusetts]: Mr. Chairman, this bill relates to the sale of certain war housing. Certainly, it seems to me in connection with the sale of war housing that Congress can determine the method of payment. . . . It certainly seems to me if the Congress . . . tries to permit the use of these terminal-leave bonds in payment . . . it is certainly germane to this bill, the basic premise of which is the sale of certain war housing, and this is an incidental part thereof. . . .

MR. WOLCOTT: . . . Under the terminal-leave-payment bill, there is an express provision that the bonds are nonnegotiable and that the bonds are nontransferable. In order to provide that they be used as down payment . . . in connection with these projects, they must be negotiated. . . . For that reason, we amend a basic provision of the law which is not within the purview of the bill presently under consideration.

The Chairman,[5] in ruling on the point of order, stated:

. . . The Chair holds the point of order is well taken, for the reason that the Terminal Leave Pay Act provided that the bonds were nonnegotiable for a definite period of time—5 years. That is not within the purview of the bill under consideration, this being a bill which does not seek to amend or change the provisions of the Terminal Leave Pay Act, but merely for the disposal of surplus housing.

The Chair sustains the point of order.

5. George B. Schwabe (Okla.).

Bill To Amend Federal Deposit Insurance Act—Amendment To Change name of Federal Savings and Loan Insurance Corporation

§ 42.40 To a bill to amend the Federal Deposit Insurance Act, an amendment proposing to change the name of the Federal Savings and Loan Insurance Corporation, which had been created by a different act, was held not germane.

In the 81st Congress, during consideration of a bill[6] to amend the Federal Deposit Insurance Act, the following amendment was offered:[7]

Amendment offered by Mr. [Abraham J.] Multer [of New York]: Page 62, after line 4, add the following new section:

Sec. 6. The name of the Federal Savings and Loan Insurance Corporation created by section 402(a) of the National Housing Act is hereby changed to "Federal Savings Insurance Corporation," and the words "Federal Savings and Loan Insurance Corporation" wherever else appearing in law shall be deemed to mean "Federal Savings Insurance Corporation."

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

6. S. 2822 (Committee on Banking and Currency).

7. 96 CONG. REC. 10727, 81st Cong. 2d Sess., July 20, 1950.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the Federal Savings and Loan Association, and the Federal Savings and Loan Insurance Corporation are set up under a separate act. I do not think there is any question at all that a point of order would lie against this amendment. We have not had any hearings on this. . . .

Remarks made by Mr. Brent Spence, of Kentucky, in defense of the amendment, were as follows:

Mr. Chairman, the purpose of changing the name of the Federal Savings and Loan Insurance Corporation is because it is a long name and is not really in conformity with what is actually done. The Federal Savings and Loan Insurance Corporation does not insure loans. . . . What they really do is insure the savings, and this designation is in accordance with their functions and their duties. . . .

. . . We have already legislated in this bill on the name of the Federal Savings and Loan Insurance Corporation, providing that if they use the phrase "Federal Savings Insurance Corporation" in their advertisements it will not be a violation of the law preventing the associations from stating they are federally insured. . . .

The Chairman,[8] in ruling on the point of order, stated:[9]

The Committee has under consideration a bill to amend the Federal Deposit Insurance Act. The gentleman from New York has offered an amendment to change the name of the Federal Savings and Loan Insurance Corporation, which was created under another act.

They are two very separate and distinct acts; therefore the Chair is constrained to rule that the amendment is not germane and sustains the point of order.

Bill To Remove Loan Agencies From Department of Commerce—Amendment Affecting President's Authority Under War Powers Act

§ 42.41 To a bill to remove federal loan agencies from the Department of Commerce, an amendment to lessen the President's authority, given him under the War Powers Act, with respect to the redistribution of functions of executive agencies was held not germane.

In the 79th Congress, a bill[10] was under consideration to provide for the effective administration of certain lending agencies of the federal government. The bill stated in part:[11]

Sec. 2. All powers, functions, and duties of the Department of Commerce and of the Secretary of Com-

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

9. 96 CONG. REC. 10727, 10728, 81st Cong. 2d Sess., July 20, 1950.

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

11. 91 CONG. REC. 1190, 1191, 79th Cong. 1st Sess., Feb. 16, 1945.

merce which relate to the Federal Loan Agency (together with the respective personnel, records, and property, including office equipment, relating to the exercise of such functions, powers, and duties) are hereby transferred to the Federal Loan Agency to be administered under the direction and supervision of the Federal Loan Administrator.

Sec. 3. The unexpended balance of the funds made available to the Secretary of Commerce by Public Law 365, Seventy-eighth Congress, approved June 28, 1944, for administrative expenses of supervising loan agencies, shall be transferred to the Federal Loan Agency to be used for the administrative expenses of that Agency.

Sec. 4. No functions, powers, or duties shall be transferred from the Federal Loan Agency under the provisions of title I of the First War Powers Act, 1941, or any other law unless the Congress shall otherwise by law provide.

The following amendment was offered to the bill:[12]

Amendment offered by Mr. Wolcott: Page 2, line 20, at the end of section 4, add a new section as follows:

Section 1 of Public Law 354, Seventy-seventh Congress, is amended as follows: At the end of said section 1 strike out the period and insert a colon and the followng: "*Provided further*" , That hereafter, no order providing for the redistribution of functions or providing for the transfer or consolidation of any existing executive or administrative commission, bureau, agency, Government owned or controlled corporation or office, or the duties, powers, or functions thereof, shall be effective unless the Congress shall provide otherwise by concurrent resolution."

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

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, the purpose of the pending bill is merely to take out of the Commerce Department the Reconstruction Finance Corporation as it now exists and there is no change made in the organic law. This amendment attempts to repeal the War Powers Act vesting in the President all the extensive powers necessary for the successful prosecution of the war.

The proposed amendment certainly cannot be germane to the pending bill. I make a point of order against the amendment for the reasons stated.

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

MR. [JESSE P.] WOLCOTT [of Michigan]: . . . I have always taken the position the amendment is in order inasmuch as the bill itself seeks to amend the authority of the President under [the War Powers Act] and this is merely a further limitation upon the President's authority to transfer and consolidate executive agencies.

The Chairman,[13] in ruling on the point of order, stated:

. . . The amendment offered by the gentleman from Michigan seeks to take from the President all authority under the War Powers Act. The War Powers Act was reported to the House by the Committee on the Judiciary. Again the Chair calls attention that the definition of "germaneness" is that it must be closely allied to the bill which is

12. *Id.* at p. 1191.

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

under consideration. The Chair, therefore, rules that the amendment is not germane and sustains the point of order.

Regulation of Credit for Purchasers of Goods—Regulation of Reserve Requirements for Banks

§ 42.42 To a provision of a bill authorizing the Board of Governors of the Federal Reserve System to regulate terms of credit extended to purchasers of various goods, an amendment authorizing the board to make changes in the reserve requirements for banks was held not germane.

On July 20, 1951, during consideration of a bill[14] to amend the Defense Production Act of 1950, an amendment was offered, as follows:[15]

> Amendment offered by Mr. Multer: At page 45, after line 6, insert the following:
>
> (d) Sec. 606. In order to protect the Nation's monetary, banking, and credit structure, and interstate and foreign commerce, against increased inflationary pressures, and to prevent injurious credit expansion, the Board of Governors of the Federal Reserve System are authorized, notwithstanding any other provision of law, to establish and from time to time change by regulation the requirements as to reserves to be maintained against demand or time deposits or both. . . .

The following exchange[16] concerned a point of order raised against the amendment:

> MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make the point of order against the amendment that in substance, if not in language, the amendment seeks to amend the Federal Reserve Act, and in that respect is not germane to the subject matter of this bill. As I understand, it is sought to increase the reserve requirements of banks. These are established under authority contained in the Federal Reserve Act. Inasmuch as this bill has no language in it which amends, modifies, or repeals in any respect the rediscount rates, reserve requirements, or other functions of the Federal Reserve Board, excepting those which have been delegated to it under this act in the administration of the direct controls as opposed to the indirect controls, it is not germane to this act. . . .
>
> MR. [ABRAHAM J.] MULTER [of New York]: There is no doubt, Mr. Chairman, but what title 6 of the Defense Production Act deals with the authority of the Board of Governors of the Federal Reserve bank in connection with controlled credit. We have a title in this bill which deals with the same subject.
>
> THE CHAIRMAN:[17] Will the gentleman point out the title?

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14. H.R. 3871 (Committee on Banking and Currency).

15. 97 CONG. REC. 8607, 82d Cong. 1st Sess.

16. *Id.* at pp. 8607, 8608.

17. Wilbur D. Mills (Ark.).

MR. MULTER: Title 6 of the law entitled "Control of Consumer and Real-estate Credit." "The Board of Governors is authorized, notwithstanding the provisions of Public Law 386, to exercise consumer credit," and so forth. . . .

MR. WOLCOTT: . . . I was certain that the gentleman from New York understood the difference between indirect controls and direct controls, but it is very obvious, if he insists upon this language to this bill, that he does not know the difference between indirect controls exercised under the Federal Reserve Act, and direct controls which we make possible under this act the administration of which is delegated to the Federal Reserve Board. . . .

MR. [FRED L.] CRAWFORD [of Michigan]: . . . If I understood the amendment correctly, it goes directly to the increasing of the reserve powers of the Federal Reserve Board in line with the basic provisions of the Federal Reserve law. My contention is that the amendment is not germane to the bill now under consideration or to the section which we are now considering. The amendment would have the effect of amending the Federal Reserve Banking Act instead of merely dealing with the use of credit.

THE CHAIRMAN: . . . The Chair has . . . had an opportunity to read portions of title VI of the Defense Production Act of 1950, which has to do with control of consumer and real-estate credit.

The Chair is of the opinion that the amendment offered by the gentleman from New York is actually beyond the scope of the Defense Production Act of 1950 and beyond the scope of the bill before the Committee, H.R. 3871.

The Chair, therefore, sustains the point of order raised by the gentleman from Michigan [Mr. Wolcott]. . . .

New Office Within Department of Justice—Amendment To Abolish Department of Justice

§ 42.43 To a bill establishing a new Office of Law Enforcement and Criminal Justice within the Department of Justice, an amendment abolishing the Department of Justice and transferring its powers and functions to a new independent agency was held to be not germane as a reorganization within the jurisdiction of another committee.

In the 90th Congress, during consideration of the Law Enforcement and Criminal Justice Assistance Act of 1967,[18] the following amendment was offered:[19]

Amendment offered by Mr. [William E.] Minshall: On Page 25, strike out lines 5 through 15, and insert the following:

Sec. 401. (a) There is hereby established as an independent agency of Government an Office of Justice which shall be headed by an Attorney General who shall be appointed

18. H.R. 5037 (Committee on the Judiciary).

19. 113 CONG. REC. 21845, 90th Cong. 1st Sess., Aug. 8, 1967.

for a term of 15 years by the President by and with the advice and consent of the Senate. The Attorney General, in the performance of his duties, shall not be subject to the direction or supervision of the President, nor shall he be a member of his Cabinet.

(b) There are hereby transferred to the Attorney General of the Office of Justice all functions exercised by the Department of Justice on the date of enactment of this Act, including all functions provided for in this Act. Such personnel, property, and unexpended balances of appropriations as the Director of the Bureau of the Budget determines relate primarily to functions transferred by this Act shall be transferred to the Office of Justice.

(c) The Department of Justice, the office of Attorney General in such Department, and all other offices provided for by law in such Department are hereby abolished.

(d) Effective date of this section will be March 1, 1969.

In ruling on a point of order raised against the amendment, the Chairman[20] stated:

The amendment offered by the gentleman from Ohio [Mr. Minshall] proposes the abolishment of the Department of Justice and the transfer of its functions to a newly created Office of Justice. . . .

The gentleman from New York [Mr. Celler] has raised the point of order that the amendment is not germane to the bill under consideration.

The bill now before the Committee of the Whole bestows certain new functions, authority, and responsibilities on the Attorney General. It creates, within the Department of Justice, a new Office of Law Enforcement and Criminal Justice. It does not reorganize the existing structure of the Department.

The amendment offered by the gentleman from Ohio is, in effect, a plan for governmental reorganization, and as such would not be within the jurisdiction of the Committee on the Judiciary, which reported this bill. This is one argument against considering the amendment germane.

The Chair feels that the situation presented by this amendment is analogous to that presented when a bill amendatory of existing law in one particular is sought to be amended by a repeal of the law. In those cases, decisions are uniform to the effect that the amendments are not considered germane—volume [Cannon's Precedents] VIII, sections 2948–2949.

The Chair does not feel that the amendment is within the scope of the bill before the Committee of the Whole. It relates to a subject not under consideration at this time. The Chair therefore sustains the point of order.

Control of Crime Through Research and Training—Amendment To Regulate Sale of Firearms

§ 42.44 To a bill designed to aid in the control of crime through research and training, an amendment aimed at the control of crime through regulation of the sale of firearms was held not germane.[1]

20. Daniel D. Rostenkowski (Ill.).

1. See § 6.6, supra, for discussion of the proceedings found at 113 CONG. REC.

Increased Salaries for Members—Amendment Affecting Audits in House

§ 42.45 To a bill reported from the Committee on Post Office and Civil Service providing in part for increased salaries for Members of Congress and legislative employees, an amendment proposing changes in the Accounting and Auditing Act and relating to procedures governing audits of financial transactions of the House of Representatives and the Architect of the Capitol was held to be not germane as within the jurisdiction of another House committee (Government Operations).

In the 88th Congress, during consideration of a bill[(2)] relating to salary increases for federal officers and employees, the following amendment was offered:[(3)]

> Amendment offered by Mr. Oliver P. Bolton on page 40, immediately following line 4, insert the following:
>
> Sec. 203. Section 117 of the Accounting and Auditing Act of 1950 (64 Stat. 837; 31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:
>
> "(c) Except as otherwise provided by law, the Comptroller General in auditing the financial transactions of the House of Representatives and of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the legislative agencies under audit. . . ."

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

> MR. [JAMES H.] MORRISON [of Louisiana]: Mr. Chairman, the amendment is not germane and has nothing to do with pay raises. It was not discussed in our committee. It covers a subject completely outside the provisions of the bill. It is not contemplated within the title of the bill.

In defense of the amendment, the proponent stated, as follows:[(4)]

> MR. OLIVER P. BOLTON [of Ohio]: . . . The bill deals with the salary of the Members of the House. My amendment would go toward the accounting for those expenditures of the House which if they were not expended by the House would well be considered salary. . . .

The Chairman,[(5)] in ruling on the point of order, stated:

> The subject matter of the pending bill pertains to salaries of various gov-

21846–50, 90th Cong. 1st Sess., Aug. 8, 1967, relating to H.R. 5037 (Law Enforcement and Criminal Justice Act of 1967, Committee on the Judiciary).

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

3. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

4. *Id.* at p. 5126.

5. Chet Holifield (Calif.).

ernmental employees and not to accounting. The amendment that the gentleman from Ohio offers is, in effect, the same as a bill which he has introduced that was referred to the Committee on Government Operations. The subject matter of the bill and of the gentleman's amendment pertains to accounting, which comes under the jurisdiction of the Committee on Government Operations and not under the jurisdiction of the Committee on Post Office and Civil Service.

Penalties for Violation of House Rules

§ 42.46 To an amendment requiring registration and public disclosure by lobbyists before Congress and the executive branch and providing civil penalties for failure to so register and disclose, an amendment applying the same sanctions to persons having the privilege of the floor of the House and violating the prohibition in the House rules against lobbying on the floor or in adjacent rooms is in effect a change in the rules of the House and is not germane.

During consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole on Sept. 28, 1976,[6] Chairman Richard Bolling, of Missouri, sustained a point of order against the following amendment to the pending amendment in the nature of a substitute:

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. Myers of Pennsylvania to the amendment in the nature of a substitute offered by Mr. Bennett: On page 19, line 17, insert immediately following "thereunder,": "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act,".

On page 20, line 1, insert immediately following "misleading," "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who willfully violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, I would raise a point of order to the amendments of-

6. 122 CONG. REC. 33087, 33088, 94th Cong. 2d Sess. For discussion of other germaneness issues arising from amendments to H.R. 15, see §§ 3.74–3.76, supra.

fered by the gentleman from Pennsylvania. I have just gotten the amendments, but it would appear to me, Mr. Chairman, that they would violate the purposes of the bill and the substitute for the bill in that they would require sanctions against ex-Members of the House, former parliamentarians of the House, former elected officers of the House, and so forth, as opposed to the organizational concept from which both the bill and substitute recede.

Mr. Chairman, for those reasons we feel that they are not germane to the bill or the substitute therefor.

MR. MYERS of Pennsylvania: Mr. Chairman, the amendment applies only to those ex-Members of the House, and so forth, who are mentioned here, who would be required to register under another section by this act.

And in relationship to the gentleman's remarks about the sanctions applying to individuals, section 13(a) begins:

> Sec. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than $5,000 for each such violation.

So, query, Mr. Chairman: The amendment is designed in such a way that not all ex-Members will have to comply but only those who find themselves as lobbyists or who would be required to file under another section of this act.

There is no prohibition in this act preventing a Member from being fined under the sanction section.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has had an opportunity to look at the sanction provisions in the amendment in the nature of a substitute and to examine the amendment thereto. For a variety of reasons, but the primary one which the Chair will state, the Chair is prepared to sustain the point of order. The reason that the Chairman will sustain the point of order is that the effect of the amendment is tantamount to a rules change, an attempt to provide a new enforcement mechanism for violation of a House rule and the Chair feels that it is important that the rules of the House be very carefully protected. The sanctions provided in the Bennett amendment in the nature of a substitute are for failure to report or disclose information, and the Chair feels that this amendment goes well beyond that and in effect deals with the rules of the House and he therefore sustains the point of order.

MR. MYERS of Pennsylvania: Mr. Chairman, may I be heard further on the point of order?

THE CHAIRMAN: No. The Chair has ruled.

Civil Rights—Amendment Providing Compensation for Businesses Injured by Enforcement of Antidiscrimination Laws

§ 42.47 To that title of a civil rights bill prohibiting discrimination based on race, color, and the like, in places of public accommodation and providing for enforcement of such prohibition, an amendment providing that the owner of a business that is

damaged by such enforcement be entitled to damages as provided for property taken for public use, was held to be not germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[7] the following amendment was offered:[8]

> Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: On page 48, at the end of title II, add a new subsection, as follows:
>
> (d) When any business is destroyed or caused to become insolvent, or suffers financial loss as a result of any action brought under the provisions of title II, upon the request of the owner it shall be deemed that such business has been taken for public use under the right of eminent domain, as authorized in subsection (12) of section 490 of title 40 of the United States Code, and the defendant shall be entitled to full damages as provided for property taken for public use.

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I object to the amendment and make a point of order against it on the ground that the amendment is not germane to title II of the bill.

The Chairman,[9] in ruling on the point of order, stated:

> The gentleman from Mississippi offers an amendment to title II by adding a new subsection which would have for its objective the reimbursement to individuals for any business that is destroyed or caused to become insolvent. Title II refers to injunctive relief against discrimination in places of public accommodation. The amendment of the gentleman from Mississippi, to which a point of order has been made, would bring into title II section 490 of title 40 of the United States Code, and in the opinion of the Chair that is not germane to the pending title. Therefore, the Chair sustains the point of order.

—Amendment Providing for Plea in Bar to Contempt Proceeding, Based on Proceedings Against Same Person Under Separate Statutes

§ 42.48 To a bill authorizing the Attorney General to institute or intervene in civil contempt proceedings based on a violation of civil rights, an amendment was held to be not germane which provided that a plea in bar be available to any person proceeded against under such provisions or under separate criminal statutes who could establish a prior proceeding against him based on the same offense.

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7. H.R. 7152 (Committee on the Judiciary).

8. 110 CONG. REC. 1987, 88th Cong. 2d Sess., Feb. 5, 1964.

9. Eugene J. Keogh (N.Y.).

In the 85th Congress, during consideration of a bill[10] to secure and protect the civil rights of persons within the jurisdiction of the United States, the following amendment was offered:[11]

> Amendment offered by Mr. Rogers of Texas: page 12, after the last period add a new paragraph to be numbered part V.
>
> Notwithstanding any provisions herein contained or otherwise provided by statute, rule or regulation, no person shall be subject for the same offense to be twice put in jeopardy of life or limb. And a plea in bar shall be available to any person proceeded against under this act or the Criminal Statutes of the United States or any State thereof, who can establish a prior proceeding against such person for the same offense, act or transaction, for which he is called upon to answer, whether such proceeding be under the Criminal Statutes of the United States or any State thereof or under the provisions of this act.

