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not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

E. RELATION OF AMENDMENT OR BILL TO EXISTING LAW

§ 35. Amendments to Bills Which Amend Existing Law

It has been held that the rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend,[15] except where the bill is a continuation or re-enactment of existing law, in which case amendments seeking to modify the law being extended in a germane manner may be germane to the bill,[16] or where the bill so comprehensively or diversely amends an existing law as to permit amendments which are germane to other provisions of that law.[17] Thus, the germaneness of an amendment that proposes to change existing law may depend on the extent to which the bill itself seeks to change the law. A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill.[18] But where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane.[19] As an example, if a bill seeks only to modify the penalty provisions of a law proscribing specified conduct, an amendment will not be germane if it seeks to broaden the scope or alter the applicability of such law.[20] It is generally held, therefore, that, to a bill amending existing law in one particular, an amendment proposing to modify an unrelated section of the law[1] or relating to terms of that law that are not referred to in the bill[2] is not ger-

15. See § 18.7, supra.

16. See 8 Cannon's Precedents § 2941, cited in § 35.7, infra.

17. See §§ 35.49, 35.78, 35.81, 35.93, 35.95, infra.

18. See § 35.78, infra.

19. See, for example, §§ 35.23, 35.48, 41.12, infra.

20. See § 41.12, infra.

1. See § 35.48, 35.69, infra.

2. See §§ 35.16, 35.25, 41.5, infra.

To a bill amending one section of existing law to accomplish a par-

mane. It may be said, then, that, to a bill amending one section of an existing law, an amendment proposing further modification of the law, as by amending another section of that law, is usually not germane.[3]

Similarly, if a bill amends existing law in several respects, but relates to a single subject or has a single purpose, an amendment is not germane that proposes to modify the law further in a manner not related to the purpose of the bill.[4]

To a bill amending existing law in a limited respect, an amendment repealing the law is not germane. Accordingly, to a bill establishing a new office within a government department, an amendment to abolish the department is not germane.[5]

The rule may be broadly stated that, to a bill proposing solely to amend one subtitle of an act, an amendment is not germane which would have the effect of repealing or amending other sections of the act that are not within the purview of the bill.[6]

It has been held that where an amendment to a bill proposes modification of a section of existing law in some respects, an amendment to the amendment may properly propose modification of the same section of the law in other respects.[7] Thus, it is held that, to a substitute amendment modifying a section of existing law, an amendment further modifying that section may be germane.[8]

Similarly, to an amendment in the nature of a substitute, amending several sections of an existing law, an amendment proposing further modification of one of the sections sought to be amended has been held to be germane.[9]

Where a bill amends existing law in two unrelated respects, an amendment proposing a third modification may be germane.[10]

To a bill amending two sections of the Food Stamp Act of 1964, an amendment proposing a change in a third section of the act was held germane.[11]

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ticular purpose, an amendment proposing changes in another section of that law in a manner not within the terms of the bill is not germane. See Sec. 41.14, infra.

3. See §§ 35.6, 35.77, 39.12, 39.13, infra.

4. See §§ 35.80, 35.91, 41.1, 41.2, infra.

5. See § 42.43, infra.

6. See the ruling of Chairman Warren G. Magnuson (Wash.) at 89 CONG. REC. 1158, 78th Cong. 1st Sess., Feb. 19, 1943. Under consideration was H.R. 1605 (Committee on Agriculture), comprising an amendment to the Agricultural Adjustment Act of 1938. The bill is discussed more fully in § 35.2, infra.

7. See § 35.70, infra.

8. See §§ 35.19, 42.7, infra.

9. See § 35.71, infra.

10. See § 35.49, infra.

11. See § 35.8, infra.

To a bill re-enacting an existing law in modified form, an amendment proposing further modification of that law may be germane.[12] And where a bill narrowly amends only one section of existing law, but is broadened by amendment to alter another section of the law, a further amendment to change still other sections of the law may be germane.[13]

But it should be noted that a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof.[14] Even where a bill amends an act in several particulars, an amendment proposing further modification of the act in respects not related to the subject of the bill is not germane.[15] Thus, it has been held that, to a bill amending an act in two particulars, an amendment offered to amend the act in a third particular but in a manner not related to the bill is not germane.[16]

The question for the Chair in such cases is whether the bill amending existing law is of such a general or diverse nature as to fundamentally change the law involved, and thereby open the law generally to amendments.[17]

Where the proposition under consideration was to amend the Defense Production Act of 1950, an amendment proposing to add provisions to such act, "notwithstanding any other provision of this or any other law," was ruled out of order as an attempt to amend other laws not under consideration.[18]

Of course, an amendment must be germane to that title or portion of the bill to which offered.[19] Thus, the test of germaneness to a pending title of a bill is the relationship of the amendment to that title or to the law being amended by that title, and not to other portions of the bill not then pending for amendment.[20]

