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"(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets. *Provided*, however, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.". . .

MR. [GARRY] BROWN OF Michigan: Mr. Speaker, I make [a] point of order on the amendment to the motion to recommit . . . . The last part of the amendment to which I refer is entitled "B", beginning with, "The corporation may limit" and so forth. I say that the final language is not germane to the bill.

That language is as follows:

Provided, *however*, such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

Mr. Speaker, since the bill deals basically with insuring of accounts and has nothing to do with pledging of collateral, it, therefore, is not germane to the bill. . . .

MR. [ROBERT G.] STEPHENS [Jr., of Georgia]: Mr. Speaker, I wish to state that the gentleman had not made a point of order on this matter in the committee when this first came up, and it is not timely now. . . .

MR. BROWN of Michigan: Mr. Speaker, in response to the gentleman from Georgia (Mr. Stephens) I will only say that the fact that the point of order was not raised against the amendment in the Committee of the Whole does not preclude me from offering one in connection with the motion to recommit.

THE SPEAKER: The Chair will state that the point of order is timely and it appears clear to the Chair that the question of limitation of funds is in the first section of the bill; and the Chair, therefore, overrules the point of order.

§ 24. Amendment Proposing Permanent Legislation Offered to Temporary Legislation

This section [18] discusses precedents which support the principle that an amendment proposing a permanent change in law [19] or in procedures under House rules, [20] is, in general, [1] not germane if of-

18. See also, for example, § 39, infra, discussing amendments to bills that extend existing law. And see § 15, supra, discussing amendments to appropriation bills, especially §§ 15.23–15.25 (amendments providing permanent legislation offered to provisions affecting funds appropriated for one year); and § 23.4 (instructions, affecting permanent law, contained in a motion to recommit a joint resolution continuing appropriations).

19. See, for example, §§ 24.4 and 24.5, infra.

20. See § 24.3, infra.

1. For an instance, on the other hand, in which the Chair took the view that an amendment apparently permanent in form could in fact be construed to amount to a temporary measure, see § 24.7, infra. See also Sec. 24.8, infra.

fered to legislation of a temporary character or to provisions affecting funds authorized for a limited time period.

Bill Authorizing Appropriations for Armed Forces for One Year—Amendment Imposing Permanent Restrictions on Troop Withdrawals From Korea

§ 24.1 To a proposition authorizing appropriations for one fiscal year, an amendment making permanent changes in law is not germane; thus, where a bill reported from the Committee on Armed Services authorized appropriations and personnel strengths for the armed forces for one fiscal year and contained minor conforming changes to existing law, a section of an amendment in the nature of a substitute imposing permanent restrictions on troop withdrawals from the Republic of Korea, in part making reduction of troop strength contingent upon the conclusion of a peace agreement on the Korean peninsula, was held to be not germane (pursuant to a special order allowing such a point of order) since proposing permanent law to a one-year authorization, and containing statements of policy contingent on the administration and enactment of laws within the jurisdiction of the Committee on International Relations.

On May 24, 1978,[2] the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated:[3]

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2. 124 CONG. REC. 15293–95, 95th Cong. 2d Sess.

3. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 10929)) to authorize appropriations during the fiscal year 1979, for procurement of aircraft, missiles . . . and other weapons . . . and to prescribe the authorized personnel strength to each active duty component . . . of the Armed Forces and of civilian personnel of the Department of Defense . . . and for other purposes. After general debate . . . the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill as an original bill for the purposes of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and clause 7, rule XVI, are hereby waived, except that it shall be in order when consideration of said substitute begins to make a point of order that section 805 of said substitute would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 10929 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without section 805 included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. . . .

The proceedings of May 24, 1978, were as follows:

THE CHAIRMAN:[4] When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Department of Defense Appropriation Authorization Act, 1979".

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin] Mr. Chairman, in accordance with the rule, House Resolution 1188, I make a point of order that section 805 of the committee amendment in the nature of a substitute, if offered as a separate amendment to H.R. 10929 as introduced, would be in violation of clause 7 of House Rule XVI regarding germaneness. This provision which deals with the withdrawal of troops from Korea, and section 805 which deals with the withdrawal of troops from Korea, is not germane to the Department of Defense authorization bill.

Mr. Chairman, a key criterion in determining germaneness is a committee's jurisdiction over a matter. The Korean troop withdrawal issue falls clearly within the jurisdiction of the Committee on International Relations. Both sections 805(a) and 805(b) fall

4. Dan Rostenkowski (Ill.).

clearly within the jurisdiction of the Committee on International Relations, pursuant to clause 1, subparagraph (k) of House Rule X.