The following exchange[12] concerned a point of order raised against the amendment:

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment offered by the distinguished gentleman from Texas is not germane. It provides for changes in criminal statutes, it provides for immunities in criminal statutes, for double jeopardy, which cannot be part and parcel of a bill that is limited solely to civil penalties and civil procedures. . . .
>
> MR. [WALTER E.] ROGERS [of Texas]: Mr. Chairman, this amendment is certainly in order because it is an incorporation in this act of a part of the Constitution that is applicable to the provisions of this new law which creates a restriction on how far the Attorney General can exercise this right or the other courts of the land can exercise the right if the Attorney General takes action.
>
> THE CHAIRMAN:[13] . . . The Chair holds that the amendment offered by the gentleman from Texas is too broad in its purposes, it opens up all other statutes, rules, and regulations, whereas the bill under consideration is confined strictly to matters of civil rights.
>
> The Chair, therefore, sustains the point of order.

District of Columbia Code—Substitute Amendment Affecting Revenue and Other Laws of District

§ 42.49 To a committee amendment in the nature of a substitute comprising in part general provisions relating to the organization of the District of Columbia government as well as amendments to several revenue provisions of the District of Columbia Code, a proposed substitute making comparable amend-

10. H.R. 6127 (Committee on the Judiciary).
11. 103 CONG. REC. 9384, 85th Cong. 1st Sess., June 17, 1957.
12. *Id.* at pp. 9384, 9385.
13. Charles M. Price (Ill.).

ments to the revenue laws and diverse other laws of the District of Columbia as well as amending portions of the code not affected by the committee amendment was held to be germane.

On Aug. 11, 1969, during consideration of the District of Columbia Revenue Act of 1969,[14] a committee amendment in the nature of a substitute was pending. Such proposition sought to amend several acts relating to District of Columbia taxes and to provide an annual federal payment authorization for the District, and also contained general provisions pertaining to the organization and structure of the District government. A substitute was offered generally amending the same revenue acts, creating a federal payment formula for the District applicable for the next five fiscal years, and amending several provisions of the District of Columbia Code not amended by the committee amendment.[15] A point of order was raised against the substitute, as follows:[16]

MR. [JOHN] DOWDY [of Texas]: The bill is a bill to provide additional revenue for the District of Columbia. The substitute amendment offered contains provisions which would amend title XXXI of the District of Columbia Code, which concerns education and cultural institutions; therefore, it is not germane to the bill pending before the House.

The following exchange ensued:

MR. [BROCK] ADAMS [of Washington]: . . . I would point out that this particular proposal was placed in the law governing the District of Columbia by the revenue bill of last year. So it would certainly be germane to the subject in that it was put in in this fashion and so it can be taken out in the same fashion.

I would also point out that there is in the committee amendment a personnel freeze dealing with the Board of Education which provides that the personnel freeze will not apply to it. The subject has been raised in the bill.

Further, I point out that this revenue bill abolishes an office in the District of Columbia and freezes certain employees and does away with certain powers of the District Government, so that it covers matters other than revenue. . . .

MR. DOWDY: . . . The fact that this provision was put into title 31 of the District Code in a revenue bill last year has nothing to do with whether it is germane to a revenue bill this year. . . .

The Chairman,[17] in ruling on the point of order, stated:

The Chair has had an opportunity to study the question during the quorum

14. H.R. 12982 (Committee on the District of Columbia).

15. See 115 CONG. REC. 23126–29, 91st Cong. 1st Sess.

16. *Id.* at p. 23129.

17. Robert N. Giaimo (Conn.).

call and the Chair would say to the gentleman from Texas the fact that there might be other items in the bill which might be subject to a point of order, as was just stated, indicates that the committee amendment has in it items which are other than revenue matters and therefore opens the bill up to other related amendments. The fact is that the legislation before us is basically a revenue matter, but it does apply to many other sections of the District of Columbia Code. Among other things not having to do with revenue, it eliminates the office of the Director of Public Safety; it provides for a freeze on the number of personnel and employees who may be hired by the District of Columbia government. These provisions also involve the Federal-Aid Highway Act of 1968. The language involving education here involves a part of existing law. It seems to the Chair it is germane to the bill in toto. Therefore the Chair feels that the point of order must be overruled.

Transfer of Property for Use as Homeless Shelter—Amendment Requiring Reversion of Property if Not Used for Charitable Purpose Under Internal Revenue Code

§ 42.50 To a bill authorizing the transfer of federal property to accomplish a particular purpose, an amendment rescinding the transfer if the use of the property is not consistent with that purpose (as defined in another law) is germane if that law refers to the same purpose covered by the bill; thus, to a bill providing for the transfer of a specified property in the District of Columbia solely for the purpose of providing shelter to homeless and to protect the public health, amended to include restrictions on liability and maintenance responsibilities, an amendment requiring reversion of the property if not used for that charitable purpose as defined under a provision of the Internal Revenue Code was held germane as a further restriction on the same use of the property.

During consideration of H.R. 4784 (the District of Columbia homeless shelter transfer bill) in the Committee of the Whole on June 5, 1986,[18] Chairman John P. Murtha, of Pennsylvania, overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

H.R. 4784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services shall, within five days after the date of enactment of

18. 132 CONG. REC. 12592–94, 99th Cong. 2d Sess.

this Act, transfer jurisdiction over the property located at 425 Second Street, Northwest, in the District of Columbia, to the municipal government of the District of Columbia in accordance with section 1 of the Act of May 20, 1932 (40 U.S.C. 122), other than the first proviso of such section, solely for purposes of administration and maintenance of such property for providing shelter and related services to homeless individuals in the District of Columbia and for other use in the protection of the public health. . . .

THE CHAIRMAN PRO TEMPORE: The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: At the end of the bill add the following new section:

Sec. 2. Upon the transfer of jurisdiction pursuant to the first section of this Act, the Federal Government (1) shall not be liable for injuries or damages that occur while the property is under the jurisdiction of the municipal government of the District of Columbia and that arise out of the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property by such municipal government; and (2) shall not be responsible for the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property while the property is under the jurisdiction of such municipal government. Nothing in this section shall be deemed to prohibit the Federal Government from funding the renovation of the property. . . .

The Committee amendment was agreed to. . . .

MR. [JOSEPH J.] DIOGUARDI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DioGuardi. At the end of the bill add the following new section:

Sec. 4. (a) If any organization selected by the municipal government of the District of Columbia to administer such property as a shelter for homeless individuals uses such property in a manner that would cause a charitable organization as described in section 501(c)(3) of the Internal Revenue Code of 1954 to lose its tax exempt status under section 501(a) of the Internal Revenue Code of 1954—

(1) the property shall be considered to have ceased being used for the purposes described in the first section of this Act; and

(2) jurisdiction over such property shall revert to the United States. . . .

MR. [THEODORE S.] WEISS [of New York]: Mr. Chairman, the amendment offered by the gentleman from New York is not germane to H.R. 4784. It places restrictions on the use of the building in question that are not within the jurisdiction of the Government Operations Committee, have nothing to do with the transfer of Federal property, which this bill addresses, and is otherwise in violation of rule XVI. . . .

THE CHAIRMAN PRO TEMPORE: . . . The Chair agrees with the gentleman from New York that this amendment merely places additional restrictions on the use of the property covered by this bill in addition to those other restrictions which are already in the bill. So the Chair thinks the amendment is germane and overrules the point of order.

Authorizations for Foreign Aid Program—Amendment Affecting Trade Expansion Act

§ 42.51 To a bill amending the Foreign Assistance Act of 1961, as amended, to provide authorizations for the foreign aid program, an amendment pertaining to trade agreement concessions with Poland, proposing changes in the Foreign Assistance Act of 1963, and affecting the Trade Expansion Act of 1962, was held to be not germane.

In the 90th Congress, during consideration of the Foreign Assistance Act of 1968,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Leonard] Farbstein [of New York]: On page 13, after line 25, add the following:
>
> PART IV—AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1963
>
> Sec. 401. Subsection (b) of section 402 of the Foreign Assistance Act of 1963 is amended by inserting immediately before the quotation marks at the end thereof the following:
>
> "The benefits of trade agreement concessions extended to the Polish Peoples Republic under this subsection are herebysuspended with respect to the products of Poland imported after the date of enactment of this sentence. The suspension under the preceding sentence shall continue until the President determines that the Government of Poland has discontinued its present campaign of discrimination against Polish intellectuals, students . . . and the Jewish minority in Poland. . . ."

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

> MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It involves our trade agreements with another nation, which is within the jurisdiction of another committee, and it is quite outside the scope of this bill.

Among the remarks made with respect to the point of order were the following:

> MR. [PAUL] FINDLEY [of Illinois]: . . . The Government of Poland was extended most favored nation status as a result of a provision of the 1963 Foreign Assistance Act. Therefore, because the Government of Poland does enjoy this status today by virtue of an amendment to the Foreign Assistance Act of 1963, in my view it is entirely in order for an amendment which suspends that status to be considered as an amendment to this bill.

The Chairman,[1] in ruling on the point of order, stated:[2]

> The amendment offered by the gentleman seeks to amend section 402 of the Foreign Assistance Act of 1963.

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19. H.R. 15263 (Committee on Foreign Affairs).

20. 114 CONG. REC. 22109, 90th Cong. 2d Sess., July 18, 1968.

1. Charles M. Price (Ill.).

2. 114 CONG. REC. 22109, 22110, 90th Cong. 2d Sess., July 18, 1968.

The language of the gentleman's proposed amendment would in reality apply to benefits of trade agreement concessions to Poland.

While the language in the Foreign Assistance Act of 1963 dealt with a matter relating to the Trade Expansion Act, it was seeking to amend that act in a different manner.

The Chair holds that the amendment would properly be within the jurisdiction of the Committee on Ways and Means, and that in reality it seeks to amend the Trade Expansion Act.

Therefore, the Chair sustains the point of order.

Types of Foreign Assistance

§ 42.52 To a bill authorizing military assistance to foreign nations, an amendment authorizing a contribution to the United Nations International Atomic Energy Agency to be used for nuclear missile inspections, and amending a law which provided foreign economic assistance was held to be not germane.

During consideration of the International Security Assistance Act of 1976[3] in the Committee of the Whole on Mar. 3, 1976,[4] Chairman Frank E. Evans, of Colorado, sustained a point of order against an amendment authorizing contributions to an international agency for nuclear missile inspections holding that the amendment was not germane to the bill which had as its fundamental purpose the authorization of military assistance programs to foreign nations. The proceedings were as follows:

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fraser: On page 59, after line 15, add the following new section:

AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 417. Section 313(a) of the International Development and Food Assistance Act of 1975 (P.L. 94–161) is amended by striking the "and" at the end of paragraph (3); striking the period at the end of paragraph (4) and inserting in lieu thereof, ", and"; and inserting the following new paragraph immediately after paragraph (4):

(5) by adding a new subsection (i) to read as follows:

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 and to remain available until expended $1,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear missile facilities and materials.". . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, this amendment authorizes funds for the

3. H.R. 11963.

4. 122 CONG. REC. 5226, 94th Cong. 2d Sess.

International Atomic Energy Agency. This is a subject of a different bill, not the one before the House at this time.

The amendment, in my opinion, exceeds the scope of the bill before us and it is not germane. . . .

THE CHAIRMAN: In the opinion of the Chair, the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) are correct.

The amendment offered by the gentleman from Minnesota (Mr. Fraser) is not germane to the main purposes of the bill, and for that reason the point of order is sustained.

Admission of Displaced Persons—Amendment Affecting Immigration Laws in Other Respects

§ 42.53 To a bill providing for temporary admission into the United States of certain displaced persons in Europe, an amendment affecting the immigration laws in matters not related to the question of displaced persons was held not germane.

In the 80th Congress, the Committee of the Whole had under consideration a bill[5] to authorize admission into the United States of certain displaced persons. The bill stated in part:[6]

Be it enacted, etc., That this act may be cited as the "Emergency Displaced Persons Admission Act."

Sec. 2. When used in this act, the term "displaced person" means—

(a) a person who was on April 21, 1947, and is upon the effective date of this act in Italy or the United States, British, or French zones or sectors in Germany or Austria and who during World War II bore arms against enemies of the United States and is unable or unwilling to return to the country of which he is a national because of persecution or his fear of persecution on account of race, religion, or political opinions; or

(b) a person who is registered by the International Refugee Organization, according to the definitions of displaced persons and refugees set forth in annex I to the constitution of the International Refugee Organization, except clause (b), paragraph 1, section A, part I thereof, to which the United States has adhered (Public Law 146, 80th Cong.), and who entered Italy or the United States, British, or French zones or sectors in Germany or Austria, on or before April 21, 1947, midnight;

(c) the term "displaced person" shall not include any person who is or has been a member of, or participated in, any movement which is or has been hostile to the United States or the form of government of the United States.

An amendment was offered:[7]

Amendment offered by Mr. [Robert Tripp] Ross [of New York]:

Under section 2 add the following as subsection (c):

"(c) a person who is a native of Italy and who would have been eligible for admission to the United States under all United States immi-

5. 5. H.R. 6396 (Committee on the Judiciary).

6. 94 CONG. REC. 7763, 80th Cong. 2d Sess., June 10, 1948.

7. 94 CONG. REC. 7870, 80th Cong. 2d Sess., June 11, 1948.

gration laws at any time during the 10-year period prior to June 30, 1948, under the accumulated unused Italian quota for that period: *Provided* That the provisions of section 3, section 5 and section 6 of this act shall not be applicable to displaced persons as defined in this subsection: *Provided further*, That the number of immigration visas issued under this subsection shall be divided equally between the fiscal years 1949 and 1950."

Subsection (c) shall become subsection (d).

Mr. Ross explained the purpose of the amendment:

MR. ROSS: Mr. Chairman, this amendment (would admit) to the United States during the next 2 years 34,275 Italians who were unable to come to this country during the years when Italian immigration was suspended. Its approval (would in no way alter) our basic Italian quota. It would just pick up that number which could not come to this country during the war years. . . .

Mr. Frank Fellows, of Maine, made the point of order that, "(the amendment) is not germane to the bill or to the section under consideration."

The Chairman,[8] in ruling on the point of order, stated:

The Chair is of the opinion that the amendment offered does not affect the question of displaced persons as described in the bill but does direct attention to the immigration laws. The Chair therefore sustains the point of order.

8. George A. Dondero (Mich.).

Amendment Addressing Relationship of Bill to Existing Law as Germane Where Bill Contains "Disclaimer" as to Its Effect on Existing Law

§ 42.54 While ordinarily the inclusion of language in a bill "disclaiming" any substantive effect of the bill upon other provisions of law, would not render germane amendments which did affect other law, where disclaimer language in a bill is accompanied by other provisions actually changing a category of law cited in the disclaimer, an amendment further addressing the relationship between the bill and laws cited in the disclaimer may be germane; thus, where a bill required that a certain percentage of automobiles sold in the United States be manufactured domestically, and "disclaimed" any purpose to amend international agreements or to confer new federal court jurisdiction over conflicts arising under international agreements, but which actually conferred new federal court jurisdiction over adjudication of penalties assessed under the bill, an amendment prohib-

iting implementation of the bill if it resulted in a violation by the United States of existing international agreements and also conferring additional federal court jurisdiction to resolve conflicts under those agreements, was held germane as relating to a subject (the relationship of the bill to other law) already comprehensively contained in the bill.

During consideration of H.R. 1234[9] in the Committee of the Whole on Nov. 2, 1983,[10] the Chair overruled a point of order against an amendment to the following sections of the bill:

> (c) Congressional Disclaimers.—It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to automotive products entered for sale and distribution in interstate commerce and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed to confer jurisdiction upon any court of the United States to consider and resolve such conflicts, or (2) to alter or amend any law existing on the date of enactment of this Act which may confer such jurisdiction in such courts. . . .
>
> SEC. 7. ENFORCEMENT
>
> (a) Penalty for Failure to Meet Domestic Content Ratios.—(1) In furtherance of the purpose of this Act, it is unlawful for a vehicle manufacturer to fail to meet for any model year the applicable minimum domestic content ratio required under section 5(a). . . .
>
> (4) Any person against whom an order is issued under paragraph (2) may, within sixty calendar days after the date of the order, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceedings to the Secretary for such further action as the court may direct. . . .

MR. [DAN R.] COATS [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Coats: Page 36, after line 3, insert the following:
>
> SEC. 11. INEFFECTIVENESS OF ACT IN CASE OF COMPENSATION BY, OR RETALIATION AGAINST, UNITED STATES AGRICULTURAL OR OTHER INDUSTRIES
>
> Notwithstanding any other provision of law, neither the Secretary nor any other party shall take any action under this act if the implementation of any provision of this Act either—
>
> (1) would violate the obligations of the United States under the General Agreement on Tariffs and Trade and

9. The Fair Practices and Procedures in Automobile Products Act of 1983.

10. 129 CONG. REC. 30525, 30527, 30542, 30545–47, 98th Cong. 1st Sess.

could therefore result in retaliation by another country; or

(2) would entitle any other country to compensation from the United States in the form of reduced restrictions on imports of agricultural, industrial or other products from other countries or to retaliation against the United States in the form of increased restrictions against exports of agricultural, industrial or other products from the United States.

Notwithstanding any other provision of this Act, the United States district court for the appropriate judicial district shall have jurisdiction to resolve disputes arising under this section. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order that the amendment is not germane.

Mr. Chairman, it is within the rules of the House and the interpretation of the rule of germaneness that the amendment must relate to the purposes of the legislation before the House.

I would observe that the purposes of the legislation before the House are to assure that automobiles will have a certain percentage of domestic content in automobiles which are sold inside the United States. The legislation before the House at this time deals with automobiles and the trade in automobiles inside the boundaries of the United States. The legislation before the House sets up no new causes of action.

There are provisions in the legislation which are essentially disclaimers. The Chair will note that on page 15, in line 5, there is language which relates to disclaimers of an intention to violate GATT and which do not confer any new jurisdiction upon any court in the United States to consider or to resolve conflicts related to GATT or "to alter or amend any law existing on the date of enactment . . ."

I would observe that the amendment is much more broad, and I would like the attention of the Chair with regard to a number of points.

First of all, in the last four lines of the amendment, the language is:

Notwithstanding any other provision of this Act, the United States district court for the appropriate judicial district shall have jurisdiction to resolve disputes arising under this section.

That is a very broad conferral of jurisdiction upon all of the Federal courts of the United States in their respective judicial districts to deal with disputes. That kind of an amendment would necessarily have either gone initially or sequentially to the Judiciary Committee because of the jurisdiction of that committee relative to disputes and causes of action. I would refer the Chair to the letter which relates to this matter as written by Chairman Rodino on judicial matters.

Mr. Chairman, there are some other points I would like to make concerning the scope and the sweep of this matter. First of all, the jurisdiction conferred upon U.S. district courts would be to determine whether the Secretary had carried out his responsibilities under lines 4 through 7 of the amendment, as to whether the Secretary or any other party had taken any other action under the act if the implementation of any provision of this act—and then it goes on to say this—"would violate the obligations of the United States under the General Agreement on Tariffs and Trade . . .".

So that question would be reviewable. The question would also be reviewable as to whether or not the action of the Secretary would result in retaliation by another country. I would observe that an amendment which is contingent upon some future indeterminate action is also violative of the rules on germaneness.

Beyond this, the question would be placed before the courts upon action by any citizen feeling aggrieved, under the last four lines, lines 19 through 22, as to whether any other country would be entitled to compensation from the United States in the form of reduced restrictions on imports of agricultural, industrial, or other products.

This section confers jurisdiction relative to actions which would be taken in other countries regarding a whole series of other commodities, agricultural, industrial, and whatever they might happen to otherwise be. . . .

I would point out further that the amendment says, Chairman, that the Secretary may not take action to implement the law if it violates GATT. It also says, if it would entitle any other country to compensation from the United States.

Now, in Cannon's, VIII, 3029, it states that an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill.

Here the condition to be ascertained, whether the act violates GATT or would entitle another country to compensation, is not germane. . . .

Mr. Chairman, the bill also creates a broad new jurisiction in the U.S. district court, a form of judicial relief to determine if the act violates GATT. That is, of course, an entirely new provision relating to commodities, agricultural, industrial, or other, which is far more broad than that in the bill.

While this bill does allow the district court to enforce the bill, this is an entirely new form of review and confers a cause of action far more broad than any found anywhere else in the legislation.

Mr. Chairman, I would point out that this would confer broad jurisdiction on private persons to enter the courts of the United States. A provision of this sort would necessarily involve jurisdiction of the committee having jurisdiction over that matter, and that is, of course, the Judiciary Committee. . . .

MR. COATS: Mr. Chairman, the committee report issued by the Committee on Energy and Commerce chaired by the gentleman from Michigan (Mr. Dingell) specifically states in section 2(c), which was an amendment to the bill adopted by the committee, that:

> It is the intent of Congress that this act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement. . . .

That alone expands the jurisdiction of the bill beyond specific auto content.

Second, we also adopted an amendment which directed the Secretary of Transportation and the Federal Trade Commission, in fact it mandated a study as to the impact on agriculture. That again expands the jurisdiction beyond what the gentleman claimed in his point of order, that it is auto-specific. It is broader than auto-specific

because the bill itself as adopted by the committee contains a direction that a study be conducted of the impact on agriculture and that goes directly to the heart of the amendment that I am offering.