But in some instances, due to the scope and nature of the subject matter of a title of the bill sought to be amended, amend-

12. See §§ 35.30, 39.24, infra.

13. See § 35.8, infra.

14. See § 18.7, supra.

15. See §§ 35.73, 35.74, infra.

16. See § 35.44, infra.

17. See Sec. 35.44, infra.

18. See the ruling of Chairman Wilbur D. Mills (Ark.) at 97 CONG. REC. 8325, 82d Cong. 1st Sess., July 17, 1951.

19. For discussion, see, for example, § 2; and see §§ 18 et seq., supra.

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

ments thereto may be allowed which seek to modify laws not directly amended by that title. Thus, where a portion of a bill amended several miscellaneous laws on a general subject, an amendment to another law relating to that subject was held to be germane.[1]

Bill Amending Agriculture Laws—Amendment Providing for Expiration or Repeal of Provisions of Law

§ 35.1 To a bill amending various laws relating to agriculture, an amendment providing that, three years after enactment, provisions of the bill would expire and other specified agricultural legislation be repealed, was held to be germane.

On June 21, 1962,[2] the Committee of the Whole had under consideration the Food and Agricultural Bill of 1962,[3] which provided in part as follows:[4]

TITLE I—LAND-USE ADJUSTMENT

Sec. 101. The Soil Conservation and Domestic Allotment Act (49 Stat. 163), as amended, is further amended as follows:

(1) by repealing subsections (b), (c), (d), (e), (f), and (g) of section 7; . . .

(4) by adding a new subsection at the end of section 16 of said Act to read as follows:

"(e)(1) For the purpose of promoting the conservation and economic use of land, the Secretary, without regard to the foregoing provisions of this Act, except those relating to the use of the services of State and local committees, is authorized to enter into agreements . . . with farm and ranch owners and operators providing for changes in cropping systems and land uses and for practices or measures to be carried out on any lands owned or operated by them for the purpose of conserving and developing soil, water, forest, wildlife, and recreation resources. Such agreements shall include such terms and conditions as the Secretary may deem desirable to effectuate the purposes of this subsection. . . .

Sec. 102. Section 31 and subsection (e) of section 32 of title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, are amended to read as follows:

"Sec. 31. The Secretary is authorized and directed to develop a program of land conservation and land utilization, including the more economic use of lands and the retirement of lands which are submarginal or not primarily suitable for cultivation, in order thereby to correct maladjustments in land use, and thus assist in controlling soil erosion, reforestation, providing

1. See §§ 35.61 and 35.102, infra.
2. 108 CONG. REC. 11314 et seq., 87th Cong. 2d Sess.
3. H.R. 11222 (Committee on Agriculture).
4. 108 CONG. REC. 11205, 11206, 11215–17, 11373, 87th Cong. 2d Sess., June 20 and 21, 1962.

public recreation, preserving natural resources, protecting fish and wildlife . . . and protecting the public lands, health, safety, and welfare. . . .

Sec. 103. The Watershed Protection and Flood Prevention Act (68 Stat. 666), as amended, is amended as follows:

(1) Paragraph (1) of section 4 of said Act is amended by changing the semicolon at the end thereof to a colon and adding the following: "*Provided,* That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed two-thirds of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes. . . .

TITLE III—MARKETING ORDERS

Sec. 301. The Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, is further amended as follows:

Section 8c(2) is amended by—

(1) striking out in (A) thereof "not including vegetables, other than asparagus, for canning or freezing)" and inserting in lieu thereof "(not including vegetables, other than asparagus, for canning or freezing, or potatoes for dehydrating)". . . .

TITLE IV—COMMODITY PROGRAMS

Subtitle A—Feed Grains

Sec. 401. Subtitle B of title III of the Agricultural Adjustment Act of 1938, as amended, is further amended by inserting after part VI a new part VII as follows:

"PART VII—MARKETING QUOTAS—FEED GRAINS

"LEGISLATIVE FINDINGS

"Sec. 360a. The production of feed grains is a vital part of the agricultural economy of the United States. . . .

"Abnormally excessive and abnormally deficient supplies of feed grains on the national market acutely and directly burden, obstruct, and affect interstate and foreign commerce. . . .

"NATIONAL MARKETING QUOTA

"Sec. 360b. (a) Whenever prior to June 20 in any calendar year the Secretary determines that the total supply of feed grains in the marketing year beginning in the next succeeding calendar year will, in the absence of a marketing quota program, likely be excessive, the Secretary shall proclaim that a national marketing quota for feed grains shall be in effect for such marketing year and for either the following marketing year or the following two marketing years, if the Secretary determines and declares in such proclamation that a two- or three-year marketing quota program is necessary to effectuate the policy of the Act. . . .

