

§ 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 cer-

tain 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 non-germane 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.

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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 sec-

tion 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

3. 90 CONG. REC. 7471, 78th Cong. 2d Sess. Under consideration was S. 2051 (Committee on Ways and Means).

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

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

7. H.R. 10481.

8. 121 CONG. REC. 38179, 38180, 38181, 94th Cong. 1st Sess.

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. . . .

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, 1967.)

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 non-returnable 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-return-

able 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

3. 122 CONG. REC. 16021-25, 94th Cong. 2d Sess.

2. Dan Rostenkowski (Ill.).

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. Fur-

thermore, 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 non-germane 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.

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

5. H.R. 6860.

6. 121 CONG. REC. 18817, 94th Cong. 1st Sess.

(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-

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 auto-

mobile 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:

¹⁰ 121 CONG. REC. 29338-41, 94th Cong. 1st Sess.

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 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. . . .

12. 131 CONG. REC. 4133, 4134, 4146, 99th Cong. 1st Sess.

13. Emergency Farm Credit Appropriation, fiscal 1986.

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

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

- 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 pro-

grams 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

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.

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-

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

4. See the ruling of Speaker Henry T. Rainey (Ill.), cited in 8 Cannon's Precedents § 2969.

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-

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.

6. 100 CONG. REC. 1928, 83d Cong. 2d Sess., Feb. 17, 1954.

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-

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.”

9. 125 CONG. REC. 5549, 5550, 5562-64, 96th Cong. 1st Sess.

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;

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 at-

tempts 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 subpoenas. Then they go on to say that, in case of the refusal to obey this section, or the subpoena, 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,

13. 89 CONG. REC. 1891, 78th Cong. 1st Sess.

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.

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

15. 98 CONG. REC. 7713, 82d Cong. 2d Sess. Under consideration was H.R. 8210 (Committee on Banking and Currency).

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⁾

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

19. 82 CONG. REC. 1572, 1580–94, 75th Cong. 2d Sess.

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.

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 gentleman 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 gentleman 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 gentleman 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 gentleman 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 gentleman 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 gentleman 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 gentleman 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 work-week 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 gentleman 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 re-emphasize 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.

6. William Nichols (Ala.).

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—

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 drink-

ing 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

13. *Id.*

14. *Id.* at p. 8424.

15. Augustine B. Kelley (Pa.).

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.

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⁾

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.

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⁾

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⁾

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 ap-

plies 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⁾

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 pro-

tect 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,

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.).

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⁾

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

4. 87 CONG. REC. 3668, 77th Cong. 1st Sess., May 6, 1941. Under consideration was H.R. 4466 (Committee on Merchant Marine and Fisheries).

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-

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 Ad-

ministrator, 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.

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.

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.

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 mat-

ters 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

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.

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

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 Med-

2. 109 CONG. REC. 13899, 88th Cong. 1st Sess. Under consideration was H.R. 7500 (Committee on Science and Astronautics).

ical 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. . . .

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

5. 122 CONG. REC. 11098-101, 94th Cong. 2d Sess.

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

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.