In addition, let me just make a couple of comments about the jurisdiction of the courts. In the Energy and Commerce Committee, the bill's proponents offered language which would in effect strip the U.S. courts of jurisdiction to hear disputes under the act. After lengthy debate on this issue, some of that language was withdrawn and the bill now purports to be neutral on jurisdiction.

This language in the amendment simply makes clear that as is the normal case in any other case, U.S. courts would have jurisdiction under this section to resolve disputes. These matters of conflict between U.S. international obligations and U.S. statutes should be decided by U.S. tribunals and not left solely to international machinery.

So I think it is clear that the amendment before us clearly fits within the bill that we are taking up, that the jurisdiction is broader than just an auto-specific content, as stated by the congressional findings, purpose, and disclaimer, section 2(c) and as stated in section 8(G) on page 33, which mandates a study as to the effect on agriculture by the Secretary of Transportation and the Federal Trade Commission. . . .

MR. DINGELL: Mr. Chairman, I would just observe that my good friend, the gentleman from Minnesota, has been reading the language of a disclaimer. Never, I believe, in the history of the House has a disclaimer been used to expand the jurisdiction or to expand the purposes or the scope of legislation for purposes of defining whether or not a matter is germane.

Now, if the Chair will refer to the report of the committee, the Chair will find that the disclaimer is constructed, and it says how the disclaimer is to be constructed, and the disclaimer says as follows:

> The subsection also contains a disclaimer that the Act should not be construed to confer new jurisdiction on any Federal court to consider and resolve such conflicts. In short, it states that the Act is not to be construed to confer jurisdiction where none presently exists. At the same time, it declares that the Act does not alter or amend any law existing on the date of enactment of this Act which may confer such jurisdictions on the courts. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, under the General Agreement on Tariff and Trade, there is an elaborate procedure that is prescribed with respect to complaints under that act. There is no jurisdiction in the Federal courts at the present time that somebody can go in and seek to enforce the provisions of GATT in our courts.

What the bill says on page 15 is that nothing in this act shall be construed to confer jurisdiction.

Were we to have gone ahead and sought to confer jurisdiction, it clearly would have been beyond the jurisdiction of our committee. It would have had to go to the Judiciary Committee.

The disclaimer was put in to protect that at the express request of Chairman Rodino.

Therefore, since this amendment does seek to confer jurisdiction which

presently is not there, and that is a matter not within the jurisdiction of the bill, I urge that the Chair sustain the point of order.

THE CHAIRMAN:[11] Are there any further arguments with regard to the point of order?

If not, the Chair is prepared to rule.

First of all, the Chair would note that the bill before the House at the present time differs from the bill that was before the House in the last session.

In the legislation that is currently before the House, the committee dealt with the issue of the relationship between this legislation and other law in section 2(c) which states:

> It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to automotive products entered for sale and distribution in interstate commerce and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed (1) to confer jurisdiction upon any court of the United States to consider and resolve such conflicts, or (2) to alter or amend any law existing on the date of enactment of this Act which may confer such jurisdiction in such courts.

Section 2(c) therefore addresses the issue of interpretation of the bill as it applies to treaties, conventions, and other agreements applicable to automotive products.

The amendment that has been offered by the gentleman from Indiana deals specifically with the actions of the Secretary in the implementation of provisions that may relate to treaties, specifically the General Agreement on Tariffs and Trade.

It would appear, therefore, that the amendment does relate to subject matter that has already been introduced in the bill by virtue of section 2(c).

With regard to the court jurisdiction argument, that issue is addressed within the bill, specifically on page 30, relating to appropriate judicial circuits for judicial review and other provisions that relate to the jurisdiction of Federal courts. So the Chair feels that the issue of court jurisdiction has, in fact, been presented within the legislation.

With regard to the disclaimer argument, it is the position of the Chair that if the provision in the bill was merely a narrow and technical disclaimer, then the argument of the gentleman from Michigan might prevail; but since it can be read as an overall provision that relates to the broad interpretation of the bill as it applies to trade agreements, and since the test the Chair must apply is the relationship of the amendment to the bill as a whole, it is the position of the Chair that the point of order should not be sustained.

Congressional Budget Process

§ 42.55 To a second concurrent resolution on the budget containing diverse provisions which addressed congressional actions on the budget, an amendment expressing

11. Leon E. Panetta (Calif.).

the sense of Congress that language repealing the Impoundment Control Act should be included in any continuing appropriation bill, thereby addressing issues of Presidential authority was conceded to be not germane.

During consideration of House Concurrent Resolution 448 in the Committee of the Whole on Nov. 18, 1980,[12] a point of order was conceded and sustained against the following amendment:

> Amendment offered by Mr. Latta: Insert after section 5 the following new section:
>
> Sec. 6. It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate make in order as part of any continuing appropriation bill for fiscal year 1981 language providing for the repeal of provisions of title X of Public Law 93–344, the Congressional Budget and Impoundment Control Act, effective upon enactment of such continuing appropriation and to continue no later than September 30, 1981. . . .
>
> MR. [JAMES M.] FROST [of Texas]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Ohio is not germane to House Concurrent Resolution 448, revising the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983.
>
> This amendment would make it the sense of the Congress that any continuing appropriation bill for fiscal year 1981 contain language that would repeal for 1 year the impoundment provisions of the Congressional Budget and Impoundment Control Act of 1974.
>
> The concurrent resolution implements certain directives of the Congressional Budget and Impoundment Control Act. The provisions establishing the concurrent budget resolution procedure are contained in the first nine titles of the act which are cited in Public Law 93–344 as the Congressional Budget Act of 1974. They have no relation to, nor are they derived from, title X, which is cited as the Impoundment Control Act of 1974.
>
> It would seem clear, then, that the intent of the act was for concurrent resolutions on the budget to address the internal budget process of the Congress rather than addressing the impoundment process to be followed between the executive and the legislative branches as established by statute.
>
> To include directives concerning impoundment in a concurrent budget resolution, then, would be outside the intent of the statute and beyond the scope of the resolution, thus rendering them nongermane.
>
> While the specific language of the Latta amendment would not amend the Congressional Budget and Impoundment Control Act, the ultimate effect would be to do so. The Latta amendment would require, as a sense of the Congress, that a continuing appropriation bill contain language repealing for 1 year the impoundment provisions of title X of the Congressional Budget and Impoundment Act. In all likelihood, any amendment to such a continuing appropriation bill

12. 126 CONG. REC. 30026, 30027, 96th Cong. 2d Sess.

would be nongermane. Further, if a continuing appropriation bill were introduced with such language, it would be subject to referral to the Committee on Rules, which has jurisdiction over amendments to the Budget Act.

While jurisdiction over a legislative matter is not the sole test of germaneness, it is an important consideration. For example, Deschler's Procedure at chapter 28, section 4.26, states:

> To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

It may be argued that an amendment directing the offering of a nongermane amendment in and of itself could be considered nongermane. Argument has been proposed that section 4 of House Concurrent Resolution 448 provides a basis of germaneness for the Latta amendment. Section 4 contains sense of the Congress language stating that, "A full-scale review of the Budget Act and the congressional budget process should be undertaken without delay." This language does not require any specific action to be taken to change the budget process or to amend the Budget Act. The Latta amendment would extend the scope of the sense of the Congress language in section 4 to require that a specific amendment repealing the impoundment provisions of the Budget Act be adopted.

The precedents indicate such action would be nongermane. For example, Deschler's Procedure at chapter 28, section 33.23, states:

> An amendment requiring the availability of funds "under this or any other Act" for certain humanitarian assistance was held to go beyond the scope of the pending bill and was ruled out as not germane, affecting funds in other provisions of law.

I would contend, Mr. Chairman, that the Latta amendment is nongermane. . . .

MR. [DELBERT L.] LATTA [of Ohio]: . . . This resolution contains no reconciliation instruction which could force the committees of the Congress to come up with the spending cuts of $17 billion. Likewise, it gives the President no power whatsoever to accomplish these cuts by executive direction. This amendment would address this deficiency if it were allowed without the point of order. It provides that it is the sense of the Congress that when it takes up the continuing resolution for the 1981 appropriations, it will include language which suspends, for the remainder of fiscal year 1981 only, the anti-impoundment provisions of the Budget Act. What it would do, then, is give the President-elect the ability to keep Federal spending within the ceiling established in this budget resolution should the Congress be unable to do so. . . .

Mr. Chairman, I concede the point of order.

THE CHAIRMAN:[13] The point of order is conceded. The point of order is sustained. . . .

MR. LATTA: Mr. Chairman, I offer an amendment.

---

13. William H. Natcher (Ky.).

The Clerk read as follows:

Amendment offered by Mr. Latta: At the end of the concurrent resolution, add the following new section:

"Sec. 6. It is the sense of the 96th Congress that the appropriate committees of the House of Representatives and the Senate make in order on an appropriate legislative vehicle, language providing for the enactment of a ceiling on spending in fiscal year 1981 at the levels established by this resolution. Such ceiling on fiscal year 1981 expenditures should also direct the President to reserve such amounts as may be necessary to remain within the ceiling, provided that such reservations are applied equitably in order to retain the important spending priorities adopted by Congress."

Parliamentarian's Note: The resolution did state the sense of Congress that a review of the Budget Act and congressional budget process should be undertaken. But the term "congressional budget process" is used in the Budget Act to refer to a timetable only for congressional actions on the budget, not executive branch actions; whereas the amendment addressed the issue of executive powers. Moreover, the resolution suggested a review of the Act and process but only in general terms, while the amendment suggested a specific change in a statute affecting the executive, to be accomplished on specified legislation in a manner requiring waivers of House rules. The second amendment, above, offered by Mr. Latta would not have been subject to a similar point of order. It was more general in its terms, did not suggest a repeal of existing law, and merely directed such executive action as would insure that expenditures remain at or below the ceiling contemplated within the terms of the bill itself.

Organizational Restrictions

§ 42.56 To a title of a bill restricting the authority of a new organizational entity to exercise control over institutions for which it is to administer funding under existing laws, an amendment curtailing the authority of that agency to provide funds to those institutions for certain reasons was held to be not germane, in that it addressed funding authority rather than organizational controls.

On June 12, 1979,[14] the Committee of the Whole had under consideration a bill[15] establishing a new Department of Education. The title of the bill being amended contained findings and purposes, and restricted the authority of the new Department, under laws administered by it, to

14. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

15. H.R. 2444, the Department of Education Organization Act of 1979.

exercise federal control over education. An amendment was offered denying the use of funds under federal programs to assist the teaching or counselling of the use of abortion. The amendment was ruled not to be germane, in that it was unrelated to the fundamental purpose of the title to organizationally restrict federal control over public education and curricula. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

Sec. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counselling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85–864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80–10), as amended; the Higher Education Act of 1965 (P.L. 89–329), as amended; the Adult Education Act (P.L. 89–750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment under rule 16, clause VII. . . .

[The rule] requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not. . . .

Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this

amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute.

The last phrase of this amendment appears to be a very artfully drawn one but, in fact, is meaningless and should not be used as a vehicle to gain consideration of a matter on the floor that is otherwise not in order, one that makes a mockery of the House rules on germaneness. . . .

MR. ASHBROOK: . . . I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted, under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1976 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the last days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

THE CHAIRMAN:[16] The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on

16. Lucien N. Nedzi (Mich.).

the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

For the reasons stated, the Chair sustains the point of order.

Amendments Retrenching Expenditures in General Appropriation Bills

§ 42.57 To a bill making appropriations for the current fiscal year, an amendment permanently changing existing law was held not germane to the bill, and thus was not in order as a "retrenchment" of expenditures even though it tended to reduce expenditures for that year.

In the 91st Congress, a bill[17] was under consideration making supplemental appropriations for the fiscal year, including funds to cover increased pay costs resulting from the implementation of the report of the Commission on Executive, Judicial, and Legislative Salaries. The following amendment was offered to the bill:[18]

> Amendment offered by Mr. Hall: On page 61, after line 4 insert the following:
>
> GENERAL PROVISIONS
>
> The Commission on Executive, Judicial, and Legislative Salaries established under Public Law 90–206 is hereby abolished. The salary increases recommended by the President as a result of the actions of said Commission are hereby rescinded.

Mr. George H. Mahon, of Texas, pointing out that the bill under consideration was a supplemental appropriation bill, objected to the amendment on two grounds, first, that it constituted legislation on an appropriation bill, and, second, that it was not germane to the bill.[19] In defending the amendment, Mr. Durward G. Hall, of Missouri, stated in part:

> Now, of course, under the restrictions or rescindments or actions under

17. H.R. 11400, Supplemental Appropriations, fiscal 1970 (Committee on Appropriations).

18. 115 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969.

19. *Id.* at p. 13270.

rule XXI and the "Holman rule," we can, in an appropriation bill, take action by the act of the House to eliminate anything that costs additional expense from the General Treasury and that has been acted on previously.

I think that the amendment is in order. Certainly it is germane. Certainly it is a retrenchment on its face.

The Chairman,[20] however, ruled that the amendment was not in order. He stated:

. . . The Chair has examined the amendment and the precedents, and would call attention of the House to Cannon's Precedents, volume 8, page 480, section 2914, which reads as follows: "to a section proposing legislation for the current year an amendment rendering such legislation permanent was held not to be germane."

Then, in section 2915: "to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment proposing to make the provision permanent legislation was held not to be germane."

The Chair therefore rules that the amendment offered by the gentleman from Missouri is not germane and therefore not in order; and the Chair sustains the point of order.

Parliamentarian's Note: This precedent, based on 8 Cannon's Precedents § 2915, represents the current practice under the germaneness requirement of the Holman rule; it effectively overrules an earlier line of precedents which stood for the proposition that it is in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition is to reduce funds contained in the bill, even though the language may provide permanent law, there being no distinction in the Holman rule itself between permanent and temporary legislation. The present practice and the earlier rulings are discussed in the introduction to Sec. 15, supra.

20. Chet Holifield (Calif.).

Rescission of Disaster Relief Funds Appropriated in Other Acts

§ 42.58 To an appropriation bill, an amendment providing a rescission of "disaster relief" funds appropriated in other acts was held to be not germane and to be legislation on an appropriation bill.

On Mar. 19, 1952, during consideration of the Independent Offices Appropriations Bill of 1953,[1] the following amendment was offered:[2]

Amendment offered by Mr. [Tom] Pickett [of Texas]: On page 3, after line 14, insert a new heading and the following language:

1. H.R. 7072 (Committee on Appropriations).
2. 98 Cong. Rec. 2543, 82d Cong. 2d Sess.

DISASTER RELIEF

The unobligated balances at the end of June 30, 1952, of appropriations heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall, to the extent that they exceed in the aggregate $5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts.

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

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill. . . .

The Chairman,[3] in ruling on the point of order, stated:

. . . The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation bill. The Chair is constrained to sustain the point of order.

3. Wilbur D. Mills (Ark.).

Senate Amendment Changing Appropriation for Agency for One Year—Amendment Permanently Amending Law

§ 42.59 To a Senate amendment pertaining only to an appropriation amount for an agency for one year, an amendment not only changing that figure but also adding language having the effect of permanent law is not germane; thus, to a Senate amendment, reported from conference in disagreement, only striking the fiscal year 1984 appropriation for the Congressional Research Service and inserting in lieu thereof a new figure, an amendment proposed in a motion to recede and concur with an amendment, permanently amending the Legislative Reorganization Act to require the Congressional Research Service to submit budget estimates for inclusion in the United States Budget, was conceded to be not germane and was ruled out on a point of order.

During consideration of H.R. 3135[4] in the House on June 29,

4. Legislative Branch Appropriations for fiscal 1984.

1983,[5] Speaker Pro Tempore Abraham Kazen, Jr., of Texas, sustained a point of order in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE: The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

> Senate amendment number 17: Page 16, line 15, strike out "$35,543,550" and insert "$37,700,000".

MR. [VIC] FAZIO [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Fazio moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$36,620,000 to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), and section 203(g) of such act is amended, effective hereafter, to read as follows:
>
> "(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government.". . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment embodied in the motion offered by the distinguished gentleman from California is not germane to the Senate amendment presently under consideration, and therefore that the gentleman's motion is in violation of clause 7 of rule XVI.

The gentleman's amendment has the effect of amending the Legislative Reorganization Act of 1970, and, for this reason, goes far beyond the scope of the Senate amendment and introduces a completely new subject. The amendment clearly is not germane.

It is equally clear, Mr. Speaker, that the germaneness test is applicable in the present parliamentary circumstances. In chapter 28, the most recent edition of Procedures in the House, it is stated in section 21 that:

> Where a motion is offered to concur in a Senate amendment with an amendment, the proposed amendment must be germane to the Senate amendment. The rule of germaneness also applies to motions to recede and concur in a Senate amendment with an amendment.

Moreover, in the same section:

> When considering a Senate amendment reported in disagreement by conferees, a proposal to amend must be germane to the Senate amendment.

Mr. Speaker, the germaneness test clearly applies and the amendment clearly is not germane. I ask that my point of order be sustained. . . .

MR. FAZIO: . . . I do concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Joint Resolution Amending National Cultural Center Act—Amendment Repealing Act and Redirecting Funds

§ 42.60 To a joint resolution amending the National Cul-

5. 129 CONG. REC. 18129, 18130, 98th Cong. 1st Sess.

tural Center Act to rename the National Cultural Center as the John F. Kennedy Center for the Performing Arts and authorizing an appropriation for such Center, an amendment repealing that Act and redirecting funds received under the Act to the Smithsonian Board of Regents for the use of the National Portrait Gallery and making acquired land available for the National Capital park and playground system was held to be not germane.

In the 88th Congress, a proposition was under consideration to rename the National Cultural Center as the John F. Kennedy Center for the Performing Arts.[6] The Joint Resolution stated in part:

> Whereas the late John Fitzgerald Kennedy served with distinction as President of the United States, and as a Member of the Senate and House of Representatives; and . . .
>
> Whereas by his untimely death this Nation and the world has suffered a great loss; and . . .
>
> Whereas the living memorial to be named in his honor by this joint resolution shall be the sole national monument to his memory within the city of Washington and its environs: Now, therefore, be it
>
> *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the National Cultural Center Act (Public Law 85–874; 72 Stat. 1698) is amended as follows:
>
> (1) In section 1 by striking out "National Cultural Center Act" and inserting in lieu thereof "John F. Kennedy Center Act";
>
> (2) By striking out "National Cultural Center" each place that it appears in such Act (including the title of such Act but excluding clauses (2) and (3) of subsection (b) of section 2 of such Act) and inserting in lieu thereof at each such place the following: "John F. Kennedy Center for the Performing Arts" . . .
>
> (6) BY ADDING AT THE END THEREOF THE FOLLOWING NEW SECTIONS:
>
> "APPROPRIATIONS
>
> "Sec. 8. There is hereby authorized to be appropriated to the Board for use in accordance with this Act, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this Act, except that not to exceed $15,500,000 shall be appropriated pursuant to this section.
>
> "BORROWING AUTHORITY
>
> "Sec. 9. To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. . . .
>
> "GIFTS TO UNITED STATES
>
> "Sec. 10. The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which he finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this Act, as in

6. 110 CONG. REC. 140, 88th Cong. 2d Sess., Jan. 8, 1964.

his judgment will best effectuate the intent of the donor. . . .

Sec. 2. In addition to the amendments made by the first section of this Act, any designation or reference to the National Cultural Center in any other law, map, regulation, document, record, or other paper of the United States shall be held to designate or refer to such Center as the John F. Kennedy Center for the Performing Arts.

The following amendment was offered: (7)

Amendment offered by Mr. Kyl: Strike out all after the resolving clause and insert in lieu thereof the following:

That the Secretary of the Interior shall construct within the District of Columbia . . . a center for the performing arts to be known as the "John F. Kennedy Center for the Performing Arts.". . . .

Sec. 3. (a) The National Cultural Center Act is hereby repealed.

(b) All funds and property received under the National Cultural Center Act, and income therefrom, shall vest in the Board of Regents of the Smithsonian Institution and shall be used by the Board of Regents of the Smithsonian Institution to carry out the purposes of the Act entitled 'An Act to provide for the transfer of the Civil Service Commission Building in the District of Columbia to the Smithsonian Institution to house certain art collections of the Smithsonian Institution', approved March 28, 1958, and for the acquisition of works of art to be housed in the building referred to in such Act; except that such funds or property, and the income therefrom, shall rest in an organization designated by the donor of such funds or property at the time of the making of the donation thereof, at such time, such organization is described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt under section 501(a) of such Code, and if, at such time, a contribution, bequest . . . or transfer to such organization is deductible under section 170, 2055, or 2106 of such Code.

(c) The National Capital Planning Commission shall make any land acquired under the National Cultural Center Act available for use in the National Capital park and playground system.

Amend the title of the joint resolution so as to read: "Joint Resolution authorizing the Secretary of the Interior to construct the John F. Kennedy Center for the Performing Arts, (authorizing) an appropriation therefor, and for other purposes."