Compelling evidence of the primary jurisdiction of the International Relations Committee over the issue of troop withdrawal from Korea is found in the fact that all legislation, the President's arms transfer request, and related reports have been referred solely to the International Relations Committee.

Thus, there can be no doubt that the issue of the Korean troop withdrawal lies within the jurisdiction of the Committee on International Relations, and accordingly section 805 is not germane to this bill.

In addition, the issue of U.S. troop withdrawal from Korea is not relevant to either the subject matter or to the purpose of H.R. 10929, as introduced. As introduced, H.R. 10929 consists entirely of provisions relating to the annual authorizations for the Department of Defense. It contains no general policy provisions for the Department of Defense. It contains no general policy provisions of any type, let alone any policy provisions relevant to the withdrawal of U.S. troops from Korea. It is well established that an amendment of a general and permanent nature is not germane to a bill containing only temporary authorizations.

Thus, by whatever test of germaneness one examines, section 805 is not germane to H.R. 10929. . . .

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

I submit, Mr. Chairman, that, first of all, the question of germaneness does not depend on what committee it might be referred to sequentially. In fact, the whole idea of sequential referral is a relatively new concept. I believe, in fact, that it has only been practiced in this House during this present Congress, and perhaps a few times previously.

H.R. 10929, is the annual authorization bill for the Department of Defense. It traditionally covers a wide variety of topics relating to defense. I would point out that the title of the bill after it lists the various items that the gentleman from Wisconsin has already referred to concludes, "and for other purposes."

Traditionally, matters related to the defense of our country which the Committee on Armed Services has regarded as being of importance have been included in this annual legislation year after year. Section 805 is no different from any of the other matters we have traditionally handled under "general provisions."

It is true that the gentleman's committee has had legislation before it regarding the transfer of American equipment to Korean forces; but section 805 refers to the stationing and positioning of U.S. ground forces; "no ground combat units of the 2d Infantry Division," and so on and so forth. It

makes no reference to any transfer of equipment to Korean forces. We are providing here for the stationing of troops in an area that is of great importance to our national security. If that is not something which is within the concern of the Committee on Armed Services, then I do not know what our proper area of responsibility is.

Subsection (b) of section 805 spells out the recommendations of the committee as to what the minimum ground combat strength of our Armed Forces stationed in the Republic of Korea should be based on information we gleaned in an on-the-spot visit to Korea in January; so it is clearly within the province of the Committee on Armed Services. The gentleman from Wisconsin does not dispute that. The gentleman could not dispute it; but to suggest that because if it were introduced as a bill under today's procedures it might have been referred sequentially to the gentleman's committee or to some other committee, completely misses the point. If the size and location of Armed Forces of the United States are not a responsibility of the Committee on Armed Services, and are instead the responsibility of the Committee on International Relations, then something is very drastically wrong in this House.

Further, Mr. Chairman, the authority to determine where American Forces shall be stationed is clearly within the province of the Congress. The Constitution provides that Congress shall not only "raise and support armies," but that we shall provide for the 'regulation and governing of the land and naval forces," in section 8 of article I.

Congress has previously enacted the war powers bill, which limits the authority of the President as far as the stationing of troops abroad is concerned. The Constitution does not give a broad grant of power to the Commander in Chief alone in stationing troops abroad. He has no constitutional power to put troops wherever he wants to, because Congress has determined that he cannot put troops abroad under certain conditions without the expressed approval of the Congress of the United States.

Well, if we can limit the President's ability to send troops overseas, it follows that we can also limit his ability to bring those troops back home, if in the opinion of the Congress, we determine that that withdrawal action, which certainly is the case of Korea, would increase the risks of war.

So, Mr. Chairman, I urge that the point of order be overruled. Section 805 is clearly within the authority of the committee. It is clearly germane to the broad purposes of the bill and the House should have the right to vote on this important question.

THE CHAIRMAN: The Chair is ready to rule. The gentleman from Wisconsin makes a point of order against section 805 of the committee amendment in the nature of a substitute recommended by the Committee on Armed Services, on the grounds that section 805 of said amendment would not have been germane if offered to the bill H.R. 10929, as introduced.

As indicated by the gentleman from Wisconsin, the special order providing for consideration of this measure, House Resolution 1188, allows the Chair to entertain a point of order on

the basis stated by the gentleman, that section 805 of the committee amendment would not have been germane as a separate amendment to H.R. 10929 in its introduced form.