"NATIONAL ACREAGE ALLOTMENT

"Sec. 360c. Whenever the amount of the national marketing quota for feed grains is proclaimed for any marketing year, the Secretary at the same time shall proclaim a national acreage allotment for the crop of feed grains planted for harvest in the calendar year in

which such marketing year begins. . . .

TITLE V—GENERAL PROVISIONS

Sec. 501. The Consolidated Farmers Home Administration Act of 1961 (75 Stat. 307) is amended as follows: . . .

(2) By inserting in section 306(a) after the words "soil conservation practices" the words "shifts in land use including the development of recreational facilities". . . .

Sec. 502. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby. . . .

An amendment was offered which stated in part:[5]

Amendment offered by Mr. [Craig] Hosmer [of California]: On page 89, after line 4, add the following:

Sec. 505. (a) All provisions of this Act except subsections (b) and (c) of this section shall expire three years following date of enactment and at that time the following Acts are hereby repealed:

(1) The Agricultural Act of 1949, as amended (7 U.S.C. 1421 and the following), except sections 410, 411, and 414 thereof, effective with the 1962 crops. . . .

(c) Notwithstanding other provisions of law the Commodity Credit Corporation is directed, on such terms and under such regulations as the Secretary of Agriculture may deem in the public interest, to sell all agricultural commodities and products thereof, now owned or hereafter acquired by it pursuant to any price support program, at such reasonable prices as will result in the orderly and complete disposition of such agricultural commodities and products.

A point of order was made by Mr. H. Carl Andersen, of Minnesota, based on the contention that the amendment went far beyond the purview of the bill. The Chairman[6] stated:

The Chair feels that the amendment is entirely proper and, therefore, overrules the point of order.

Bill Amending Subtitle of Agricultural Adjustment Act—Amendment Relating to Enforcement of Penalty Provisions of Act

§ 35.2 To a bill proposing to amend one subtitle of the Agricultural Adjustment Act by adding a section relating to methods and procedures of determining acreage allotments for basic commodities, an amendment proposing modification of an existing section of such subtitle and relating to jurisdiction of courts in the enforcement of penalty provisions of the act generally, was held to be not germane.

5. 108 CONG. REC. 11377, 87th Cong. 2d Sess., June 21, 1962.

6. Francis E. Walter (Pa.).

In the 78th Congress, a bill[7] was under consideration which stated in part:[8]

> *Be it enacted, etc.,* That part II of subtitle C of title III of the Agricultural Adjustment Act of 1938, as amended, is amended by inserting at the end thereof the following new section:
>
> Sec. 377. Notwithstanding any other provisions of this act, for any farm . . . which has in 1942 an acreage allotment for any commodity, except wheat, under the provisions of this title, the allotment for any subsequent year shall not be reduced on account of the failure to plant, harvest, or market, in whole or part, the commodity in any of the years beginning February 1, 1943, and ending December 31 of the year in which the President by proclamation or the Congress by concurrent resolution declares that hostilities in the present war have terminated, if such failure was due solely to—
>
> (1) The shifting from the production of the commodity to the production of one or more needed war crops, in accordance with the request of the Secretary; or [other specified causes]. . . .

The following amendment was offered:[9]

> Amendment offered by Mr. [H. Streett] Baldwin of Maryland: On page 1, line 4, after the last word "amended", strike out the balance of the section and insert in lieu thereof "by amending section 376 thereof by adding thereto the following: '*Provided further,* That such jurisdiction shall in no case be exercised as to any crop now planted or planted hereafter between the date of the enactment of this act and the date of the conclusion of peace.'"

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

> MR. [HAMPTON P.] FULMER [of South Carolina]: I do not believe [the amendment] is in line with the real purpose of the bill, and it goes much further than we intended under the bill, so it is not germane to the bill.

In support of the point of order, Mr. Clifford R. Hope, of Kansas, stated:

> Mr. Chairman, I call attention of the Chair to the fact that section 376, which is sought to be amended, deals with one subject, and one only—the jurisdiction of the courts in the enforcement of the penalty provisions of the act. The provision in the bill under consideration, while an amendment to part II of subtitle C, does not in any way go to the enforcement of the act, through the courts or otherwise, but simply provides for a different method of making allotments to individual farms in the case of the basic commodities except wheat, and for making allotments to the counties and States in the case of wheat. It is a new section and does not touch anything at all under this subtitle except the method and procedure of making allotments. I submit that the amendment which the gentleman offers cannot be germane, because it applies only to the subject of

7. H.R. 1605 (Committee on Agriculture).

8. See 89 CONG. REC. 1154, 1155, 78th Cong. 1st Sess., Feb. 19, 1943.

9. *Id.* at p. 1161.

court jurisdiction, which is not in any way involved in the committee provision.