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

MR. [ROBERT E.] JONES of Alabama: Mr. Chairman, I make a point of order against the amendment. It is not germane to the pending joint resolution. It would establish conditions which would not be akin to the various sections of the proposal now before the House. It would also set up an amendment to the Internal Revenue Code of 1954 and establish jurisdictions over and beyond those contained in the Reorganization Act of 1946, as amended.

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

MR. [JOHN H.] KYL [of Iowa]: . . . Mr. Chairman, this amendment follows both purposes of the original legislation. There is no new language in the joint resolution which was not included in the previous act passed by the Congress. The language which is used here

7. *Id.* at pp. 143, 144.

was merely taken from that act, which is to be amended by this amendment.

The Chairman,[8] in ruling on the point of order stated:[9]

It is the opinion of the Chair that the point of order is well taken because the amendment refers to funds from certain other acts which are not incorporated in the joint resolution at all.

Modification of Salary Limitations in Price Stabilization Act—Amendment Imposing Supertax

§ 42.61 To an amendment relating to salary limitations contained in the Price Stabilization Act, an amendment undertaking to establish certain tax rates and schedules for the purpose of raising revenue was held to be not germane.

In the 78th Congress, during consideration of a bill[10] to increase the debt limit of the United States and for other purposes, the following amendment was under consideration:[11]

Amendment offered by Mr. [Howard W.] Smith of Virginia as a substitute for the amendment offered by Mr. [Bertrand W.] Gearhart [of California]: Strike out all of section 4 and insert the following:

Sec. 4. Effective as of October 2, 1942, section 5 of the act of October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes," is amended by adding subsection (d) to section 5 as follows:

(d) No action shall be taken under authorization of this act or otherwise which will limit the payment of annual salaries to a maximum limit less than the annual amount of salary paid with respect to the particular work involved on December 7, 1941.

An amendment was offered which stated:[12]

Amendment offered by Mr. [Horace J.] Voorhis of California to the amendment offered by Mr. Smith of Virginia: At the end of the Smith amendment add the following:

Sec. 4. Supertax on individuals.

(a) The Internal Revenue Code is amended by inserting at the end of chapter 1 the following new subchapter:

SUBCHAPTER E—SUPERTAX ON INDIVIDUALS

Sec. 477. Imposition of tax.

There shall be levied, collected, and paid for each taxable year beginning after December 31, 1942, upon the supertax net income of the following individuals the supertax shown in the following table: . . .

The following exchange[13] concerned a point of order raised against the Voorhis amendment:

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8. Albert Rains (Ala.).

9. 110 CONG. REC. 144, 88th Cong. 2d Sess., Jan. 8, 1964.

10. H.R. 1780 (Committee on Ways and Means).

11. 89 CONG. REC. 1954, 78th Cong. 1st Sess., Mar. 12, 1943.

12. *Id.* at p. 1957.

13. *Id.* at pp. 1957, 1958.

MR. [WESLEY E.] DISNEY [of Oklahoma]: Mr. Chairman, I reserve a point of order against the amendment.

MR. [JOHN M.] VORYS of Ohio: Mr. Chairman, I make the point of order against the amendment. . . .

The point of order is that this is an amendment in the third degree. It has nothing to do with the merits or the substance of the amendment to which it is offered.

MR. [JERE] COOPER [of Tennessee]: May I say, Mr. Chairman, that it is not in the third degree. It is an amendment to a substitute, and therefore is in order. . . .

MR. VOORHIS of California: . . . Mr. Chairman, we have before us a provision, the Disney amendment, which is brought before us by the Committee on Ways and Means, but which many Members contend should have come from the Committee on Banking and Currency. The amendment I propose to attach to this bill which is brought to us by the Committee on Ways and Means does cover a matter which is within the jurisdiction of the Committee on Ways and Means very directly and, if adopted, it would mean that Congress would be saying, "No, it is not possible to reduce salaries as they were on the date of Pearl Harbor, but we will adopt a tax program affecting incomes not only from salaries but from other sources which will recapture the greatest portion of those incomes in excess of $25,000 net after taxes and thus make certain that nobody gets rich out of the war."

THE CHAIRMAN:[14] Section 4 of the bill, the so-called Disney amendment, is in relation to the limitation on salaries contained in the Price Stabilization Act. The amendment offered by the gentleman from California [Mr. Gearhart] and the substitute offered by the gentleman from Virginia [Mr. Smith], also refer strictly to the matter of salary limitations. The amendment offered by the gentleman from California is a taxing amendment which undertakes to set up rates and schedules for the purpose of raising revenue. It is clearly not germane to the substitute amendment to which it is offered. The Chair sustains the point of order.

14. Clifton A. Woodrum (Va.).

Aircraft Flying Over National Parks—Amendment To Establish Standards for Aircraft Collision Avoidance Generally

§ 42.62 To a bill providing for a study of minimum altitude by aircraft flying over units of the national park system and regulating air traffic over a specific national park, an amendment to a law not amended by the bill establishing standards for aircraft collision avoidance not confined to overflights in the national parks was held to be not germane.

On Sept. 18, 1986,[15] during consideration of H.R. 4430 in the Committee of the Whole, the

15. 132 CONG. REC. 24082–84, 99th Cong. 2d Sess.

Chair sustained a point of order against the amendment described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope. The proceedings were as follows:

(a) Yosemite National Park.—During the applicable study and review period it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. . . .

SEC. 2. GRAND CANYON NATIONAL PARK.

(a) Noise associated with aircraft over-flight at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the Park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

[ROBERT K.] DORNAN of California: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dornan of California: At the end of the bill add the following:

SEC. 4. COLLISION AVOIDANCE SYSTEM.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)), which relates to research and development, is amended by inserting "(1)" immediately after "(c)" and by adding at the end thereof the following new paragraph:

"(2) In carrying out his functions, powers, and duties under this section pertaining to aviation safety, the Secretary of Transportation shall coordinate and take whatever steps necessary (including research and development) to promulgate standards for an airborne collision avoidance system for all United States aircraft, civil and military, to improve aviation safety. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, under the rule of germaneness, rule XVI, clause 7, no subject different from that under consideration shall be admitted under the color of an amendment. The amendment of the gentleman from California [Mr. Dornan] violates that rule and I must reluctantly insist on my point of order, Mr. Chairman. . . .

THE CHAIRMAN:[16] The Chair is ready to rule.

The gentleman from California [Mr. Dornan] has offered an amendment adding a section 4 pertaining to the collision avoidance system.

The Chair has had an opportunity to examine the amendment and it is the opinion of the Chair that the amendment is not germane. The bill before us, H.R. 4430, is a narrow one addressing only overflights over certain national park areas.

The amendment goes to an unrelated subject amending an act not amended by the bill.

Therefore, the Chair sustains the point of order.

16. J. J. Pickle (Tex.).

F. PROCEDURAL MATTERS

§ 43. Generally; Point of Order and Debate Thereon

The Chair will not ordinarily apply the rule of germaneness to bar an amendment unless a point of order is actually raised against the amendment. A nongermane amendment so permitted to remain may be further amended by amendments germane thereto. Similarly, where an amendment to a general appropriation bill proposes a change in existing law but is permitted to remain because no point of order is raised against it, the amendment may be perfected by germane amendments which do not add further legislation.[17] Of course, the fact that no point of order was made against a particular amendment does not waive points of order against subsequent amendments of a related nature.[18]

In the ordinary case, a point of order based on the rule of germaneness will state the grounds for asserting the nongermaneness of the amendment. The Chair may sustain the point of order but rely for his ruling upon a different basis from that urged by the proponent of the point of order. In one instance, in fact, an amendment was ruled out as not germane where the point of order raised against it was based on the contention that it was 'legislation on an appropriation bill.[19] But the Chair has not upheld points of order that were not clearly based on specific rules of the House.[20]

If any part of an amendment is subject to a point of order, the entire amendment is subject to such point of order.[1] Thus, if one part of the amendment is deficient, the whole amendment is ruled out.[2]

The effect of a ruling by the Chair that an amendment is not germane is usually that the amendment is barred in its present form and at the place at which it is offered. Of course, the ruling of the Chair may be appealed, in which case the question is on the propriety of the Chair's ruling, and not on the substantive merits of the amendment.[3] And on one occasion, the Committee of the Whole by unanimous consent voted upon an amendment that had been ruled out of order as not germane.[4] Similarly, an amend-

17. See § 15.49, supra.

18. See § 13.19, supra.

19. See § 3.4, supra.

20. See § 43.7, infra.

1. See § 5.8, 8.29, supra.

2. See § 4.95, supra.

3. See, for example, § 41.10, supra.

4. See 97 CONG. REC. 3781, 82d Cong. 1st Sess., Apr. 12, 1951.

ment ruled out as not germane to that part of an appropriation bill to which offered has been permitted by unanimous consent to be offered to a previous paragraph to which it was germane but which had been passed in the reading.[5]

The fact that an amendment has been ruled out as not germane does not preclude amendments of a similar nature from being subsequently offered. Thus, an amendment of different form although of similar effect as one previously rejected is admissible if redrafted to be germane. It has been held that similarity of an amendment to one previously rejected will not render it inadmissible if sufficiently different in form to present another proposition.[6]

Where a motion to recommit with instructions is ruled out on a point of order because containing matter not germane to the bill, another motion to recommit may be offered.[7]

When a point of order is made, the Chair ordinarily permits debate thereon, consisting usually of a statement by the person making the point of order in support of his position, a statement by the proponent of the amendment in defense of the germaneness of the amendment, and arguments by any others who wish to speak on either side of the issue. Debate on a point of order is within the discretion of the Chair,[8] and Members recognized on the point of order do not yield to others to debate the germaneness of an amendment.[9]

The burden of proof of the germaneness of an amendment rests upon the proponent.[10]

Debate on a point of order against an amendment is limited to the question of order and must be relevant thereto and may not go to the merits of the amendment.[11] On the other hand, if a point of order is reserved against

5. See § 18.14, supra.

6. See, for example, the ruling of Chairman Aime J. Forand (R.I.) at 103 CONG. REC. 9365, 85th Cong. 1st Sess., June 17, 1957, with respect to a point of order raised by Mr. Kenneth B. Keating (N.Y.).

7. See § 23.3, supra.

8. See § 42.37, supra.

9. See, for example, the proceedings of Nov. 14, 1980, relating to S. 885, the Pacific Electric Power Planning and Conservation Act of 1980, discussed in § 31.1, supra.

On occasion, a Member recognized to debate a point of order has been permitted to yield to other Members speaking in support of his argument. See, for example, 113 CONG. REC. 28649–51, 90th Cong. 1st Sess., Oct. 11, 1967.

10. See §§ 35.31, 41.8, supra.

11. See §§ 3.31, 35.101, supra.

an amendment, the proponent may speak on the merits of the amendment and respond subsequently to the point of order.[12]

The Chairman, of course, may decline to hear further debate with regard to a point of order on which he has ruled.[13] But the Chair, after sustaining a point of order against an amendment, has on occasion permitted a Member to state his position on the germaneness of the amendment.[14]

Under clauses 4 and 5 of Rule XXVIII, the Speaker must first hear argument on and rule on a point of order that an identifiable portion of a Senate provision is not germane to the House provision to which it is attached. Decisions on such points of order are governed by the same procedures discussed under this heading. Once the Speaker rules a Senate provision nongermane, a motion, of high privilege, may be entertained that the House reject the nongermane matter. Debate and disposition of the conference report then proceed as specified in Rule XXVIII. Debate on a motion to reject a nongermane portion of a conference report under Rule XXVIII clause 4 is discussed briefly in § 26, supra. For more comprehensive discussion of House-Senate relations, see Chapter 32, infra; and see Chapter 33, infra, for discussion of House-Senate conferences.

Amendment to Nongermane Amendment

§ 43.1 If the time for making a point of order against an amendment has elapsed, such amendment, even though not itself germane, is open to germane amendments.[15]

Entire Amendment Ruled Out

§ 43.2 If a point of order is sustained against an amendment, the entire amendment is ruled out even though only a portion of the amendment be improper.

In the 84th Congress, a bill[16] was under consideration to amend

12. See § 31.30, supra.

13. See § 31.32, supra.

14. See § 37.1, supra.

15. See, for example, the ruling of Chairman Hale Boggs (La.), at 95 CONG. REC. 8381, 81st Cong. 1st Sess., June 24, 1949, on a point of order raised by Mr. Multer against a substitute for an amendment under consideration. Since no timely objection had been raised against the amendment for which the substitute was offered, and since the substitute was germane to the amendment, the point of order was overruled.

16. S. 2090 (Committee on Foreign Affairs).

the Mutual Security Act of 1954. The bill, which had been reported from the Committee on Foreign Affairs, provided for aid to foreign countries. A committee amendment was offered which related to exemption from duty of personal and household effects brought into the United States pursuant to government orders. The subject matter of the proposed amendment was thus within the jurisdiction of the Committee on Ways and Means. Mr. Wilbur D. Mills, of Arkansas, made the point of order that the amendment was not germane to the bill.[17] The point of order having been conceded, the Chairman[18] stated:

> The point of order is conceded and the point of order sustained. A point of order to a part of an amendment makes the whole amendment subject to a point of order, so the whole amendment goes out on the point of order.

Amendment, Ruled Out as Not Germane, Permitted To Be Offered to a Different Paragraph

§ 43.3 An amendment, held to be not germane to that part of an appropriation bill to which offered, has been permitted by unanimous consent to be offered to a previous paragraph to which it was germane but which had been passed in reading for amendment.[19]

Amendment, Ruled Out as Not Germane, Considered by Unanimous Consent

§ 43.4 On occasion, an amendment that has been ruled out as not germane has been considered by unanimous consent.

On Apr. 12, 1951, during consideration of S. 1–1951, a bill amending the Universal Military Training and Service Act, an amendment relating to the voting rights of persons within the scope of the bill was ruled out as not germane, but was considered pursuant to a unanimous consent request. The proceedings are discussed in § 4.41, supra.

Burden of Proof

§ 43.5 The burden of proof is on the proponent of an amendment to establish its germaneness, and where the proponent admits to an interpretation which will render it nongermane, the

17. 101 Cong. Rec. 9662, 84th Cong. 1st Sess., June 30, 1955.

18. Jere Cooper (Tenn.).

19. See § 18.14, supra.

Chair will rule it out of order.

The proceedings of Dec. 11, 1979, relating to H.R. 4962 (the Child Health Assurance Act of 1979) are discussed in § 9.26, supra.

§ 43.6 The burden of proof is on the proponent of an amendment to establish its germaneness, and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order.

The proceedings of June 20, 1975, relating to H.R. 3474, the Energy Research and Development Administration authorization for fiscal 1976, are discussed in § 9.41, supra.

Point of Order Not Specifically Based on Rule of House

§ 43.7 The Chair will not interpret a point of order against a substitute as "narrowing the scope" of a pending amendment to be a point of order under a specific rule of the House upon which he must rule, in the absence of some reference to the germaneness rule or other rule which is stated or necessarily implied in the point of order.

On June 25, 1987,[20] the Committee of the Whole had under consideration H.R. 2712, Department of the Interior appropriations for fiscal 1988. An amendment was pending which sought to reduce all discretionary accounts in the general appropriation bill by a specified percentage. A point of order that a substitute "narrowed the scope" of the pending amendment by addressing only the availability of one account in the bill was held not to constitute a valid point of order under the rules of the House. The proceedings were as follows:

> MR. [FREDERICK S.] UPTON [of Michigan]: Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the Record.
>
> THE CHAIRMAN: Is there objection to the request of the gentleman from Michigan?
>
> There was no objection.
>
> The text of the amendment is as follows:
>
> > Amendment offered by Mr. Upton: Page 77, after line 10, insert the following new section:
> >
> > Sec. 314. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or

20. 133 CONG. REC. 17403, 17414, 17415, 100th Cong. 1st Sess.

otherwise made available by a provision of law is reduced by 3.2 percent.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Yates as a substitute for the amendment offered by Mr. Upton: On page 52, line 25, after "expended", insert "of which $50,000,000 shall not be obligated unless future fiscal year 1988 pay cost increases for accounts in this Act are provided within the allocations of the fiscal year 1988 Congressional Budget Resolution". . . .

MR. [STEVEN C.] GUNDERSON [of Wisconsin]: Mr. Chairman, I raise the point of order that the substitute amendment significantly narrows the scope of the amendment now before the House and therefore is out of order.

THE CHAIRMAN:[1] The Chair would advise the gentleman that he does not state a proper point of order; so the point of order is not sustained.

Section in Committee Amendment Not Within Jurisdiction of Committee

§ 43.8 The point of order that a section in a committee amendment in the nature of a substitute was not within the jurisdiction of that committee does not lie when that section is read for amendment, where no question of germaneness is presented.

During consideration of H.R. 15560 (a bill concerning emergency loans to livestock producers) in the Committee of the Whole, the Chair held that a point of order against the pending section was not in order. The proceedings of July 16, 1974,[2] were as follows:

THE CHAIRMAN:[3] The Clerk will read.

The Clerk read as follows:

Sec. 4. Loans guaranteed under this Act shall be secured by security adequate to protect the Government's interests, as determined by the Secretary.

Sec. 5. Loan guarantees outstanding under this Act shall not exceed $2,000,000,000 at any one time. Subject to the provisions of section 2(c) of this Act, the fund created in section 309 of the Consolidated Farm and Rural Development Act shall be used by the Secretary for the discharge of the obligations of the Secretary under contracts of guarantee made pursuant to this Act.

Sec. 6. Contracts of guarantee under this Act shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. . . .

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I make a point of order against section 6. The language in section 6 removes any expenditures under this act from the debt ceiling of the United States. My point of order is

1. Frederick C. Boucher (Va.).

2. 120 CONG. REC. 23344, 93d Cong. 2d Sess.

3. Lloyd Meeds (Wash.).

based on the point that this language constitutes an appropriation in a legislative bill, and second, invades the jurisdiction of another committee which has jurisdiction under the rules of this House, and with respect to those items it should be included in the debt ceiling.

THE CHAIRMAN: The Chair is ready to rule.

The Chair would state to the gentleman, as to the argument with respect to committee jurisdiction, that the provisions of section 6 of the committee substitute are also continued in section 7 of the original bill, and the point of order of germaneness is not in order. Section 6, while it provides that guarantees shall not be included in budget totals and shall be exempt from limitations on net lending, does not appropriate funds and does not violate clause 4 of rule XXI. The points of order are overruled.

Does the gentleman wish to be heard further?

MR. VANIK: Mr. Chairman, what about the second point that I made, that this is not within the jurisdiction of the Committee on Agriculture, to determine what should go into the debt ceiling?

THE CHAIRMAN: That is not a proper point of order. That is a matter which should be resolved in another way.

Inconsistency of Amendment With Prior Amendment Not Basis for Point of Order

§ 43.9 The test of germaneness of an amendment to a bill being read for amendment by titles is its relationship to the title to which offered; even where the amendment would also have been germane to a previous title of a bill which has been passed in the reading, an amendment germane to the pending title is not subject to a point of order on the grounds that it indirectly affects, or is inconsistent with, an amendment adopted to a previous title.

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in Sec. 3.48, supra.

Conjecture as to Legislative or Administrative Actions That Might Be Necessitated by Amendment

§ 43.10 In ruling on a question of germaneness, the Chair confines his analysis to the text of the amendment and is not guided by conjecture as to other legislation or administrative actions which might—but are not required to—result from the amendment.

On July 27, 1977,[4] it was held that to a title of a bill[5] reported

4. 123 CONG. REC. 25249, 25252, 95th Cong. 1st Sess.
5. H.R. 7171, the Agriculture Act of 1977.

from the Committee on Agriculture providing for benefits under, and administration of, the food stamp program, an amendment which provided for recovery of benefits from persons whose income exceeded specified levels was germane, even though it required the Secretary of the Treasury and, impliedly, the Internal Revenue Service to collect any liability imposed by the amendment's provisions:

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Foley: In title XII, page 28, insert after line 8 the following new section:

"RECOVERY OF BENEFITS WHERE INDIVIDUAL'S ADJUSTED GROSS INCOME FOR YEAR EXCEEDS TWICE POVERTY LEVEL

Sec. 1210(a)(1) if—

"(A) any individual receives food stamps during any calendar year and

"(B) such individual's adjusted gross income for such calendar year exceeds the exempt amount,

then such individual shall be liable to pay the United States the amount determined under subsection (b) with respect to such individual for such calendar year. Such amount shall be due and payable on April 15 of the succeeding calendar year and shall be collected in accordance with the procedures prescribed pursuant to subsection (g). . . .

"(g) The Secretary of the Treasury shall collect any liability imposed by this section in accordance with regulations prescribed by him . . . .

"(h) Nothing in this section shall be construed to affect in any manner the application of any provision of the Internal Revenue Code of 1954.". . .[6]

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I reserve a point of order. I would like to engage the author of the amendment in colloquy. . . .