The bill as introduced and referred to the Committee on Armed Services contains authorizations of appropriations and personnel strengths of the Armed Services for fiscal year 1979. It contains no permanent changes in law or statements of policy except for minor conforming changes to existing law relating to troop and personnel strengths.

Section 805 of the committee amendment in the nature of a substitute prohibits: First the withdrawal of ground combat units from the Republic of Korea until the enactment of legislation allowing the retention in Korea of the equipment of such units, and second, the reduction of combat units below a certain level in the Republic of Korea until a peace settlement is reached between said Republic and the Democratic People's Republic of Korea ending the state of war on the Korean peninsula.

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

For the reasons stated, the Chair sustains the point of order.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

MR. BAUMAN: Mr. Chairman, the Chair may have just stated a novel concept which has never before been heard in a ruling. That is that the sequential referral rule somehow serves as the basis for jurisdiction, and thus can support a point of order dealing with a section in a bill such as the one before us.

The parliamentary inquiry I have is this: Simply because under the new procedure adopted for the first time in this Congress the rules allow sequential referral at the discretion of the Speaker, does that mean that a committee that has primary jurisdiction, such as the Committee on Armed Services, may be challenged on the floor and have a point of order sustained removing a provision that might be partially under the jurisdiction of another committee on a sequential referral?

THE CHAIRMAN: The ruling of the Chair does not stand for that proposition.

MR. BAUMAN: Mr. Chairman, the gentleman from Maryland understood the Chair to say that the argument of the gentleman from Wisconsin was persuasive to the Chair regarding jurisdiction. If that is the case, it seems to me every committee of this House is somehow going to be challenged on the floor henceforth if its jurisdiction is shared to the slightest degree by another committee.

THE CHAIRMAN: All the Chair has stated is that section 805 is not germane to the introduced bill, and the rule provides that the point of order would lie on that ground.

MR. BAUMAN: Mr. Chairman, I have this further parliamentary inquiry:

Then the ruling of the Chair is based on germaneness of this amendment to this bill and does not go to any effect the sequential jurisdiction would have on the provision?

THE CHAIRMAN: The gentleman is correct.

The point of order having been sustained against the nongermane portion of the committee amendment in the nature of a substitute, the Chair directed the Clerk to read the substitute without the nongermane portion as original text for amendment, pursuant to the special rule.

Bill Authorizing Annual Appropriation for Agency—Amendment Permanently Affecting Organization of Agency

§ 24.2 An amendment making permanent changes in the law relating to the organization of an agency is not germane to a title of a bill which only authorizes annual appropriations for such agency for one fiscal year.

On Nov. 29, 1979,[5] during consideration of the Nuclear Regulatory Commission Authorization Act[6] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

Sec. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017)), and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980 the sum of $374,785,000 to remain available until expended. Of the total amount authorized to be appropriated: . . .

MR. [MANUEL] LUJAN [Jr., of New Mexico]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

5. 125 CONG. REC. 34083, 34089, 34090, 96th Cong. 1st Sess.

6. H.R. 2608.

Amendment offered by Mr. Lujan: On page 8, after line 11, insert the following:

Sec. 107. Section 201(a) of the Energy Reorganization Act of 1974 as amended (42 U.S.C. 5841) is amended by adding immediately after paragraph (5) of that section a new paragraph to read as follows:

(6) Notwithstanding the provisions of subsection (a)(1) regarding decisions and actions of the Commission, the Commission may delegate to an individual Commissioner, including the Chairman, such authority concerning emergency response management as the Commission deems appropriate. . . .

THE CHAIRMAN:[7] Does the gentleman from Arizona (Mr. Udall) insist upon his point of order against the amendment?

MR. [MORRIS K.] UDALL [of Arizona]: I do, Mr. Chairman.

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

MR. UDALL: Very briefly, the amendment amends section 201 of the Energy Reorganization Act. Neither title I we are now considering or the bill under consideration amends that law. While the rule does waive germaneness with respect to three amendments, nothing in that rule otherwise modifies the germaneness requirement, and I urge the point of order be sustained. . . .

MR. LUJAN: Mr. Chairman, let me point out that as to the germaneness and the appropriateness of this amendment, the rule makes out of order amendments to the Atomic Energy Act and not to the Energy Reorganization Act. For that reason I believe that the amendment is germane and in order.

THE CHAIRMAN: Does anyone else desire to be heard on the point of order? If not, the Chair is prepared to rule.