Mr. Chairman, I would like to ask the distinguished gentleman from Vermont who or what branch of Government the gentleman feels would collect this money from the people?

MR. JEFFORDS: Under the amendment, the Department of the Treasury would be required to collect the money.

MR. STARK: It would be the Treasury Department and in no way did the gentleman intend that the Internal Revenue Service participate in any of the collection or in collecting the forms or collecting revenue?

MR. JEFFORDS: No, on the contrary, it is my understanding and belief that the Internal Revenue Service would be charged with and do the collecting. . . .

MR. STARK: Mr. Chairman, I make a point of order that the jurisdiction of the Internal Revenue Service lies wholly within the jurisdiction of the Committee on Ways and Means.

This amendment, as the gentleman has stated it, would be counting on the Internal Revenue Service to perform the functions as put down under this amendment. The amendment would

6. Shown is the correct text of the amendment offered, subsequently inserted in the Record by Mr. Jeffords.

not be in order and would not be within the jursidiction of this committee. . . .

MR. JEFFORDS: . . . As I understand the rules here, I can ask for an amendment that can be proposed, as can anybody, to the collection. We could make the State Department or anyone else do the collection, but we cannot do what I have not done, and very specifically have not done in this amendment, which is to change any statute of the way it is done, which is under the jurisdiction of the Committee on Ways and Means. If I am wrong on this, there are so many places in this bill where the same thing is done that I do not know why a number of Members have not raised points of order.

We have asked the Postal Service to do something; we have asked the social security office to do things; we have mandated different agencies all over the place. We do not interfere with any statutes which are under committee jurisdiction of other committees. I have not done so here. The question is, do we change any statute which is under the jurisdiction of the Ways and Means Committee, and we do not. They are the guardian over those statutes, but they are not the guardian over any agency which happens to be involved with those statutes.

MR. STARK: Mr. Chairman, I think it is quite clear that the gentleman, in terms of both the committee report and in his response to questions here, in his statement on the floor that this amendment, although it really says that the Secretary of the Treasury shall collect any liability, clearly the intention is that the Internal Revenue Service shall collect W–2 forms, match them against income figures which are now under the law not to be given even to the Secretary of Treasury, but are for collecting income tax and Internal Revenue matters.

Clearly, the intent of the amendment is to direct the Internal Revenue Service to participate in that. The jurisdiction of the Internal Revenue Service and all matters pertaining thereto is under the Committee on Ways and Means. I would ask that this amendment be ruled out of order on that basis.

THE CHAIRMAN:[7] The Chair is ready to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Vermont (Mr. Jeffords) is not germane to the food stamp title of the pending bill. The thrust of the gentleman's point of order is that the collection procedure for overpayments of food stamp benefits to persons above the poverty level involves responsibilities of the Treasury Department, and in effect mandates the establishment of regulations which would involve the disclosure of tax returns and tax information and utilization of the Internal Revenue Service—all matters within the jurisdiction of the Committee on Ways and Means.

The Chair notes that the amendment does contain the provision that "nothing in this section shall be construed to affect in any manner the application of any provision of the Internal Revenue Code of 1954," and it seems to the Chair to follow that, under the explicit provisions of the amendment, Secretary of the Treasury would therefore have to establish an independent col-

7. Frank E. Evans (Colo.).

lection procedure separate and apart from the mandated use of the Internal Revenue Service. The Chair does not have to judge the germaneness of the amendment by contemplating possible future legislative actions of the Congress not mandated by the amendment.

In the opinion of the Chair, the authority of the Secretary of the Treasury under the rules of the House as collector of overpayments of any sort is not subject explicitly and exclusively within the jurisdiction of the Committee on Ways and Means under rule X, and even if this were true, committee jurisdiction is not an exclusive test of germaneness where, as here, the basic thrust of the amendment is to modify the food stamp program—a matter now before the Committee of the Whole.

The Chair overrules the point of order.

Parliamentarian's Note: Had the amendment altered the Internal Revenue Code or otherwise required the use of the Internal Revenue Service, in conjunction with the collection of federal income taxes, in recovering the value of benefits, the amendment would not have been germane. The Chair was persuaded that the Department of Treasury performs a variety of functions, including payments and collections, under laws and policies not within the jurisdiction of the Committee on Ways and Means. As indicated in the Chair's ruling, the amendment disavowed any intent to affect any provision of the Internal Revenue Code.

Chair as Looking Behind Form of Amendment in Making Ruling

§ 43.11 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effects of its provisions, or amendments thereto, in determining issues of germaneness,[8] the Chair has ruled that an amendment which in form amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of its fundamental purpose demonstrated by prior legislative treatment of the subject in question (the statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.[9]

8. See, generally, § 46, infra; and see §§ 3.15 and 34.2, supra.

9. The proceedings of May 13, 1987, relating to H.R. 2360, extension of the public debt limit, are discussed in § 46.7, infra.

Special Rule Permitting Amendments That Have Been Printed in Record

§ 43.12 Where a special rule permits the offering of only those germane amendments to a bill which have been printed in the Record, an amendment which differs in any respect from a printed amendment may not be offered (except by unanimous consent) even to cure a germaneness defect in a printed amendment previously ruled out.

During consideration of H.R. 8410[10] in the Committee of the Whole on Oct. 5, 1977,[11] the Chair sustained a point of order against the following amendment under the circumstances described above:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 17, line 5, insert "(1)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views . . . opinion, or the making of any statement or the dissemination thereof . . . shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

THE CHAIRMAN:[12] The Chair would like to inquire of the gentleman from Ohio (Mr. Ashbrook) if this amendment which was reported by the Clerk is printed in the Record?

MR. ASHBROOK: Mr. Chairman, I would say the amendment was printed in the Record. The Chair previously ruled it out of order and I have struck certain language to make it conform with the ruling of the Chair.

MR. [FRANK] THOMPSON [JR., of New Jersey]: Mr. Chairman, I make the point of order that the amendment was not printed in the Record, notwithstanding the attempt of my good friend to revise it in such a way as to indicate that it was. . . .

THE CHAIRMAN: The Chair would have to sustain the point of order. . . .

MR. ASHBROOK: Mr. Chairman, is the Chair indicating an amendment that was printed in the Record on Monday and ruled out of order for parliamentary reasons cannot be revised and offered as a substitute?

THE CHAIRMAN: The Chair would like to advise the gentleman that the amendment was not printed in the Record in the form in which the gentleman now presents it as an amendment to the bill.

MR. ASHBROOK: The gentleman from Ohio would concede that.

THE CHAIRMAN: And the Chair would be constrained to sustain the point of order.

§ 44. Timeliness of Point of Order

10. The Labor Reform Act of 1977.

11. 123 CONG. REC. 32510, 32511, 95th Cong. 1st Sess.

12. William H. Natcher (Ky.).

A germaneness point of order must be made or reserved immediately after the reading of an amendment.[13] No business must intervene between the reading of the amendment and the raising of the point of order. The Member pressing the point of order must be diligent in seeking prompt recognition after the amendment is read or its reading dispensed with.[14]

A point of order against a proposed amendment comes too late after debate has begun. But mere recognition for debate does not preclude a point of order against an amendment before the Member recognized has begun his remarks.[15] Indeed, a point of order against an amendment is not precluded by the Chair's recognition of the Member offering the amendment if the Member raising the point of order was on his feet, seeking recognition, before debate on the amendment began.[16] It is held that a point of order as to the germaneness of a proposed amendment does not come too late if the Member was on his feet attempting to make the point of order when debate started.[17]

In fact, on one occasion, although the proponent of an amendment had been recognized and had begun his discussion, the Chair entertained a point of order against the amendment by a Member who stated he had been on his feet, seeking recognition for that purpose when the discussion began.[18]

Of course, a point of order against an amendment does not come too late where the Member raising the question was on his feet seeking recognition at the time the amendment was read.[19]

Where one point of order is made against an amendment and

13. See §§ 44.1, 44.2, infra.

14. A point of order has been held dilatory if a parliamentary inquiry intervenes between the reading of the amendment and the point of order. See the ruling of Chairman Earl C. Michener (Mich.) at 93 CONG. REC. 11279, 80th Cong. 1st Sess., Dec. 11, 1947. Under consideration was H.R. 4604 (Committee on Foreign Affairs), providing for aid to certain foreign countries.

In this instance, Mr. Fulton, who raised the point of order that a proffered amendment was not germane, stated that he had been on his feet in time, but had yielded for a parliamentary inquiry.

The Chairman took the view that, by doing so, Mr. Fulton had forfeited his right to make the point of order.

15. See § 31.44, supra.

16. For discussion of when and in what manner a point of order must be made, generally, see Ch. 31 on points of order. See also § 9.12, supra.

17. See § 35.37, supra.

18. See § 30.34, supra.

19. See § 33.28, supra.

overruled, another can be pressed although the proponent thereof was not on his feet at the time the first point of order was made.[20]

Points of order reserved on the question of the germaneness of an amendment should be made or withdrawn when the sponsor of the amendment ends his five-minute debate,[1] although the Chair may in its discretion permit additional debate on the amendment before ruling on the reserved point of order. The reservation of a point of order by one Member generally does not preclude another from pressing a point of order,[2] and the reservation of a point of order inures to all Members, so that if the point of order is not pressed by the Member reserving it, another may press it. But the Chair has also respected the reservation of a point of order and declined to rule on a point of order subsequently made without reservation.[3]

It should be remembered that the fact that no point of order was made against a particular amendment does not waive points of order against subsequent amendments of a related nature.[4]

A point of order against a motion to recommit with instructions has been made prior to completion of the reading of such motion where the matter contained in the instructions had been ruled out as not germane when offered as an amendment in the Committee of the Whole.[5]

In the House, it is too late to interpose a germaneness point of order against an amendment reported from the Committee of the Whole House on the state of the Union.[6]

When Point of Order Must Be Made or Reserved

§ 44.1 A point of order against the germaneness of an amendment must be made or reserved immediately after the amendment is read and comes too late after the pro-

20. For discussion of when and in what manner a point of order must be made, generally, see Ch. 31 on points of order; see also § 33.28, supra.

1. See the remarks of Chairman Alfred L. Bulwinkle (N.C.) at 92 CONG. REC. 3663, 79th Cong. 2d Sess., Apr. 13, 1946, in response to a parliamentary inquiry by Mr. May.

2. See § 35.101, supra.

3. See § 39.24, supra.

4. See § 13.19, supra.

5. See § 23.3, supra.

6. See the remarks of Speaker Sam Rayburn (Tex.) at 102 CONG. REC. 13857, 84th Cong. 2d Sess., July 21, 1956, in response to a parliamentary inquiry by Mr. Bow.

ponent of the amendment has been recognized and permitted to revise and extend his remarks.

On Sept. 17, 1975,[7] during consideration of H.R. 7014[8] in the Committee of the Whole, the Chair ruled that a point of order came too late and recognized the proponent of the amendment for 5 minutes in support of that amendment. The proceedings were as follows:

> THE CHAIRMAN:[9] The Chair recognizes the gentleman from Maine (Mr. Emery) for 5 minutes in support of his amendment.
>
> (Mr. [David F.] Emery [of Maine] asked and was given permission to revise and extend his remarks.)
>
> MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I wish to reserve a point of order against the amendment.
>
> THE CHAIRMAN: The Chair will state to the gentleman from Michigan (Mr. Dingell) that his reservation comes too late. The Chair had already recognized the gentleman from Maine (Mr. Emery), and the point of order comes too late.
>
> The Chair recognizes the gentleman from Maine for 5 minutes in support of his amendment.

7. 121 CONG. REC. 28937, 94th Cong. 1st Sess.
8. The Energy Conservation and Oil Policy Act of 1975.
9. Richard Bolling (Mo.).

—*Amendments to Amendment Which Has Been Made in Order by Waiver of Points of Order*

§ 44.2 A point of order against the germaneness of an amendment must be made immediately following the reading and prior to consideration, and where points of order have been waived against a specific amendment which has then been altered by amendment, a point of order will not lie against the modified amendment as not coming within the coverage of the waiver.

On July 22, 1975,[10] during consideration of H.R. 7014[11] in the Committee of the Whole, it was held that where a special rule waives points of order against the consideration of a designated amendment which might otherwise not be germane if offered to a bill, and does not specifically preclude the offering of amendments thereto, germane amendments to that amendment may be offered and, if adopted, it is then too late to challenge the germaneness of the original amendment as

10. 121 CONG. REC. 23990, 23991, 94th Cong. 1st Sess.
11. Energy Conservation and Oil Policy Act of 1975.

amended. The proceedings were as follows:

MRS. [PATRICIA] SCHROEDER [of Colorado]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mrs. Schroeder to the amendment offered by Mr. Krueger: In section 8(d)(2)(E)(ii)(a)(1) of the Emergency Petroleum Allocation Act of 1973 as amended by Mr. Krueger's amendment, strike the words "(including development or production from oil shale," and insert a comma after "gas".
>
> In section 8(d)(2)(E)(ii)(a)(2) of the Emergency Petroleum Allocation Act of 1973 (as amended by Mr. Krueger's amendment) strike the words "oil shale,". . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I reserve a point of order, and pending that I have a parliamentary inquiry.

THE CHAIRMAN:[12] The gentleman from Texas reserves a point of order, and the gentleman will state his parliamentary inquiry.

MR. ECKHARDT: The parliamentary inquiry is what determines germaneness of this amendment, if it is germane, to the Krueger amendment? It would then be admissible at this time as germane, as I understand it. In other words, the relation to the Krueger amendment would determine germaneness in this instance, I would assume.

THE CHAIRMAN: If the gentleman is asking whether the amendment offered by the gentlewoman from Colorado has to be germane, the answer, of course, is "yes". Is the gentleman contending that it is not germane?

MR. ECKHARDT: No. The gentleman merely asks whether or not on the question of germaneness with respect to this amendment, the question is determined on whether or not this amendment is germane to the Krueger amendment.

THE CHAIRMAN: That is correct. . . . The question is on the amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) to the amendment offered by the gentleman from Texas (Mr. Krueger).

The question was taken; and on a division (demanded by Mr. Brown of Ohio) there were—ayes 39, noes 31.

So the amendment to the amendment was agreed to.

MR. ECKHARDT: Mr. Chairman, I reserve a point of order against the Krueger amendment.

THE CHAIRMAN: The Chair will have to state he believes the point of order comes too late. . . .

MR. ECKHARDT: Mr. Chairman, if the Chair would permit me, I should make a point of order now if I must do so or I will at such time as the vote arises on the Krueger amendment on the ground that the Krueger amendment is now outside the rule.

If the Chair will recall, I queried of the Chair whether or not the question of germaneness on the amendment offered by the gentlewoman from Colorado was based upon its germaneness to the Krueger amendment or if that were the standard. The Chair answered me that it was. Therefore, the amendment offered by the gentlewoman from Colorado was not subject to a point of order at that time and I

12. Richard Bolling (Mo.).

point out to the Chair that the question of germaneness rests upon whether or not the amendment is germane to the amendment to which it is applied.

At that time it was not in order for me to urge that the amendment offered by the gentlewoman from Colorado was not germane because it was indeed germane to the Krueger amendment, but the rule protects the Krueger amendment itself from a point of order on the grounds of germaneness and specifically says that it shall be in order to consider without the intervention of any point of order the text of an amendment which is identical to the text of section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record on Monday and it is described.

The Krueger amendment upon the adoption of the Schroeder amendment becomes other than the identical amendment which was covered by the rule. At this point the question of germaneness of the Krueger amendment rests on the question of whether or not it is at the present time germane to the main body before the House.

It is not germane to the main body before the House because of the—and I cite in this connection Deschler on 28, section 24 in which there are several precedents given to the effect that an amendment which purports to create a condition contingent upon an event happening, as for instance the passage of a law, is not in order. For instance 24.6 on page 396 says:

> To a bill authorizing funds for construction of atomic energy facilities in various parts of the Nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was ruled out as not germane.

There are a number of other authorities in that connection, that is, an amendment postponing the effectiveness of legislation pending contingency.

Now, with respect to the question of timeliness, the gentleman from Texas could not have raised the point of order against the Schroeder amendment because of the fact that the Schroeder amendment was, in fact, germane to the Krueger amendment. It is clearly stated that the test of germaneness must rest on the question of the body upon which the amendment acts, and as I queried the Chair at the time, I asked that specific question, would the germaneness of the Schroeder amendment rest upon the question whether it is germane to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I only state that it seems to me that the rule makes the Krueger amendment in order by its text, but it does not prohibit it being amended by subsequent action of this body and that if the text had been changed by the gentleman from Texas (Mr. Krueger) in its introduction, the point of order might have been appropriate; but the point of order that is attempted to prohibit this body from amending the text of the Krueger amendment after it has been properly introduced and been made germane by the rule would prohibit those others in the majority of this body from acting on any perfection of the Krueger amendment. I do not think that is the purpose of the rule. . . .

THE CHAIRMAN: The Chair is ready to rule.

The rule under which the matter is being considered did in fact make in order the so-called Krueger amendment, and any amendment to that amendment which is germane to that amendment was thus, at the same time, made in order. There was no need for special provision to make amendments germane to the Krueger amendment in order, and the argument made by the gentleman from Ohio (Mr. Brown) is very much to the point.

The Chair, therefore, overrules the point of order.[13]

—*Committee Amendment in Nature of Substitute Being Read for Amendment by Title*

§ 44.3 Where a committee amendment in the nature of a substitute is being read as an original bill for amendment by title, a point of order that the committee amendment is not germane to the original bill may be raised following the reading of the first title of the committee amendment.

The proceedings of Aug. 2, 1973, which related to H.R. 9130 (the trans-Alaska pipeline authorization) are discussed in § 30.36, supra.

13. This ruling is also discussed at § 45.8, infra.

§ 45. Consideration Under Special Rule: Waiver of Points of Order; Effect on Germaneness Requirement

Points of order against nongermane amendments may be waived either by the terms of a special rule or through the mere failure to raise points of order. In recent years, it has become common practice to delineate in some detail the conditions under which a bill may be considered, including with some specificity the points of order based on the germaneness rule that will or will not be waived. The terms of a special rule may thus apply to all amendments, specific amendments, or amendments of a specified nature; the Committee on Rules may even report a special rule altering the ordinary test of the germaneness of an amendment, such as rendering only one portion of an amendment subject to a germaneness point of order, while preserving consideration of the remainder of the amendment as original text and waiving germaneness points of order with respect thereto.

Of course, a waiver of points of order against amendments should be distinguished from a waiver of other points of order against the

text of a bill. Where the House waives all points of order against a bill, such waiver does not apply to amendments offered from the floor.[14] Waiver of points of order against the text of a bill for other reasons, by adoption of the resolution making its consideration a special order of business, does not vitiate the rule that amendments from the floor must be germane.[15]

The issue of germaneness cannot be raised against an amendment when all points of order against that amendment have specifically been waived.[16]

A resolution providing for consideration of a bill may waive points of order against the text of another bill proposed to be offered as an amendment.[17]

A resolution providing for consideration of a bill may waive points of order against nongermane committee amendments, whether the resolution provides for an open[18] or closed[19] rule. Language such as the following is used in effecting such waiver:

> It shall be in order to consider without the intervention of any point of order the amendments recommended by the Committee on ———— now printed in the bill.

A special rule adopted by the House may waive points of order against a nongermane committee substitute, as in the following resolution:[20]

> H. RES. 390
>
> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6444) to amend the Railroad Retirement Act of 1937 to provide a 10 per centum increase in

14. See § 31.43, supra.

15. See § 19.26, supra.

16. See §§ 45.3 et seq., infra. See also § 19.4, supra.

17. See § 45.7, infra.

18. See H. Res. 471 (Committee on Rules), 113 Cong. Rec. 12621, 90th Cong. 1st Sess., May 15, 1967, providing for consideration of a bill (H.R. 1318) authorizing appropriations for the Food Stamp Act of 1964. The bill as introduced amended only the section of the Food Stamp Act of 1964 relating to authorizations for appropriations. Committee amendments were to other sections of the act and broadened the scope of the bill.

19. See H. Res. 1005, 112 CONG. REC. 22209, 89th Cong. 2d Sess., Sept. 12, 1966.

20. H. Res. 390, 117 CONG. REC. 12320, 92d Cong. 1st Sess., Apr. 28, 1971.

> annuities. . . . It shall be in order to consider, without the intervention of any point of order under clause 7, rule XVI, the amendment in the nature of a substitute recommended by the Committee on Interstate and Foreign Commerce now printed in the bill as an original bill for the purpose of amendment under the five-minute rule.

Where a bill is being considered under the provisions of a resolution which specifies that committee amendments shall be in order, "any rule of the House to the contrary notwithstanding," no issue can properly be raised as to the germaneness of any such amendment.[1] But where the House has adopted a resolution waiving points of order against committee amendments, no immunity is granted Members to offer amendments which are not germane.[2] Where a resolution providing for consideration of a bill merely states that, after a specified time allowed for general debate, the bill shall be read for amendment under the five-minute rule, amendments to the bill are in order in accordance with the standing rules of the House.[3]

As noted above,[4] nongermane amendments generally are not barred unless the point of order is actually raised against them. Of course, the fact that no point of order was made against a particular amendment does not waive points of order against subsequent amendments of a related nature.[5] Similarly, where an amendment to a general appropriation bill proposes a change in existing law but is permitted to remain because no point of order is raised against it, the amendment may be perfected by germane amendments that do not contain additional legislation.[6] Moreover, a legislative provision in a general appropriation bill, permitted to remain pursuant to a resolution waiving points of order against the bill, may be perfected by germane amendment that does not add further legislation.[7]

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1. See the remarks of Chairman William H. Natcher (Ky.), in response to a parliamentary inquiry by Mr. H. R. Gross (Ia.), at 106 CONG. REC. 10575, 86th Cong. 2d Sess., May 18, 1960. H.R. 5 (Committee on Ways and Means), the Foreign Investment Incentive Tax Act of 1960, was being considered pursuant to the provisions of H. Res. 468.

2. See § 13.12, supra.

3. See, for example, the remarks of Speaker John W. McCormack (Mass.) at 111 CONG. REC. 18076, 89th Cong. 1st Sess., July 26, 1965, in response to a parliamentary inquiry by Mr. Gerald R. Ford.

4. See § 43, supra.

5. See § 13.19, supra.

6. See § 15.49, supra. See also § 15.45, supra.

7. See § 15.35, supra. See also § 15.15, supra.

Illustrative Forms of Special Rules Waiving Points of Order

§ 45.1 The following House Resolution, agreed to on Sept. 15, 1983, is illustrative of special rules waiving points of order based on the germaneness rule; such rules are frequently used in the modern practice in prescribing procedures for the consideration of particular bills.

The following special rule, H. Res. 309,[8] illustrates the form that may be taken by rules that waive points of order under the germaneness rule. The resolution provided an "open" rule for consideration of a bill reported by two committees to which it had been jointly referred; provided for general debate divided between the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation; provided, in lieu of the two committees' amendments printed in the bill, for consideration of a compromise text, that of another introduced bill as an amendment in the nature of a substitute as an original bill for amendment, each section to be considered as read; waiving germaneness points of order against a described amendment relating to certain subject matter ("cost overruns") if printed in the Record and if offered by a designated Member; provided for a separate vote, and for a motion to recommit, with or without instructions.

COAL PIPELINE ACT OF 1983

MR. [GILLIS W.] LONG of Louisiana: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 309 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 309

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1010) to amend the Mineral Leasing Act of 1920 with respect to the movement of coal, including the movement of coal over public lands, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and one and one-half hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be con-

8. See 129 CONG. REC. 24306, 24307, 98th Cong. 1st Sess., Sept. 15, 1983 (agreed to, at p. 24312).

sidered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Interior and Insular Affairs and Public Works and Transportation now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3857 as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. It shall be in order to consider an amendment relating to cost overruns printed in the Congressional Record of September 14, 1983, by, and if offered by, Representative (E. G.) Shuster of Pennsylvania and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Parliamentarian's Note: The Shuster amendment addressed regulation of railroads by the ICC, and not regulation of coal pipelines, and was thus not germane. This rule, describing the amendment made in order and waiving all points of order under the germaneness rule, did require the amendment to be printed in the Record. The Committee on Rules has on a number of occasions made in order amendments to be printed in the Record, with germaneness waivers, on the word of the Member that only the amendments that the Member has verbally presented to the Committee on Rules would be printed and offered. (By the strict terms of the rule, Representative Shuster could have printed more than one amendment on "cost overruns" in the Record on any subject, and if the Chair had been satisfied that his amendment was related to that subject, though not necessarily the amendment presented in the Committee on Rules, the first such amendment offered in the Committee of the Whole would have been in order.)

§ 45.2 In an earlier example of a practice that is common today, a resolution reported by the Committee on Rules waived points of order, including those based on the rule as to germaneness, against a committee amendment in the nature of a substitute.

In the 90th Congress, a committee amendment in the nature of a substitute to the Postal Revenue and Federal Salary Act of

1967 added two new titles to the bill, neither of which was germane to the bill as introduced. The bill as introduced related only to postal rates and revenue, whereas the titles added by the committee amendment related respectively to federal salary increases and to the regulation of mailing advertisements of a "pandering" nature. A resolution [9] reported by the Committee on Rules, providing for consideration of the bill [10] with the committee amendment, stated in part as follows: [11]

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7977) to adjust certain postage rates, and for other purposes. . . . It shall be in order to consider without the intervention of any point of order the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill, and such substitute for the purpose of amendment shall be considered under the five-minute rule as an original bill, and read by titles instead of by sections. . . .

9. H. Res. 939 (Committee on Rules).
10. H.R. 7977 (Committee on Post Office and Civil Service).
11. 113 CONG. REC. 28406, 90th Cong. 1st Sess., Oct. 10, 1967.

Special Rule Making Portion of Amendment Subject to Points of Order—Consideration of Remainder of Amendment

§ 45.3 The Committee on Rules may report a special rule altering the ordinary test of the germaneness of an amendment, as by rendering only one portion of an amendment subject to the point of order that it is not germane to the introduced bill, while preserving consideration of the remainder of the amendment as original text and waiving other germaneness points of order. Thus, in the 95th Congress, the following resolution was reported which provided an "open" rule; provided for consideration of a committee substitute as an original bill by titles and waiving points of order against such substitute containing an appropriation and nongermane matter; but allowing a point of order when consideration of said substitute begins that a designated section thereof would be nongermane if offered to the bill as introduced, and providing, if said point of order is sustained,

for consideration of such substitute without that section as original text by titles, and waiving points of order against such substitute; making in order an amendment printed in the Record if offered as an amendment in the nature of a substitute to the committee substitute; providing for a separate vote on amendments adopted to the bill or to the substitute made in order, and for a motion to recommit with or without instructions.

A special rule as described above was reported on May 23, 1978:[12]

PROVIDING FOR CONSIDERATION OF H.R. 10929, DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1979

MR. [LLOYD] MEEDS [of Washington]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1188 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1188

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedos, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, to authorize the military training student loads, and to authorize appropriations for civil defense, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to con-

12. See the proceedings at 124 CONG. REC. 15094–96, 95th Cong. 2d Sess. For discussion of a point of order made, under the terms of H. Res. 1188, against a section of the amendment in the nature of a substitute being read as original text for amendment, see § 21.18, supra.

sider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. It shall be in order to consider the amendment printed in the Congressional Record of May 17, 1978, by Representative [Milton R.] Carr [of Michigan] if offered as an amendment in the nature of a substitute for the amendment in the nature of a substitute recommended by the Committee on Armed Services. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. . . .

MR. MEEDS: . . . Mr. Speaker, House Resolution 1188 provides for the consideration of H.R. 10929, the Department of Defense Appropriation Authorization Act of 1979. On May 17, by a nonrecord vote, the Committee on Rules granted the rule requested by the Committee on Armed Services for consideration of this legislation with two exceptions. The committee granted an open rule providing 3 hours of general debate and making the committee amendment in the nature of a substitute to be considered as an original bill for the purpose of amendment and providing that the substitute shall be read for amendment by titles instead of by sections.

One exception to the Armed Services request provided in the rule would allow a point of order against section 805 of the bill concerning Korea troop withdrawal provisions on the basis of nongermaneness. In testimony before the Committee on Rules, the chairman of the Committee on International Relations, Mr. Zablocki, and the chairman of the Subcommittee on Asian and Pacific Affairs, Mr. Wolff, had requested this exception in the rule because they believed that section 805 is a matter of jurisdiction for their committee.

The other exception in the rule requested makes in order the substitute of Representative Carr printed in the Congressional Record of May 17, 1978. Under the open rule, Mr. Carr would already be entitled to offer his amendment in the nature of a substitute. Although this provision in the rule does not give Mr. Carr special or preferred status under the rule, it does indicate the Rules Committee's desire to have all the diverse viewpoints on the DOD legislation available for consideration by the House. . . .

MR. DEL CLAWSON [of California]: . . . Mr. Speaker, House Resolution 1188 provides for the consideration of H.R. 10929, the Department of Defense Appropriation Authorization Act, 1979. This is an open rule providing 3 hours of debate. The rule is fairly simple in principle, though it does furnish some unusual procedures. While most of these provisions should be relatively familiar, a couple are out-of-the-ordinary.

More usual aspects of the rule allow the committee amendment in the na-

ture of a substitute to be made in order as an original bill for the purpose of amendment. The bill will be read for amendment by title instead of by sections. All points of order are waived against the substitute for two reasons. The first waiver is for failure to comply with clause 5, rule 21, which deals with appropriations in a legislative measure. The second is of clause 7, rule 16, the germaneness rule, since several unrelated provisions were added to the original bill.

Less common facets of the rule may be a bit complicated in procedure, but simple in objective. The rule acknowledges that a point of order may lie against section 805 of the committee substitute under the germaneness rule. Should a point of order be sustained, the entire substitute must be stricken out. Deletions may not be made by sections nor titles; a substitute is a "package deal." If necessary, then, the rule would make the committee substitute in order as the original bill once again, but without that particular section. In short, this is the method by which that section may be ruled out of order.

The final major provision of the rule acknowledges the right of the gentleman from Michigan (Mr. Carr) to offer an amendment in the nature of a substitute which was previously entered in the Record. All other amendments are accorded the same rights whether or not they are mentioned in the rule. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, I would like to put a parliamentary inquiry to the Chair regarding the language on page 2 of the rule, line 24, through line 4 on page 3. It appears to me that the making in order of the offering of a substitute to the committee amendment by the gentleman from Michigan (Mr. Carr) is nothing more than an expression of the right of any Member of the House to offer such amendment at any time in the Committee of the Whole. My question to the Chair is whether or not the appearance of this language in the rule in any way changes the right of the Chair to recognize members of the committee in order of seniority at the Chair's discretion.

THE SPEAKER PRO TEMPORE [James C. Wright, of Texas]: The recognition will be a matter for the Chairman of the Committee of the Whole House to determine. . . .

MR. BAUMAN: My specific question, Mr. Speaker, was whether or not this varies the precedents regarding recognition and confers upon the gentleman from Michigan (Mr. Carr) some special status as opposed to the Chair's recognizing other members of the Committee on Armed Services handling the bill.

THE SPEAKER PRO TEMPORE: It would still be up to the Chairman of the Committee of the Whole House on the State of the Union to determine the priorities of recognition. To some degree, that could depend upon the debate that was held upon the rule.

Certainly nothing contained in the sentence to which the gentleman refers would in and of itself prejudice any right that any other Member might have to offer any other germane amendment. . . .

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Speaker, under the language of the rule I understand that the amendment of the gentleman from Michigan would be in order, even after

other amendments would be possibly adopted to the committee substitute.

MR. MEEDS: My understanding of the parliamentary situation is that that would not be correct; that this would have to be offered immediately after the reading of the first section or at the end; so from the standpoint that it would be offered at the end, it certainly could be offered after other amendments and, indeed, other substitutes had been offered.

MR. VOLKMER: Mr. Speaker, if the gentleman will yield further, that is what I mean; if offered at the end after other amendments are adopted or even after another substitute had been adopted, even if the other substitute had been adopted, then the substitute amendment of the gentleman from Michigan, as I read the rule, would be in order at that time. . . .

MR. DEL CLAWSON: . . . Mr. Speaker, if I may just make an observation, it is my understanding that the Committee on Rules, while they did make in order the substitute amendment of the gentleman from Michigan, it is my understanding it was not intended to confer upon the gentleman any special privilege that is not the prerogative of any other Member, providing they are recognized in the regular order of the business of the House.

THE SPEAKER PRO TEMPORE: Let the Chair respond by stating that the rules of the House will apply and will not be abridged by reason of the adoption of this rule. If another amendment in the nature of a substitute should have been adopted, it would not perforce thereafter be in order to offer an additional amendment, whether it be the Carr amendment or any other.

As the Chair interprets the inclusion of the language referred to in the rule, it confers no special privilege upon the amendment in the nature of a substitute referred to as the Carr substitute. It presumes and makes in order such language as an amendment in the nature of a substitute. Beyond that, it does not foreclose consideration of any other germane language that otherwise would be in order.

MR. VOLKMER: Mr. Speaker, if I understand the Chair properly, then, following my colloquy and my questions of the gentleman from Washington (Mr. Meeds), the rule does not so provide as I had thought, and so if along the way a substitute is adopted other than that offered by the gentleman from Michigan (Mr. Carr), then at the end of our consideration the substitute of the gentleman from Michigan (Mr. Carr) would not be in order; is that correct?

THE SPEAKER PRO TEMPORE: The Chair believes the gentleman from Missouri (Mr. Volkmer) has correctly stated the parliamentary situation, if any amendment in the nature of a substitute is adopted, then additional amendments would not be in order.

Parliamentarian's Note: Section 805 of the committee substitute related to troop withdrawals from Korea, a matter unrelated to the bill and beyond the jurisdiction of the Committee on Armed Services; the Committee on International Relations successfully urged the Committee on Rules to render that section and that section alone subject to a germane-

ness point of order, while protecting the consideration of the remainder of the substitute as original text. Since a point of order against any portion of an amendment renders the entire amendment subject to the point of order, language was necessary in the rule to in effect allow the consideration of a new amendment without the offending section. For a similar rule, see § 45.4, infra.

§ 45.4 The following special rule is here included as a further illustration, being in effect similar to that described in § 45.3, supra. The resolution here waives points of order against consideration of a bill authorizing enactment of new budget authority and not reported by May 15 preceding the fiscal year in question; provides for reading a committee substitute as an original bill by titles; waives all points of order against such substitute for failure to comply with the germaneness rule but allows one point of order, when consideration of said substitute begins, that two titles of the substitute (taken together) would violate the germaneness rule if offered as a separate amendment to the bill as introduced; provides that if such point of order is sustained, such substitute, without those two titles shall be read as an original bill by titles for amendment, and waives all points of order against the substitute for failure to comply with the germaneness rule; and provides for a separate vote and a motion to recommit with or without instructions.

The following resolution was reported on Aug. 11, 1978:[13]

MR. [LLOYD] MEEDS [of Washington]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1307

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11280) to reform the civil service laws. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the

13. See 124 CONG. REC. 25705, 95th Cong. 2d Sess.

bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles, instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived, except that it shall be in order when consideration of said substitute begins to make one point of order that titles IX and X would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 11280 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without titles IX and X included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendments in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Special Rule Permitting Amendments Printed in Record To Be Offered—Amendment Differing From Printed Amendment

§ 45.5 Where a special rule permits the offering of only those germane amendments to a bill which have been printed in the Record, an amendment which differs in any respect from a printed amendment may not be offered (except by unanimous consent) even to cure a germaneness defect in a printed amendment previously ruled out.

During consideration of H.R. 8410 (14) in the Committee of the Whole on Oct. 5, 1977,(15) the Chair sustained a point of order against the following amendment under the circumstances described above:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 17, line 5, insert "(1)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views . . . opinion, or the making of any statement or

14. The Labor Reform Act of 1977.

15. 123 CONG. REC. 32510, 32511, 95th Cong. 1st Sess.

the dissemination thereof . . . shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under section 9(c)(6) of this Act, if such expression contains no threat of reprisal or force or promise of benefit."

THE CHAIRMAN:[16] The Chair would like to inquire of the gentleman from Ohio (Mr. Ashbrook) if this amendment which was reported by the Clerk is printed in the Record?

MR. ASHBROOK: Mr. Chairman, I would say the amendment was printed in the Record. The Chair previously ruled it out of order and I have struck certain language to make it conform with the ruling of the Chair.

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make the point of order that the amendment was not printed in the Record, notwithstanding the attempt of my good friend to revise it in such a way as to indicate that it was. . . .

THE CHAIRMAN: The Chair would have to sustain the point of order. . . .

MR. ASHBROOK: Mr. Chairman, is the Chair indicating an amendment that was printed in the Record on Monday and ruled out of order for parliamentary reasons cannot be revised and offered as a substitute?

THE CHAIRMAN: The Chair would like to advise the gentleman that the amendment was not printed in the Record in the form in which the gentleman now presents it as an amendment to the bill.

MR. ASHBROOK: The gentleman from Ohio would concede that.

THE CHAIRMAN: And the Chair would be constrained to sustain the point of order.

16. William H. Natcher (Ky.).

Amendment Made in Order as New Title

§ 45.6 Where the resolution providing for consideration of a bill makes in order a specific amendment to the bill as a new title, it need not be germane to an existing title.[17]

Waiver as to "Text of" Another Bill

§ 45.7 Where a resolution providing for the consideration of a bill makes in order, irrespective of questions of germaneness, "the text of" a specified bill as an amendment, only those points of order are considered to be waived which are directed against the complete text of that bill offered as an amendment; if a part or parts of the specified bill are offered as independent amendments, they must meet the test of germaneness.

In the 91st Congress, a resolution was under consideration which provided in part as follows:[18]

17. See § 19.4, supra.

18. See 115 CONG. REC. 38123, 91st Cong. 1st Sess., Dec. 10, 1969.

H. RES. 714

Resolved, That upon the adoption of this resolution, it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4249) to extend the Voting Rights Act of 1965 with respect to the discriminatory use of tests and devices. After general debate . . . the bill shall be read for amendment. . . . It shall be in order to consider, without the intervention of any point of order, the text of the bill H.R. 12695 as an amendment to the bill. . . .

During the proceedings, the Speaker Pro Tempore[19] responded to a series of parliamentary inquiries, as follows:[20]

MR. [CLARK] MACGREGOR [of Minnesota]: Mr. Speaker, under the resolution (H. Res. 714), if adopted, should the bill, H.R. 12695, be considered and rejected, would it then be in order, following rejection of H.R. 12695, should that occur, to offer a portion or portions of H.R. 12695 as amendments to H.R. 4249?

THE SPEAKER PRO TEMPORE: The Chair will state that would be in order subject to the rule of germaneness, if germane to the bill H.R. 4249. . . .

MR. MACGREGOR: Mr. Speaker, should a portion of H.R. 12695 be offered under the conditions set forth in my previous inquiry and should it not be germane, a motion to that effect, to rule it out of order, would be then in order and be sustained, I gather?

THE SPEAKER PRO TEMPORE: That, of course, would be a matter for the Chairman of the Committee of the Whole to consider when it is before him.

MR. MACGREGOR: Mr. Speaker, I have one additional parliamentary inquiry. Under House Resolution 714, if adopted, would it be in order to include in the motion to recommit a portion or portions of H.R. 12695 which might otherwise be subject to a point of order on the point of germaneness?

THE SPEAKER PRO TEMPORE: The Chair would not want to pass upon that hypothetically. At the time the occasion arises the Chair would pass upon it.

Waiver of Points of Order Against Amendment—Germane Amendments to Such Amendment

§ 45.8 Where a special rule waives points of order against the consideration of a designated amendment which might otherwise not be germane if offered to a bill, and does not specifically preclude the offering of amendments thereto, germane amendments to that amendment may be offered and, if adopted, it is then too late to challenge the germaneness of the original amendment as amended.

19. Carl Albert (Okla.).

20. 115 CONG. REC. 38130, 91st Cong. 1st Sess., Dec. 10, 1969.

On July 22, 1975,[1] during consideration of H.R. 7014[2] in the Committee of the Whole, it was held that where points of order have been waived against a specific amendment which has then been altered by amendment, a point of order will not lie against the modified amendment as not coming within the coverage of the waiver:

MRS. [PATRICIA] SCHROEDER [of Colorado]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. Schroeder to the amendment offered by Mr. Krueger: In section 8(d)(2)(E)(ii)(a)(1) of the Emergency Petroleum Allocation Act of 1973 as amended by Mr. Krueger's amendment, strike the words "(including development or production from oil shale," and insert a comma after "gas".

In section 8(d)(2)(E)(ii)(a)(2) of the Emergency Petroleum Allocation Act of 1973 (as amended by Mr. Krueger's amendment) strike the words "oil shale,".

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I reserve a point of order, and pending that I have a parliamentary inquiry.

THE CHAIRMAN:[3] The gentleman from Texas reserves a point of order, and the gentleman will state his parliamentary inquiry.

MR. ECKHARDT: The parliamentary inquiry is what determines germaneness of this amendment, if it is germane, to the Krueger amendment? It would then be admissible at this time as germane, as I understand it. In other words, the relation to the Krueger amendment would determine germaneness in this instance, I would assume.

THE CHAIRMAN: If the gentleman is asking whether the amendment offered by the gentlewoman from Colorado has to be germane, the answer, of course, is "yes". Is the gentleman contending that it is not germane?

MR. ECKHARDT: No. The gentleman merely asks whether or not on the question of germaneness with respect to this amendment, the question is determined on whether or not this amendment is germane to the Krueger amendment.

THE CHAIRMAN: That is correct. . . . The question is on the amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) to the amendment offered by the gentleman from Texas (Mr. Krueger).