Title I of the bill before the Committee provides for a 1-year authorization for the Nuclear Regulatory Commission while this amendment seeks to permanently amend the Energy Reorganization Act of 1974. Title I does not in any way amend the Energy Reorganization Act of 1974. Therefore, the Chair finds the amendment to be nongermane under general germaneness rule, which is applicable to this bill, and the point of order is sustained.

Department of Energy Annual Authorization Bill—Amendment Requiring Secretary To Issue Regulations and Permanently Affecting Law and House Rules

§ 24.3 To that title of an annual Department of Energy authorization bill authorizing funds for the Economic Regulatory Administration within the Department, an amendment requiring the Secretary of the Department to issue regulations, pursuant to authority delegated to him by the President under permanent law, to control the price and allocation of oil, and making such regulations subject to congressional review under procedures changing the Rules of the House, was held to be not

7. Leon E. Panetta (Calif.).

germane, being a permanent change in law and in the Rules of the House.

On Oct. 12, 1979,[8] during consideration of H.R. 3000 in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vento: Add the following new section 202:

"Sec. 202(a) There are authorized to be appropriated such funds as may be necessary to the Department of Energy for the fiscal year ending September 30, 1980, for a study by the Department of Energy to consider exercising the authority granted to the President, and by delegation from him, to the Department of Energy, under section 12(g) of the Emergency Petroleum Allocation Act of 1973, as amended, pursuant to which the Energy Department may reimpose price and allocation controls.

(b) Not later than fifteen days from the date of the enactment of this Act the Secretary of Energy shall file a report to both Houses of Congress in which the Secretary shall examine the middle distillate situation and, in so doing, make detailed findings with respect to all matters required to be addressed in findings made pursuant to section 12(d)(1)) of the Emergency Petroleum Allocation Act of 1973. In making the report, the Secretary shall examine the middle distillate situation as though he were reaching an initial decision to decontrol the product. . . .

(c)(1) If the Secretary finds in accordance with section 12(d)(1) of the Emergency Petroleum Allocation Act of 1973 that a decontrol decision is not warranted he shall, without regard to any administrative procedural requirements which ordinarily apply to such action, immediately exercise the authority delegated to him under section 12(f) of the Emergency Petroleum Allocation Act of 1973 and order reimposition of price and allocation controls.

(2)(A) The controls the Secretary shall order reimposed pursuant to subsection (c)(1) of this section shall be those which existed at the time middle distillate controls were effectively removed from the Emergency Petroleum Allocation Act of 1973 requirements in 1976, unless the Secretary shall find that any part of such requirements is inequitable or inappropriate, in which case the Secretary shall modify such part as he deems necessary and appropriate; provided however, that the Secretary shall submit a detailed explanation of each such modification to both Houses of Congress pursuant to the Procedures of section 551 of the Energy Policy and Conservation Act, and that such modification shall not take effect if either House of Congress disapproves such modification within twenty-one days under the Procedures of section 551 of the Energy Policy and Conservation Act. . . .

THE CHAIRMAN PRO TEMPORE:[9] The gentleman from Michigan (Mr. Dingell) is recognized on his point of order.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, first of all, the amendment is a very complex amendment, as the Chair is well aware.

Amongst the problems, from the standpoint of germaneness, which exist

8. 125 CONG. REC. 28097–99, 96th Cong. 1st Sess.

9. Gerry E. Studds (Mass.).

with regard to the amendment, subsection (c)(2))(A) of the amendment states that the Secretary shall do certain things if the Secretary makes certain findings. So the first problem we have is that the Secretary is required to make findings—and this is not germane to the bill—and that he must then reimpose controls on middle distillates under regulations in effect in 1976. This, then, requires that the regulations relate back to a time earlier than the effective date of the legislation.

It also requires, I believe, that the price controls carry forward after the effective date for the expiration of the 1-year authorization which is before the House. The Secretary then could only modify these regulations if neither House vetoes the regulations.

Again, Mr. Chairman, the Chair will observe that there is no provision for one-House vetoes or for this kind of action in the bill.

To repeat, the amendment is not germane to the bill, which only authorizes funds for fiscal year 1980.

There are further reasons. First, it modifies prior pricing laws by subjecting certain regulations to a one-House veto. These regulations are not otherwise subject to a one-House veto on the basis of the statute, and the Chair will find there is no reference to one-House vetoes anywhere in the bill.