The question was taken; and on a division (demanded by Mr. Brown of Ohio) there were—ayes 39, noes 31.

So the amendment to the amendment was agreed to.

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1. 121 CONG. REC. 23990, 23991, 94th Cong. 1st Sess. See also § 2.18, supra, in which a substitute amendment was held to be germane to the amendment for which offered, the Chair noting that any question as to the waiver of points of order, by special rule, against the original amendment was not relevant, the only test being the germaneness of the substitute to the original amendment.

2. Energy Conservation and Oil Policy Act of 1975.

3. Richard Bolling (Mo.).

MR. ECKHARDT: Mr. Chairman, I reserve a point of order against the Krueger amendment.

THE CHAIRMAN: The Chair will have to state he believes the point of order comes too late. . . .

MR. ECKHARDT: Mr. Chairman, if the Chair would permit me, I should make a point of order now if I must do so or I will at such time as the vote arises on the Krueger amendment on the ground that the Krueger amendment is now outside the rule.

If the Chair will recall, I queried of the Chair whether or not the question of germaneness on the amendment offered by the gentlewoman from Colorado was based upon its germaneness to the Krueger amendment or if that were the standard. The Chair answered me that it was. Therefore, the amendment offered by the gentlewoman from Colorado was not subject to a point of order at that time and I point out to the Chair that the question of germaneness rests upon whether or not the amendment is germane to the amendment to which it is applied.

At that time it was not in order for me to urge that the amendment offered by the gentlewoman from Colorado was not germane because it was indeed germane to the Krueger amendment, but the rule protects the Krueger amendment itself from a point of order on the grounds of germaneness and specifically says that it shall be in order to consider without the intervention of any point of order the text of an amendment which is identical to the text of section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record on Monday and it is described.

The Krueger amendment upon the adoption of the Schroeder amendment becomes other than the identical amendment which was covered by the rule. At this point the question of germaneness of the Krueger amendment rests on the question of whether or not it is at the present time germane to the main body before the House.

It is not germane to the main body before the House because of the—and I cite in this connection Deschler on 28, section 24 in which there are several precedents given to the effect that an amendment which purports to create a condition contingent upon an event happening, as for instance the passage of a law, is not in order. For instance 24.6 on page 396 says:

> To a bill authorizing funds for construction of atomic energy facilities in various parts of the Nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was ruled out as not germane.

There are a number of other authorities in that connection, that is, an amendment postponing the effectiveness of legislation pending contingency.

Now, with respect to the question of timeliness, the gentleman from Texas could not have raised the point of order against the Schroeder amendment because of the fact that the Schroeder amendment was, in fact, germane to the Krueger amendment. It is clearly stated that the test of germaneness must rest on the question of the body upon which the amendment acts, and as I queried the Chair at the time, I asked that specific question, would the germaneness of the Schroeder amend-

ment rest upon the question whether it is germane to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I only state that it seems to me that the rule makes the Krueger amendment in order by its text, but it does not prohibit it being amended by subsequent action of this body and that if the text had been changed by the gentleman from Texas (Mr. Krueger) in its introduction, the point of order might have been appropriate; but the point of order that is attempted to prohibit this body from amending the text of the Krueger amendment after it has been properly introduced and been made germane by the rule would prohibit those others in the majority of this body from acting on any perfection of the Krueger amendment. I do not think that is the purpose of the rule. . . .

THE CHAIRMAN: The Chair is ready to rule.

The rule under which the matter is being considered did in fact make in order the so-called Krueger amendment, and any amendment to that amendment which is germane to that amendment was thus, at the same time, made in order. There was no need for special provision to make amendments germane to the Krueger amendment in order, and the argument made by the gentleman from Ohio (Mr. Brown) is very much to the point.

The Chair, therefore, overrules the point of order.[4]

§ 45.9 Where a special rule waives points of order against a specific amendment to be offered to a bill, a germane amendment to that amendment may be allowed.

On July 22, 1975,[5] during consideration of H.R. 7014, the Energy Conservation and Oil Policy Act of 1975, there was pending in the Committee of the Whole an amendment (the Krueger amendment) relating to the decontrol of oil prices. The amendment, made in order by House Resolution 599, was to become effective only upon a presidential certification that certain tax legislation, described in detail, had been enacted. To such amendment, an amendment was offered which substituted congressional certification (by concurrent resolution) for the presidential certification as to enactment of the tax legislation. The Krueger amendment, which had been offered on July 18,[6] was as follows:

4. This ruling is also discussed at § 44.2, supra.

5. 121 CONG. REC. 23995–97, 94th Cong. 1st Sess.

6. *Id.* at pp. 23525, 23526.

See also § 2.18, supra, in which a substitute amendment was held to be germane to the amendment for which offered, the Chair noting that any question as to the waiver of points of order, by special rule, against the original amendment was not relevant, the only test being the germaneness of the substitute to the original amendment.

MR. [BOB] KRUEGER [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Krueger: Strike out all from beginning of line four, page 214 to end of line 3, page 223 (section 301 of the Committee substitute) and insert in lieu thereof the following:

CRUDE OIL PRICE REGULATION

Sec. 301. (a) The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

Sec. 8. (a) For the purposes of this section:

"(1) The term 'crude oil' means a mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. . . .

"(b) Except as provided in subsections (e) and (d), no price ceiling shall apply to any first sale by a producer of domestic crude oil from a property. . . .

(d)(1) The provisions of subsections (b) and (c) of section 8 shall not take effect unless the President finds that there is in effect (A) an inflation minimization tax consonant with the purposes of this section applicable to sales from a property, from which domestic crude oil was produced and sold in one or more of the months of May through December 1972, in volume amounts greater than the production volume subject to a ceiling price under subsection (c), but less than the base period control volume, and (B) a production maximization tax consonant with the purposes of this section applicable to sales of domestic crude oil from any stripper well lease or from a property from which domestic crude oil was not produced and sold in one or more of the months of May through December 1972, or with respect to amounts produced and sold in any month in excess of the base period control volume (in the case of a property from which domestic oil was produced and sold in one or more of the months of May through December 1972).

On July 22, when the Committee of the Whole resumed consideration of the bill, Mr. James C. Wright, Jr., of Texas, offered the following amendment to the amendment and the proceedings ensued as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Wright to the amendment offered by Mr. Krueger: Strike Subsection (d) of the new Section 8 added to the Emergency Petroleum Act of 1973 and insert in lieu thereof a new Subsection (d) as follows: "The provisions of (b) and (c) shall not take effect unless the Congress finds and so declares by concurrent resolution that there is in effect a tax which couples a redistribution of tax receipts mechanism to substantially mitigate the effect of increased energy costs on consumers with an excise tax or other tax applicable to sales of crude oil from a property: *Provided* that such tax shall provide an incentive for the production of new domestic crude oil.". . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I press my point of order at this time.

THE CHAIRMAN:[7] The gentleman will state his point of order.

MR. ECKHARDT: Mr. Chairman, my point of order is that, No. 1, this amendment is not germane to the Krueger amendment; and No. 2, that

7. Richard Bolling (Mo.)

this amendment, if added to the Krueger amendment, creates an extensively and fundamentally different principle not covered by the exception to the rules.

Mr. Chairman, I cite primarily from page 415 of Deschler's Procedure, section 36.9, which reads:

> The fact that a resolution providing for the consideration of a bill specifically waives points of order against a particular amendment is not determinative of the issue of the germaneness of other, similar amendments.

There is reference to 106 Congressional Record 5655, 86th Congress, 2d Session, March 14, 1960.

I should like to point out to the Chair how widely divergent this amendment is from the original Krueger amendment. The original Krueger amendment had some appeal to the committee because it did a very specific thing: It said that in providing that there is what the gentleman from Texas (Mr. Krueger) always called a specific recycling process with respect to the taxes collected under the windfall profits tax, that specific recycling process constituted the sending of the application, as I recall, of half the receipts to low- and middle-income brackets and the rest to a division of cities and others, the exact details of which I do not recall.

Then if this contingency occurred and it was a contingency based on a clearly and specifically defined action to become law, then and then only would the windfall profits tax provisions be in effect. Otherwise the bill would fall back to essentially the provisions of an extension of the existing Allocation Act. . . .

The effect of this amendment is something extremely different, and it is something that I feel sure we members of the Committee on Interstate and Foreign Commerce would have appeared before the Committee on Rules and strenuously objected to, because the amendment would simply say that we will put this pricing mechanism into effect and we will leave open to the absolute unrestrained determination of another committee what the tax structure would be.

In effect the result of that would be a complete reneging by the committee setting the price and a movement from a specific contingency to a complete delegation of authority to define that contingency to another committee. . . .

MR. [CHARLES A.] VANIK [of Ohio]: . . . I would just like to say that the resolution under which the committee considers this proposal today, House Resolution 599, on page 2, line 10, sets forth as follows:

> It shall be in order to consider, without the intervention of any point of order, the text of an amendment which is identical to the text of Section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record of Monday, July 14, 1975, by Representative Robert Krueger.

I think that the rule specifically indicates what would be in order would be the Krueger amendment and not amendments to the Krueger amendment.

For example, I do not believe that it would have been in order, under this rule, for the Committee on Ways and Means windfall profits section to have been introduced as an amendment to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, the amendment has within it the two factors which are also contained in the basic Krueger amendment: first, a modification, as any amendment would, of the finding or the method by which a finding can be made of what an appropriate tax is; and second, a description of what an appropriate tax is that can be found, so that the basic provisions of the Krueger amendment can be put into effect; that is, the decontrol process.

The Committee on Rules properly, I think, made in order the Krueger amendment for decontrol, and . . . hinged that decontrol on a suitable tax and the finding of a suitable tax.

The amendment offered by the gentleman from Texas (Mr. Wright) merely modifies that process.

The question of the jurisdiction of the Committee on Interstate and Foreign Commerce to write this into its legislation was raised by the gentleman from Texas (Mr. Eckhardt) in his comments on the point of order.

It seems to me that it is the prerogative of the Committee on Rules to combine legislation, to see that legislation is brought to the floor in tandem, so that it might be combined on the floor by the committee, in its wisdom, and in this case, specifically made in order by rule.

The prospect was that the job of the Committee on Interstate and Foreign Commerce, the jurisdictional job, decontrol, would proceed on the basis of a finding of a suitable tax and it left the establishment or the enactment of that tax to the Committee on Ways and Means.

Nothing in the amendment of the gentleman from Texas (Mr. Wright) changes the basic thrust of the rule granted by the Committee on Rules in that regard, and it occurs to me that the amendment of the gentleman from Texas (Mr. Wright) is perfectly appropriate and germane. It does, in fact, as any amendment would, modify the situation; but it leaves to the full committee, the Committee of the Whole, the job of making that modification, in its wisdom. . . .

THE CHAIRMAN: The Chair is ready to rule.

Although a great many matters have been discussed in connection with the point of order, the Chair proposes to rule only very narrowly.

The question is whether the amendment offered by the gentleman from Texas [Mr. Wright] offered to the amendment offered by the gentleman from Texas [Mr. Krueger] is germane as within the limitations of the precedents with regard to its scope.

The Chair finds, basically on the arguments made by the gentleman from Ohio (Mr. Brown) that it is germane, and within the scope of the type of "windfall profits tax" defined by the Krueger amendment, although the description of the tax is somewhat less precise than the definition in the Krueger amendment. The fact that Congress, in the Wright amendment, rather than the President, as in the Krueger amendment must make the findings of enactment of the tax does not render the amendment not germane. Therefore the Chair overrules the various points of order and finds the amendment in order.

Waiver of Points of Order Against Legislative Provision in Appropriation Bill—Germane Amendment to Such Provision

§ 45.10 Where a legislative provision contained in a general appropriation bill is not subject to a point of order, the House having by resolution waived points of order against such provision, the provision may be perfected by a germane amendment which does not add legislation.

On May 21, 1969,[8] a point of order was raised against an amendment to an appropriation bill, on the grounds that such amendment constituted legislation. Acknowledging a waiver of points of order, the Member making the objection (George H. Mahon, of Texas) contended that the waiver pertained only to matter contained in the bill, not amendments to the bill. The Chairman,[9] relying on the principle that a provision as to which points of order have been waived may be perfected by germane amendment, overruled the point of order. The proceedings were as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Jeffery] Cohelan of California: On page 62, line 3, add the following as a new section:
>
> "(c) The limitation set forth in subsection (a), as adjusted in accordance with the proviso to that subsection, shall be increased by an amount equal to the aggregate amount by which expenditures and net lending (budget outlays) for the fiscal year 1970 on account of items designated as "Open-ended programs and fixed costs" in the table appearing on page 16 of the Budget for the fiscal year 1970 may be in excess of the aggregate expenditures and net lending (budget outlays) estimated for those items in the April review of the 1970 budget."
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is legislation on an appropriation bill.
>
> Mr. Chairman, the rule pertaining to title IV only protects what is in the bill, not amendments to the bill.
>
> THE CHAIRMAN: The Chair is ready to rule.
>
> The Chair has examined title IV. This is a new subparagraph to title IV. Title IV is legislation in a general appropriation bill, and all points of order have been waived in title IV, as a result of it being legislation. Therefore the Chair holds that the amendment is germane to the provisions contained in title IV and overrules the point of order.[10]

8. 115 CONG. REC. 13271, 91st Cong. 1st Sess. Under consideration was H.R. 11400 (Committee on Appropriations), comprising supplemental appropriations for fiscal 1970.

9. Chet Holified (Calif.).

10. See H. Res. 414 at 115 CONG. REC. 13246, 91st Cong. 1st Sess., May 21,

Parliamentarian's Note: The Chair's ruling stands for the proposition that to a provision fixing an expenditure limitation in a dollar amount for a fiscal year, an amendment increasing the limitation by an amount to be computed pursuant to a specified formula is germane and does not add further legislation to the expenditure limit already in the bill.

Waiver of Points of Order Against Particular Amendment—Germaneness of Other Similar Amendments

§ 45.11 The fact that a resolution providing for the consideration of a bill specifically waives points of order against a particular amendment is not determinative of the issue of the germaneness of other, similar amendments.

On Mar. 14, 1960, a bill[11] was under consideration which related to enforcement of voting rights. The rule[12] under which the bill was being considered provided that,

> . . . It shall be in order to consider, without the intervention of any point of order, the text of the bill, H.R. 10035, as introduced under the date of January 28, 1960, as an amendment to the bill, H.R. 8601.

Mr. John V. Lindsay, of New York, offered the amendment[13] against which points of order had been so waived. He stated, in describing the purposes of the amendment:[14]

> MR. LINDSAY: . . . The amendment I have just offered is the original voting referee proposal which was contained in the bill H.R. 10035, originally introduced by the gentleman from Ohio [Mr. McCulloch]. . . .
>
> Mr. Chairman, may I say that the parliamentary situation is such under the rule that the only voting referee measure at this point that may be offered is the text of H.R. 10035. This is the bill which provides for voting referees under the auspices and supervision of the Federal courts. . . . It provides that in any area where there has been a voting case under the 1957 Civil Rights Act the Federal judge deciding the matter shall have the power to make a determination that such denials are pursuant to a discriminating pattern or practice. . . .
>
> If the court should find a pattern or practice of voting denials, referees may then be appointed by the court in order to receive applications from persons of like color who claim that they also have been denied the right to vote. . . .

A substitute amendment was offered[15] by Mr. William M.

1969, waiving points of order against Title IV of H.R. 11400.

11. H.R. 8601 (Committee on the Judiciary).

12. H. Res. 359, at 106 CONG. REC. 5192, 5193, 86th Cong. 2d Sess., Mar. 10, 1960.

13. 106 CONG. REC. 5482, 86th Cong. 2d Sess., Mar. 14, 1960.

14. *Id.* at pp. 5482, 5483.

15. *Id.* at pp. 5483, 5484.

McCulloch, of Ohio, for purposes of modifying and clarifying the Lindsay amendment. Mr. McCulloch stated:[16]

> . . . I have offered H.R. 10625 with certain improvements as a substitute for the Lindsay amendment. Both of these bills with improvements are administration measures and embody the Attorney General's plan for the use of a Federal voting referee in areas where a pattern or practice of discrimination exists because of race or color.
>
> I introduced H.R. 10035 on January 28, 1960. Shortly thereafter, Judge Lawrence E. Walsh, the Deputy Attorney General of the United States, testified before a full meeting of the Judiciary Committee. . . .
>
> As the result of Judge Walsh's testimony several improvements in the procedure to be followed in the Federal voting referee plan were suggested. These changes primarily relate to the procedure to be followed by the referee and to the nature of the exceptions which State officials will be permitted to file to the findings in the referee's report. These changes are reflected in H.R. 10625. . . .

Mr. Robert W. Kastenmeier, of Wisconsin, offered an amendment[17] to the McCulloch substitute. Mr. Kastenmeier explained his amendment as follows:[18]

> . . . The amendment is based on the fundamental proposition that Congress has the constitutional authority and political obligation to aid the courts and to work with the courts to guarantee equal rights to all our citizens regardless of race or color. . . .
>
> Precisely what would my amendment do? Where a court or the Civil Rights Commission finds that people have been denied the right to register because of race or color, the President is notified. If he feels it necessary, he may appoint a Federal enrollment officer, from among Federal employees and officers already registered to vote in the affected local district. . . .
>
> If an enrollment officer is appointed, applicants deprived of their voting rights because of race or color may go to the enrollment officer and prove their qualifications. . . .

The Kastenmeier amendment was agreed to.[19] The McCulloch substitute, having thus been amended to provide for Presidential appointment of enrollment officers, was agreed to. But the Lindsay amendment, as amended by the McCulloch substitute, was rejected. Subsequently, Mr. McCulloch offered an amendment[20] that incorporated provisions substantially similar to those of the Lindsay amendment and the McCulloch substitute. Against the amendment so offered, the following point of order was raised:[1]

> MR. [HOWARD W.] SMITH of Virginia: Mr. Chairman, I make a point of order

16. *Id.* at p. 5484.

17. 106 CONG. REC. 5644, 5645, 86th Cong. 2d Sess., Mar. 15, 1960.

18. *Id.* at p. 5645.

19. *Id.* at p. 5655.

20. *Id.* at pp. 5655, 5656.

1. *Id.* at p. 5657.

against this amendment for several reasons. One is that the rule under which we are operating gives protection only to H.R. 10035 and to no other substitute proposal. In other words, the original bill, the Lindsay amendment, which has already been defeated, was a bill that the rule makes in order. We have already voted upon this bill within the last 30 minutes. The only difference between this bill and the bill we just voted down is two or three very minor corrections. . . .

Mr. Chairman, of course I made the point that the bill is not germane, but if I may enlarge upon that for a moment, as I said before, the rule protects only H.R. 10035. The rule would not have been granted if it had not been understood that it was not germane to the original bill, which it is not. While the rule protected that bill, it did not protect any question of germaneness. In other words, if it was not included in the rule, H.R. 10035, the rule does not protect the germaneness of any other bill.

Mr. Charles A. Halleck, of Indiana, stated in response to the point of order:

The gentleman from Virginia [Mr. Smith] has spoken of the rule that undertook to specifically make the provisions of the original bill in order. Without undertaking to state what the facts were . . . the fact that the rule makes specific provision in that regard does not mean that the measure itself on its merits is not germane. In other words, if I understand the Rules Committee correctly, out of an excess of precaution, it provided by the special rule that the bill which was offered originally would be in order as an amendment. When it was originally offered we operated under that rule. However, addressing myself to the point of germaneness, and I must say that I agree with the gentleman from New York [Mr. Celler], title III has to do with the Federal election records. As has been pointed out, the basic purpose of this legislation is to deal with the right to vote—voting rights. Certainly the amendment offered by the gentleman from Ohio [Mr. McCulloch]—and may I say parenthetically it is a different bill from the one we voted on; it is different in a material respect. As we have listened to the debate, it is a referee, voting rights bill. So in my opinion it should be held germane to the original bill reported by the Committee on the Judiciary.

The Chairman,[2] in ruling on the point of order, stated:

It is quite true that the rule House Resolution 359, under which H.R. 8601 is being considered, contains the language that the gentleman from Virginia mentioned a moment ago, concerning putting in order H.R. 10035 in order to eliminate any question of germaneness of that particular proposal.

The Chair dislikes to substitute the judgment of the Chair for that of the distinguished Committee on Rules, but, frankly, the Chair does not believe that including this language necessarily binds the present occupant of the chair.

It is quite true that the measure, H.R. 8601, deals with Federal election records, and the Chair is quite certain that the membership agrees with the

2. Francis E. Walter (Pa.).

Chair that the scope is rather narrow. However, the Chair feels that the amendment offered by the gentleman from Ohio has to do with the basic purpose of title 3 of the bill H.R. 8601.

The Chair overrules the point of order.