The proposal further is nongermane by waiving procedural requirements of law, and, further, it is not germane by requiring reimposition of controls based on a finding different from that which is required by the Emergency Petroleum Allocation Act.

The amendment is further nongermane because it is a limitation on all regulations which modify the reimposed regulations. Thus once the President reimposes controls, which under the amendment must be reimposed as they appeared in the Code of Federal Regulations in 1976, he may only modify the regulations by subjecting them to a one-House veto. This limitation would apply to all future regulations, including regulations prescribed after fiscal year 1980.

So the amendment goes beyond the term of the bill before us. Thus the requirements in the regulations extend beyond the fiscal year 1980, and again this renders the proposal nongermane.

It provides new regulatory powers, not contained in existing law, in a bill which is simply a 1-year extension of financial authorizations to the Department of Energy, since it requires regulation of middle distillates without making the findings required under the Emergency Petroleum Allocation Act.

Next, it permits additional regulatory actions without being subject to statutory procedures, a good number of which, I believe, would clearly be in contravention of existing law, again being nongermane by reason of imposing new statutory powers on a Secretary and new statutory duties on a Secretary in a proposal which is simply a 1-year authorization for the funding of the Department of Energy. . . .

MR. VENTO: Mr. Chairman, in the opening of the amendment it deals with the appropriation of such funds in this act. They are authorized to be appropriated and to be expended for the purpose of this study.

Mr. Chairman, indeed the amendment is complex, but the study that is

anticipated here tracks Public Law 94-163, which indeed is covered and affected by this 1-year authorization that we have before us.

The fact of the matter is that the opposition of the gentleman from Michigan (Mr. Dingell) raises substantive points which are not, in my judgment, points of order, but insofar as he has, the law does provide for a congressional review and indeed a veto of the actions by the Secretary. The powers assumed in this are powers that the Secretary now possesses.

This simply talks in terms of using those powers for purposes designed in this particular measure.

So, Mr. Chairman, I think that the amendment clearly is in order. The entire title and the legislation itself deal with the Emergency Petroleum Allocation Act. This deals with the Emergency Petroleum Allocation Act, just as does the entire title of the bill.

So clearly I think, since we have considered such regulation, decontrol, and reimposition of controls, this amendment is certainly in the tenor and the nature of the legislation and the amendments we have considered today. . . .

MR. [TOM] LOEFFLER [of Texas)] . . . Mr. Chairman, I make the point of order that the amendment is not germane. Although the amendment is cast in the form of a study, it requires the reimposition of price controls if the Secretary of the Department of Energy makes certain findings, and it requires that "the Secretary shall modify" such findings of the Emergency Petroleum Allocation Act "as he deems necessary and appropriate." This is the language in the gentleman's amendment.

This language in the amendment has the effect of changing existing law. There is a mechanism already under existing law, the Emergency Petroleum Allocation Act, which allows the President to make this determination.

Finally, the provisions dealing with the reimposition of price controls under EPAA, while being vested with the President, are in existing law.

In addition, the application of this amendment would extend beyond the fiscal year 1980, which is the period of time that the authorization bill addresses. . . .

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

The Chair concurs with the gentleman from Minnesota (Mr. Vento) that the first part of the amendment authorizing a study during fiscal year 1980 is indeed in order.

The Chair rules, however, based on two other observations. Subsection (c) of the amendment would require the Secretary under certain circumstances to reimpose price allocation controls. This is a requirement that constitutes a permanent change in law and is not in order in a bill which is essentially a 1-year reauthorization of the Economic Regulatory Administration.

Moreover, the Chair would observe that on the second page of the amendment, in the first paragraph, the procedural changes constitute a change in the rules of the House by changing the time for Congressional review as specified in the Energy Policy and Conservation Act, and would not be germane in title II, and the Chair, therefore, sustains the point of order.

Bill Extending Time Limit for Negotiation of Disputes Under Railway Labor Act—Amendment Providing Permanent Procedures for Settlement of Disputes

§ 24.4 To a bill extending the time limit for negotiation of labor disputes under the Railway Labor Act for purposes of permitting additional time for negotiation of a particular labor dispute, an amendment providing permanent procedures for the settlement of all emergency labor disputes by amendment of the Railway Labor Act was held to be not germane.

In the 90th Congress, a bill[10] was under consideration which related to settlement of a labor dispute between certain railroad companies and their union employees. An amendment was offered[11] whose purpose was explained by the proponent, Mr. William E. Brock 3d, of Tennessee, as follows:[12]

> . . . I propose to do two things: first, to put off the strike for 90 days as is proposed in the bill, and second, during this period, to take an entirely different approach, based upon the problem, not the symptom that we are treating with compulsory arbitration. I would prohibit industrywide bargaining and require as an alternative carrier-by-carrier negotiations.