Resolution Making Consideration of Amendment in Order But Not Waiving Points of Order; Effect; Adoption of One Amendment in Nature of Substitute as Precluding the Offering of Another

§ 45.12 A resolution reported from the Committee on Rules which merely makes in order the consideration of a particular amendment in the nature of a substitute but does not waive points of order or otherwise confer a privileged status upon the amendment does not, in the absence of a legislative history establishing a contrary intent by that committee, alter the principles that recognition to offer an amendment under the five-minute rule is within the discretion of the Chairman of the Committee of the Whole and that adoption of one amendment in the nature of a substitute precludes the offering of another.

The proceedings of May 23, 1978, relating to H. Res. 1188, are discussed in § 45.3, supra.

§ 46. Factors in Chair's Ruling; Refusal by Chair To Rule; Anticipatory and Hypothetical Rulings

The Chair ordinarily does not give anticipatory rulings and declines to prejudge the germaneness of any amendment not actually before the House. The Chair does not indicate in advance what his ruling would be as to the germaneness of an amendment if offered.[3]

For example, where there was pending to a bill both an amendment in the form of a new section and a substitute therefor, the Chair[4] declined to indicate, in response to a parliamentary inquiry, whether the pending substitute, if defeated, would thereafter be germane and in order if subsequently offered as an amendment in the form of a new section.[5] In this instance, there

3. 84 Cong. Rec. 8706, 8707, 76th Cong. 1st Sess., July 6, 1939 (remarks of Speaker Sam Rayburn (Tex.) in response to a parliamentary inquiry by Mr. Costello).
4. William H. Natcher (Ky.).
5. See the proceedings at 116 Cong. Rec. 25811, 91st Cong. 2d Sess., July 27, 1970.

was pending, in addition to the above, an amendment to the substitute. The Chairman did indicate, in response to parliamentary inquiries, that defeat of the amendment to the substitute and of the substitute would not preclude the offering of another germane substitute; and that adoption of the amendment in the form of a new section would not preclude the offering of additional germane amendments as new sections to the bill.

Accordingly, the Chair does not anticipate the content of a motion to recommit and will not rule in advance as to whether particular instructions which might be offered as part of such a motion would be germane.[6]

Similarly, the Chair on occasion has indicated that it is not within its province to advise Members as to where an amendment to a bill could properly be offered.[7]

The Chair rules on points of order as raised and does not determine whether an amendment ruled out at one point as not germane may be offered at some later stage.

The Chair, however, may sometimes be seen to depart from the above principles. Thus, the Chairman on infrequent occasion has expressed an opinion as to whether a proffered amendment might be germane to a different part of the bill.[8] For example, the Chairman, while ruling out an amendment as not germane to a particular part of a bill, has indicated that the amendment would be germane to a later section of the bill. On Mar. 23, 1933, during consideration of the District of Columbia Beer Bill,[9] the Chairman[10] first held that an amendment imposing general restrictions on the sale of beverages was not germane to that part of the bill which merely described types of beverage licenses to be issued; then he stated that the amendment was germane to a later section of the bill and could be offered during consideration of such section.[11]

Similarly, while ruling an amendment out of order, the

6. See the remarks of Speaker John W. McCormack (Mass.) at 109 Cong. Rec. 25249, 88th Cong. 1st Sess., Dec. 19, 1963, in response to a parliamentary inquiry by Mr. Halleck. See also § 45.7, supra.

7. See the remarks of Chairman Fritz G. Lanham (Tex.) at 84 Cong. Rec. 7501, 76th Cong. 1st Sess., June 19, 1939.

8. See § 21.8, supra.

9. H.R. 3342 (Committee on the District of Columbia).

10. Ralph Fulton Lozier (Mo.).

11. 77 Cong. Rec. 835, 73d Cong. 1st Sess., Mar. 23, 1933.

Chairman on occasion has indicated how the amendment could properly be offered.[12]

In other instances, the Chair may decline to rule. Thus, the Speaker does not rule on such questions of germaneness as may be the province of the Chairman of the Committee of the Whole.[13]

The Chair does not rule on the question as to whether an amendment is ambiguous.[14] And the Chair has declined to pass upon constitutional questions.[15]

Chair Decides Issue on Basis of Text, Not Speculation as to Motives Behind Amendment

§ 46.1 The germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest, nor by the fact that the amendment, offered to a public bill, may in substance be characterized as private legislation benefiting individuals.

The proceedings of May 30, 1984, relating to H.R. 5167, the Defense Department authorization for fiscal 1985, are discussed in § 3.45, supra.

Chair Decides Issue on Basis of Text, Not Conjecture as to Further Legislation That Might Result From Amendment

§ 46.2 In ruling on a question of germaneness, the Chair confines his analysis to the text of the amendment and is not guided by conjecture as to other legislation or administrative actions which might—but are not required to—result from the amendment.

On July 27, 1977,[16] it was held that to a title of a bill[17] reported from the Committee on Agriculture providing for benefits under, and administration of, the food stamp program, an amendment which provided for recovery of benefits from persons whose income exceeded specified levels was germane even though it required the Secretary of the Treasury and, impliedly, the Internal Revenue

12. See § 18.15, supra.
13. See § 45.7, supra.
14. See § 46.4, infra.
15. See §§ 30.21, 33.8, 35.86, supra.
16. 123 Cong. Rec. 25249, 25252, 95th Cong. 1st Sess.
17. H.R. 7171, the Agriculture Act of 1977.

Service to collect any liability imposed by the amendment's provisions:

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Foley: In title XII, page 28, insert after line 8 the following new section:

"RECOVERY OF BENEFITS WHERE INDIVIDUAL'S ADJUSTED GROSS INCOME FOR YEAR EXCEEDS TWICE POVERTY LEVEL

"Sec. 1210(a)(1) if—

"(A) any individual receives food stamps during any calendar year and

"(B) such individual's adjusted gross income for such calendar year exceeds the exempt amount,

then such individual shall be liable to pay the United States the amount determined under subsection (b) with respect to such individual for such calendar year. Such amount shall be due and payable on April 15 of the succeeding calendar year and shall be collected in accordance with the procedures prescribed pursuant to subsection (g). . . .

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I reserve a point of order. I would like to engage the author of the amendment in colloquy. . . .

Mr. Chairman, I would like to ask the distinguished gentleman from Vermont who or what branch of Government the gentleman feels would collect this money from the people?

MR. JEFFORDS: Under the amendment, the Department of the Treasury would be required to collect the money.

MR. STARK: It would be the Treasury Department and in no way did the gentleman intend that the Internal Revenue Service participate in any of the collection or in collecting the forms or collecting revenue?

MR. JEFFORDS: No, on the contrary, it is my understanding and belief that the Internal Revenue Service would be charged with and do the collecting. . . .

MR. STARK: Mr. Chairman, I make a point of order that the jurisdiction of the Internal Revenue Service lies wholly within the jurisdiction of the Committee on Ways and Means.

This amendment, as the gentleman has stated it, would be counting on the Internal Revenue Service to perform the functions as put down under this amendment. The amendment would not be in order and would not be within the jurisdiction of this committee. . . .

MR. JEFFORDS: . . . As I understand the rules here, I can ask for an amendment that can be proposed, as can anybody, to the collection. We could make the State Department or anyone else do the collection, but we cannot do what I have not done, and very specifically have not done in this amendment, which is to change any statute of the way it is done, which is under the jurisdiction of the Committee on Ways and Means. If I am wrong on this, there are so many places in this bill where the same thing is done that I do not know why a number of Members have not raised points of order.

We have asked the Postal Service to do something; we have asked the social security office to do things; we have mandated different agencies all over

the place. We do not interfere with any statutes which are under committee jurisdiction of other committees. I have not done so here. The question is, do we change any statute which is under the jurisdiction of the Ways and Means Committee, and we do not. They are the guardian over those statutes, but they are not the guardian over any agency which happens to be involved with those statutes.

MR. STARK: Mr. Chairman, I think it is quite clear that the gentleman, in terms of both the committee report and in his response to questions here, in his statement on the floor that this amendment, although it really says that the Secretary of the Treasury shall collect any liability, clearly the intention is that the Internal Revenue Service shall collect W–2 forms, match them against income figures which are now under the law not to be given even to the Secretary of Treasury, but are for collecting income tax and Internal Revenue matters.

Clearly, the intent of the amendment is to direct the Internal Revenue Service to participate in that. The jurisdiction of the Internal Revenue Service and all matters pertaining thereto is under the Committee on Ways and Means. I would ask that this amendment be ruled out of order on that basis.

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

The gentleman from California makes the point of order that the amendment offered by the gentleman from Vermont (Mr. Jeffords) is not germane to the food stamp title of the pending bill. The thrust of the gentleman's point of order is that the collection procedure for overpayments of food stamp benefits to persons above the poverty level involves responsibilities of the Treasury Department, and in effect mandates the establishment of regulations which would involve the disclosure of tax returns and tax information and utilization of the Internal Revenue Service—all matters within the jurisdiction of the Committee on Ways and Means.

The Chair notes that the amendment does contain the provision that "nothing in this section shall be construed to affect in any manner the application of any provision of the Internal Revenue Code of 1954," and it seems to the Chair to follow that, under the explicit provisions of the amendment. Secretary of the Treasury would therefore have to establish an independent collection procedure separate and apart from the mandated use of the Internal Revenue Service. The Chair does not have to judge the germaneness of the amendment by contemplating possible future legislative actions of the Congress not mandated by the amendment.

In the opinion of the Chair, the authority of the Secretary of the Treasury under the rules of the House as collector of overpayments of any sort is not subject explicitly and exclusively within the jurisdiction of the Committee on Ways and Means under rule X, and even if this were true, committee jurisdiction is not an exclusive test of germaneness where, as here, the basic thrust of the amendment is to modify the food stamp program—a matter now before the Committee of the Whole.

The Chair overrules the point of order.

18. Frank E. Evans (Colo.).

Anticipatory Rulings

§ 46.3 While the Chair will not ordinarily render anticipatory rulings as to the propriety of amendments which have not been offered, the Chair may respond to a parliamentary inquiry as to the germaneness and form of an amendment (in the nature of a substitute) which has been printed in the Record and is at the desk and is manifestly not in order as a substitute for a pending perfecting amendment.

On May 9, 1979,[19] during consideration of House Concurrent Resolution 107[20] in the Committee of the Whole, the proceedings described above occurred as follows:

> MRS. [MARJORIE S.] HOLT [of Maryland]: Mr. Chairman, I offer a perfecting amendment.
>
> The Clerk read as follows:
>
> Perfecting amendment offered by Mrs. Holt: Strike out sections 1 through 5 and insert in lieu thereof the following:
>
> That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—
>
> (1) the recommended level of Federal revenues is $508,200,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $6,500,000,000. . . .
>
> Sec. 4. In 1979, each standing committee of the House of Representatives shall report by July 1 to the House of Representatives its recommendations and the status of its actions with respect to new spending authority including all legislative savings, and other reforms, targeted by the first concurrent resolution on the budget for the fiscal year ending on September 30 of that same year. This report shall include any additional legislative savings which the committee believes should be considered by the House in the programs for which such committee has responsibility.
>
> In 1980, each standing committee of the House of Representatives shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to all possible legislative savings for the programs for which the committee has responsibility. . . .

MR. [PARREN J.] MITCHELL of Maryland: Mr. Chairman, this gentleman had planned to offer his amendment as a substitute for the Holt-Regula amendment.

It is my understanding that when the gentlewoman spoke to her amendment, the gentlewoman called it a perfecting amendment. I do not know whether that embraces fiscal year 1979 and 1980. My amendment does.

This inquiry is whether mine can be offered as a substitute to the Holt-Regula amendment.

THE CHAIRMAN:[1] The Chair will advise the gentleman from Maryland

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19. 125 CONG. REC. 10485, 10486, 96th Cong. 1st Sess.

20. The first concurrent resolution on the Budget for fiscal 1980.

1. William H. Natcher (Ky.).

(Mr. Mitchell) that since the gentleman's amendment which is at the desk would go to the fiscal years 1979 and 1980 and is in the nature of a substitute for the entire resolution, it would not be germane or otherwise in order, since the amendment offered by the gentlewoman from Maryland (Mrs. Holt) is perfecting in nature and only goes to the fiscal year 1980.

Question of Ambiguity: "Provisions" of Supreme Court

§ 46.4 To the proposition that specified funds shall not be allotted to any state failing to comply with the "provisions" of the Supreme Court, an amendment to strike "provisions" and insert "decisions" was held to be germane without regard to possible ambiguities in the terms.

In the 84th Congress, during proceedings relating to a bill[2] to authorize federal aid to states and local communities in financing a program of school construction, the proposition and amendment thereto as described above came under consideration.[3] Mr. Ross Bass, of Tennessee, made the point of order that the proposed amendment was not germane to the bill.[4] Subsequently, after a ruling by The Chairman,[5] that the amendment was germane, Mr. Bass stated:

> I make the point of order that the word "provisions" is ambiguous and has no meaning whatever and would make the amendment not germane.

The Chairman responded that,

> The Chair does not rule on the question of ambiguity. It is a question of germaneness solely, and the Chair has ruled that the amendment is germane.

Question of Consistency

§ 46.5 While the Chair must rule on points of order which call into question the germaneness of an amendment to the proposition to which offered, the Chair may decline to make a germaneness ruling when the point of order as stated goes to the consistency (and not the relevancy) of the amendment.

On Oct. 5, 1977,[6] during consideration of H.R. 8410[7] in the Committee of the Whole, the Chair, in holding that a proper point of order had not been raised, reiterated the principle that the

2. H.R. 7535 (Committee on Education and Labor).

3. See 102 CONG. REC. 11873, 11875, 84th Cong. 2d Sess., July 5, 1956.

4. *Id.* at p. 11875.

5. Francis E. Walter (Pa.).

6. 123 CONG. REC. 32495, 95th Cong. 1st Sess.

7. The Labor Reform Act of 1977.

Chair does not rule on the consistency of an amendment with the proposition to which offered. The proceedings were as follows:

MR. GARY A. MYERS [of Pennsylvania]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Gary A. Myers to the amendment offered by Mr. Ford of Michigan as a substitute for the amendment offered by Mr. Ashbrook: Page 17, beginning on line 10, strike out "during a period of time that employees are seeking representation by a labor organization," and insert in lieu thereof "within the 7-day period prior to a representation election.".

Page 17, line 15, insert immediately before the semicolon the following: ", except that no rule issued pursuant to the requirements of this paragraph shall require an employer to reimburse employees for time used to obtain such information from such labor organization". . . .

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, my point of order is that this amendment is inconsistent with the substitute as we have just amended it. It expands the substitute to include decertification and other matters which are not relevant. . . .

MR. GARY A. MYERS: Mr. Chairman, my opinion is that this simply limits the provisions which the substitute would provide and that it does not affect the language of the substitute. On the contrary, it expands upon it. It simply makes an addition to the substitute as a section of the bill.

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

The Chair would like to advise the gentleman from New Jersey (Mr. Thompson) that the Chair cannot rule on the consistency of the amendment offered by the gentleman from Pennsylvania (Mr. Gary A. Myers) to the substitute amendment offered by the gentleman from Michigan (Mr. Ford).

Therefore, the Chair would have to state that the gentleman has not raised a proper point of order.

Parliamentarian's Note: While Mr. Thompson's remarks did make reference to the relevance of the amendment, the Chair apparently did not take note of the reference, and understood the point of order to relate only to the consistency of the two propositions.

Question of "Workability" of Amendment

§ 46.6 In ruling on the germaneness of an amendment, the Chair does not consider the workability of an amendment which establishes as a measure of availability of spending authority in the bill a referenced level contained in another document relating to that spending authority, so long as the amendment does not directly affect other provisions of law or impose conditions predicated upon other unrelated actions of Congress.

The proceedings of June 11, 1987, relating to H.R. 4, the Hous-

8. William H. Natcher (Ky.).

ing Authorization Act are discussed in § 34.2, supra.

Probable Effect of Bill and Amendment—Change in Law, Permanent in Form, Construed as Temporary

§ 46.7 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effect of its provisions, or amendments thereto, in determining issues of germaneness, the Chair has ruled that an amendment which in form amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of the fundamental purpose demonstrated by prior legislative treatment of the subject in question (the statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.

During consideration of H.R. 2360[9] in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The proceedings of May 13, 1987,[10] were as follows:

> THE CHAIRMAN:[11] Pursuant to House Resolution 165, the bill is considered as having been read for amendment under the 5-minute rule.
>
> The text of H.R. 2360 is as follows:
>
> H.R. 2360
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) during the period beginning on the date of the enactment of this Act and ending on July 17, 1987 the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be equal to $2,320,000,000,000.
>
> (b) Effective on and after the date of the enactment of this Act, section 8201 of the Omnibus Budget Reconciliation Act of 1986 is hereby repealed. . . .
>
> MR. [DAN] ROSTENKOWSKI [of Illinois]: Madam Chairman, I offer an amendment. . . .
>
> Amendment offered by Mr. Rostenkowski: Strike out subsection (a) of the first section of the bill and insert the following: "That (a) subsection (b) of section 3101 of title 31, United States Code, is amended by striking out the dollar limitation contained in such subsection and inserting in lieu thereof '$2,578,000,000,000'."
>
> Amend the title to read as follows: "A bill to increase the statutory limit on the public debt.". . . .
>
> MR. [CONNIE] MACK [of Florida]: Madam Chairman, I make a point of order against the amendment on the grounds that it violates clause 7 of the

9. Extension of the Public Debt Limit.

10. 133 CONG. REC. 12344, 12345, 100th Cong. 1st Sess.

11. Patricia Schroeder (Colo.).

rule XVI, the germaneness rule, and ask to be heard on my point of order.

Madam Chairman, subsection (a) of H.R. 2360, the reported bill, makes a temporary and indirect change in the permanent public debt limit through July 17, 1987.

The amendment offered by the gentleman from Illinois [Mr. Rostenkowski] makes a permanent and direct change in existing law. It directly amends title 31, section 3101 of the United States Code. The base does not.

Let me cite three precedents in support of my position:

Procedure in the House, 97th Congress, chapter 28, section 19.1:

> To a bill proposing a temporary change in law, an amendment making permanent changes in that law is not germane.

Chapter 28, section 19.3:

> To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year not directly amending the Second Liberty Bond Act, an amendment proposing permanent changes in that Act and also affecting budget and appropriations procedures was held not germane.

Chapter 28, section 19.4:

> To a proposition authorizing appropriations for one fiscal year, an amendment making permanent changes in law is not germane. . . .

MR. ROSTENKOWSKI: Madam Chairman, in 1983 the rule providing for the consideration of H.R. 2990, to increase the public debt limit, provided for a waiver of clause 7 of rule XVI, the germaneness rule, against an amendment in the nature of a substitute recommended by the Committee on Ways and Means. The germaneness waiver was necessary because the committee amendment to repeal the temporary debt limit and to make the entire ceiling permanent was not germane to the original bill which only provided for an increase in the temporary debt limit.

With the enactment of H.R. 2990 into law in 1983, the distinction between the temporary and permanent public debt limit was eliminated. It was only with the passage of the 1986 Budget Reconciliation Act that we again temporarily increased the public debt limit.

I would argue that the committee amendment to the bill before us is germane because, first of all, the fundamental purpose of the committee amendment is consistent with that of the bill, namely a temporary increase in the public debt. The bill before us provides debt authority, which is estimated to be sufficient until July 17, 1987. The committee amendment provides debt authority until October 1, 1988. Both the bill and the amendment provide debt authority, which eventually will prove to be insufficient and, therefore, both are temporary in nature. In addition, the bill has the effect of amending the same section of the United States Code as the committee amendment. Finally, I would argue that the amendment is germane because it passes the common sense test of not introducing a subject matter which is "different from that under consideration."

The issue before us is how long to increase the public debt. The amendment gives the House two choices on these issues. I urge the Chair to rule the amendment germane.

THE CHAIRMAN: If there are no further speakers on the germaneness issue, the Chair is ready to rule.

The gentleman from Florida [Mr. Mack] makes a point of order that the amendment offered by the gentleman from Illinois [Mr. Rostenkowski] is not germane. The amendment would directly amend existing law by striking the existing dollar limitation in section 3101 of title 31 of the United States Code and inserting a new dollar figure, with the intention to increase the Government's borrowing authority for an unspecified but necessarily temporary period of time.

However, the bill, H.R. 2360, in subsection (a), refers to, and in the opinion of the Chair, is tantamount to, a change in the same provision of the law as the amendment.

Both the bill and the amendment are based upon estimates of sufficiency of the total amount of borrowing authority over different periods of time. For this reason, the Chair believes the amendment to be closely related to the fundamental purpose of the bill, and to accomplish that purpose by amending the same section of law referenced in the bill.

Therefore, the Chair overrules the point of order.

Speaker Declines To Decide Questions That Are Province of Chairman of Committee of Whole; Hypothetical Questions

§ 46.8 The Chair may decline to give an opinion on hypothetical or anticipatory questions; and the Speaker has declined to rule on questions that are the province of, and must be decided by, the Chairman of the Committee of the Whole.

For an illustration of circumstances in which the Speaker may decline to give an opinion on certain questions, see the proceedings discussed at § 45.7, supra.

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