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

> MR. [JOHN D.] DINGELL [of Michigan]: . . . First, the amendment goes beyond the fundamental purpose of the legislation before the committee today. As such it is not germane to the fundamental purposes of the measure.
>
> I would cite that the amendment deals with sections of the Railway Labor Act other than those presently before us. . . .
>
> . . . [T]he pending measure is limited to a specific labor dispute, whereas the amendment . . . deals with all labor disputes.
>
> The legislation pending before the committee today deals with railroads in one specific instance . . . whereas the amendment . . . deals with every industry covered by the Railway Labor Act, which would also include the airlines. . . .
>
> Mr. Chairman, in addition to this I would point out that legislation dealing with a specific subject or a specific set of circumstances under the rules may not be amended by a provision which is general in nature even when of the class or the specific subject involved.

The Chairman,[13] in ruling on the point of order, stated:

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10. H.J. Res. 559 (Committee on Interstate and Foreign Commerce).

11. See 113 CONG. REC. 15912, 90th Cong. 1st Sess., June 15, 1967.

12. *Id.* at p. 15914.

13. Wilbur D. Mills (Ark.).

. . . The Chair will call attention to "Cannon's Precedents," volume 8, page 479, section 2912, which reads as follows:

> To a bill proposing measures to meet a declared emergency and limited in operation to a period of five years an amendment proposing permanent legislation of the same character was held not to be germane.

Because the amendment offered by the gentleman from Tennessee is permanent legislation and the resolution before the committee is limited to an existing situation and is not permanent in nature, the Chair holds that the amendment is not germane.

Ceiling on District of Columbia Employees for One Year—Amendment Proposing Hiring Preference System as Permanent Law

§ 24.5 To a proposition establishing a ceiling on the number of employees in the District of Columbia government for one year, an amendment proposing a hiring preference system as permanent law is not germane, as going beyond the year and the issue of the number of employees covered by the measure to which offered.

During consideration of the District of Columbia Appropriations for fiscal 1990[14] in the House on Oct. 11, 1989,[15] it was held that to a Senate amendment raising a ceiling on the number of employees of the District of Columbia government during the fiscal year funded by the bill, a House amendment proposing also to address in permanent law a hiring preference system for such employees was not germane. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[6] The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

> Senate amendment No. 15: Page 21, line 24, strike out "38,475" and insert "39,569".

MR. [JULIAN C.] DIXON [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 15, and concur therein with an amendment, as follows: In lieu of the number stricken and inserted by said amendment, insert the following "39,262."
>
> Sec. 110A. (a) No funds appropriated by this Act may be expended for the compensation of any person appointed to fill any vacant position in any agency under the personnel control of the Mayor unless:
>
> (1) The position is to be filled by a sworn officer of the Metropolitan Police Department; or
>
> (2) The position is to be filled as follows:

14. H.R. 3026.

15. 135 CONG. REC. p. —, 101st Cong. 1st Sess.

16. Doug Barnard, Jr. (Ga.).

(A) By a person who is currently employed by the District of Columbia government at a grade level that is equal to the grade level of the position to be filled; or

(B) By a person who is currently employed by the District of Columbia government at a grade level higher than the grade level of the position to be filled, and who is willing to assume a lower grade level in order to fill the position. . . .

Sec. 110B. (a) Application for Employment, Promotions, and Reductions in Force.

(1) In general.—The rules issued pursuant to the amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203) shall include the provisions described in paragraph (2).

(2) Description of policies.—

(A) Policy regarding application for employment.—The Mayor of the District of Columbia may not give an applicant for District of Columbia government employment in the Career Service who claims a District residency preference more than a 5 point hiring preference over an applicant not claiming such a preference, and, in the case of equally qualified applicants, shall give an applicant claiming such a preference priority in hiring over an applicant not claiming such a preference.

(B) Policy regarding promotions and reductions in force for career service employees.—In calculating years of service for the purpose of implementing a reduction in force, the Mayor may not credit an employee in the Career Service who claims a District residency preference with more than 1 year of additional service credit . . . .

(C) Individuals subject to provisions.—The amendments to the District of Columbia Government Comprehensive Merit Personnel Act of 1978 made by the Residency Preference Amendment Act of 1988 shall apply only with respect to individuals claiming a District residency preference or applying for employment with the District of Columbia on or after March 16, 1989.

(b) Scope of 5-Year District Residency Requirement for Employees Claiming Preference.—

(1) Career service employees.—Section 801(e)(5) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1–608.1(e)(5), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203), is amended by adding at the end the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), the Mayor may not require an individual to reside in the District of Columbia as a condition of employment in the Career Service. . . ."

(2) Educational service employees.—Section 801A(d) of such Act (section 1–609.1(d), D.C. Code), as amended by the Residency Preference Amendment Act of 1988 (D.C. Law 7–203), is amended by adding at the end the following new paragraph: "(7)(A) Except as provided in subparagraph (B), the Boards may not require an individual to reside in the District of Columbia as a condition of employment in the Educational Services. . . .

Mr. [WALTER E.] FAUNTROY [Delegate from the District of Columbia]: Mr. Speaker, I make a point of order that the amendment contained in the motion is not germane to Senate amendment 15 and therefore violates clause 7 of House rule XVI, for the reason that Senate amendment 15 merely relates to the employment ceiling for the District of Columbia government, while this amendment inserts language in section 110B under section 132 of the District's budget.

That language relates to a hiring preference system for career and educational employees of the District government and among other things, makes the new D.C. preference system effective as of March 16, 1989, provides for a maximum five-point hiring preference for new employees, provides that residency will be a tie-breaker rather than a point advantage to a resident who claims preference on promotions, provides that the 5-year residency requirement will apply only to applicants who claim preference and are appointed on or after March 16, 1989, and for educational service, provides that residency will be required of only those employees who receive a preference on or after March 16, 1989.

In short, Mr. Speaker, the amendment introduces an entirely new subject and is therefore not germane. . . .

MR. [STENY H.] HOYER [of Maryland]: Mr. Speaker, on the point of order of the gentleman from the District of Columbia (Mr. Fauntroy), the amendment in question, amendment No. 15, is added to section 110 of the bill, line 6, which deals with personnel levels. The amendment itself deals with the preference system that has been discussed by the District of Columbia.

Mr. Speaker, in last year's District of Columbia bill there was a requirement that the District of Columbia promulgate a preference system. In point of fact, on March 16, 1989, they issued a preference system. That preference system, however, was to be modified subsequent to the adoption of the bill on the House floor, but then went to the Senate. The Senate dealt with personnel levels. It did not deal, however, with the preference system.

In point of fact, Mr. Speaker, the preference system was drawn, in this Member's opinion, to an extent that in fact the residency requirement is still in effect because of the substantial discrepancies between the preference between the District of Columbia residents and nonresidents, effectively making nonresidents second-class employees, which of course obviates the substitute of the residency requirement by preference system.

I, therefore, submit to the Chair that the amendment at this point in the bill is relevant to the personnel system and the personnel levels and who are eligible for those personnel positions in the District of Columbia, and I would, therefore, submit to the Chair that it is not nongermane and was, in fact, germane to the subject matter before the conference. . . .

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

In the opinion of the Chair, the arguments of the gentleman from the District of Columbia (Mr. Fauntroy) are accurate pertaining to the point of order, and so his point of order is sustained.

Bill Relating to Deployment of Missile Systems—Amendment Permanently Making Expenditures Contingent on Certifications by Secretary of Defense

§ 24.6 To a title of a bill authorizing the procurement, research and development of certain military missile systems for one fiscal year,

broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests and reports to Congress, an amendment permanently making expenditure of any funds for that missile system contingent upon certification made by the Secretary of Defense with respect to the impact of United States grain sales on Soviet military preparedness was held to be not germane being an unrelated contingency involving agricultural exports.

During consideration of the Department of Defense Authorization for fiscal 1984[17] in the Committee of the Whole on July 21, 1983,[18] the Chair, in sustaining a point of order against the amendment described above, reiterated the principle that it is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. The proceedings were as follows:

> Sec. 301. In addition to the amount authorized to be appropriated in section 103 for procurement of missiles for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for procurement of missiles the sum of $2,557,800,000 to be available only for the MX missile program.
>
> RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR MX MISSILE AND SMALL MOBILE MISSILE SYSTEMS
>
> Sec. 302. (a) In addition to the amount authorized to be appropriated in section 201 for research, development, test, and evaluation for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for research, development, test, and evaluation for the land-based strategic ballistic missile modernization program—
>
> (1) $1,980,389,000 to be available only for research, development, test, and evaluation for the MX missile program. . .

THE CHAIRMAN PRO TEMPORE:[19] Are there amendments to title III?

> Amendment offered by Mr. Price: Page 16, after line 18, insert the following new section:
>
> LIMITATION ON EXPENDITURE OF FUNDS
>
> Sec. 303. (a) None of the funds authorized by clause (2) of section 302(a) may be obligated or expended for research, development, test, or evaluation for an intercontinental-range mobile ballistic missile that would weigh more than 33,000 pounds or that would carry more than a single warhead.
>
> (b) The Secretary of Defense may not deploy more than 10 MX missiles until—
>
> (1) demonstration of subsystems and testing of components of the small mobile intercontinental ballistic missile system (including missile guidance and propulsion subsystems) have occurred . . .

17. H.R. 2969.

18. 129 CONG. REC. 20050, 20184, 20189, 20190, 98th Cong. 1st Sess.

19. Marty Russo (Ill.).

(c) The Secretary of Defense may not deploy more than 40 MX missiles until—

(1) the major elements (including the guidance and control subsystems) of a mobile missile weighing less than 33,000 pounds as a part of an intercontinental ballistic missile system have been flight tested . . .

(d)(1) Not later than January 15 of each year from 1984 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) on the progress being made with respect to the development and deployment of the MX missile system.

The amendment offered by Mr. Price was agreed to.[20]

MR. [JAMES] WEAVER [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Weaver: At the end of title III, add the following new section:

LIMITATION ON MX PROGRAM

Sec 303. No funds may be expended for the MX missile program during any fiscal year during which United States grain suppliers make sales of grain to the Soviet Union, except that the preceding limitation shall not apply during any fiscal year if the Secretary of Defense certifies to Congress that the sale of grain to the Soviet Union by United States grain suppliers during that year will not assist the Soviet Union in preparing, maintaining, or providing for its armed forces. . . .

MR. [MELVIN] PRICE [of Illinois]: . . . I make a point of order that the amendment is not germane to title III. . . .

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

The Chair rules that the amendment is not germane to title III. Although title III was originally a 1-year authorization, it has been amended by the Price amendment to go beyond fiscal year 1984.

The amendment of the gentleman from Oregon (Mr. Weaver) would be a permanent change in the law making the MX program conditional upon an unrelated contingency involving agricultural exports. Under the precedents the amendment is not germane and the Chair sustains the point of order of the gentleman from Illinois (Mr. Price).

Temporary Increase in Debt Ceiling—Amendment Construed as Having Temporary Effect Despite Form

§ 24.7 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effects of its provisions, or amendments thereto, in determining issues of germaneness, the Chair has ruled that an amendment the fundamental purpose of which amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of prior legislative treatment of the subject in question (the

20. 129 CONG. REC. 20187, 98th Cong. 1st Sess.

statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.[1]

Amendment Making Expiration Date in Bill Inapplicable to Certain Provisions

§ 24.8 On one occasion, it was held that, to that section of a bill providing that the provisions of the bill shall remain in force only until a certain date, an amendment making such expiration date inapplicable to particular provisions of the bill was held germane.

In the 78th Congress, a bill[2] was under consideration to expedite the payment for land acquired during the war period. An amendment was offered[3] whose purpose was described by the proponent, Mr. Jamie L. Whitten, of Mississippi, in these terms:

> . . . [The] amendment merely provides in the event it becomes a law it shall be permanent insofar as creating a right of trial by jury for those persons whose property is taken for flood control and river and harbor improvements.

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

> MR. [CLARENCE E.] HANCOCK [of New York]: Mr. Chairman, I make the point of order against the amendment. This bill by its terms is temporary. The amendment of the gentleman from Mississippi [Mr. Whitten] would affect one small section of the bill and make it permanent, without consideration by the committee having jurisdiction thereof.

The Chairman,[4] in ruling on the point of order, stated:

> The Chair feels that the amendment offered by the gentleman from Mississippi is germane. It properly refers to the section of the bill referred to in the amendment. The Chair overrules the point of order.[5]

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1. The proceedings of May 13, 1987, relating to H.R. 2360, extension of the public debt limit, are discussed in § 46.7, infra.
2. S. 919 (Committee on the Judiciary).
3. 90 CONG. REC. 9363, 78th Cong. 2d Sess., Dec. 13, 1944.
4. John M. Coffee (Wash.).
5. See also Sec. 40.1, infra, for discussion of amendments continuing temporary law offered to bills amending such law.

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