The Chairman[10] in ruling on the point of order, stated:

> The Chair is ready to rule and interprets the amendment of the gentleman from Maryland to involve the question of jurisdiction and enforcement of jurisdiction for the whole act. His amendment provides that such jurisdiction shall in no case be exercised as to any crop. The bill before the Committee restricts itself to certain crops. The amendment of the gentleman from Maryland would in effect suspend jurisdiction to enforcing the entire Agricultural Adjustment Act, because it would do away with the machinery for such suspension, and, therefore, the Chair is inclined to rule that the amendment is too far reaching, and goes beyond the scope of the bill and is not germane, and the Chair sustains the point of order.

Agricultural Price Supports—Amendment Adding Commodity to Those Covered

§ 35.3 To a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane; thus, to a bill temporarily amending for one year an existing law establishing price support levels for several agricultural commodities, an amendment adding another agricultural commodity to be covered by the same provisions of law for that year was held germane.

During consideration of H.R. 4296 (a bill concerning emergency price supports for 1975 crops) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The language of the bill to which the amendment was offered read as follows:[11]

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title I of the Agricultural Act of 1949, as amended, is amended by adding at the end thereof the following new section 108:
>
> "Sec. 108. (a) Notwithstanding sections 103, 105, and 107 of this Act, the established price for the 1975 crops of upland cotton, corn, and wheat shall be 48 cents per pound, $2.25 per bushel, and $3.10 per bushel, respectively, and the Secretary shall make available to producers loans and purchases on the 1975 crops of upland cotton, corn, and wheat at 40 cents per pound, $1.87 per bushel, and $2.50 per bushel, respectively; *Provided,* That the rates of interest on commodity loans made by the Commodity Credit Corporation to all eligible producers shall be established quarterly on the basis of the lowest current interest rate on ordinary obligations of the United States: *Provided further,*

10. Warren G. Magnuson (Wash.).

11. See 121 CONG. REC. 7388, 94th Cong. 1st Sess., Mar. 20, 1975.

That the nonrecourse loan for 1975 crop upland cotton as set forth in section 103(e)(1) of the Agricultural Act of 1949, as amended, shall be made available for an additional term of eight months at the option of the cooperator.

"(b) Notwithstanding the provisions of section 301 of this Act, the Secretary shall make available to producers loans and purchases on the 1975 crop of soybeans at such levels as reflect the historical average relationship of soybean support levels to corn support levels during the immediately preceding three years."

THE CHAIRMAN:[12] The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 15, after the word "cooperator" strike the period and insert ", except that for the 1975 crops of upland cotton, feed grains and wheat, the Secretary shall establish, insofar as is practicable, the same terms and conditions relative to storage costs and interest rates on all nonrecourse loans extended on such crops.".

THE CHAIRMAN: The question is on the committee amendment.

The committee amendment was agreed to.

During the proceedings of Mar. 20, 1975,[13] the following amendment was offered:

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 2, after line 25, add this new section:

"(c) Notwithstanding the provisions of section 301 of this Act or common sense, the Secretary shall make available to producers loans and purchases on the 1975 crop of fruit nuts at such levels as reflect the historical average relationship of fruit nut support levels to dingleberry support levels during the immediately preceding one hundred and ninety-nine years". . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, the chairman of the committee finds it necessary to insist on his point of order.

I know the gentleman who has offered the amendment is a strong supporter of fruit nuts and is in great seriousness in an effort to improve the bill, but the reference in the amendment is to a standard which cannot be administered because the country was not organized, the Congress was not organized at the time he alleges in the amendment the Dingleberry support price was created. But principally because under rule XVI, clause 7, the fundamental purpose of this amendment does not relate to the fundamental purpose of the bill, which is to effect changes in the target prices of loan rates on wheat, feed grain, and cotton.

The nuttiness of an amendment has never been found in the precedents of the House as an argument against germaneness. . . .

MR. CONTE: . . . I feel that this amendment is germane in the context of this bill. The whole bill is nutty, and I am merely institutionalizing what the American people have known all along, that farm subsidies do not grow on trees.

THE CHAIRMAN: The Chair is prepared to rule.

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12. John Brademas (Ind.).

13. 121 CONG. REC. 7652, 94th Cong. 1st Sess.

The Chair would observe that the purpose of this bill as set forth in the report is to establish an emergency price support program in the 1975 crop commodity year for upland cotton, wheat, feed grains, soybeans, and milk.

Under the general proposition that it is in order to add another subject to a proposition containing subjects of the same class, the Chair would point out that the amendment of the gentleman from Massachusetts adds another agricultural commodity to the commodities proposed to be supported under the bill during the same period of time.

The Chair rules, therefore, that the gentleman's amendment is germane and overrules the point of order.

Bill Striking Provisions and Inserting Language—Amendment Adding Language Without Striking Provisions

§ 35.4 To a bill striking out a section of existing law and inserting new language, an amendment adding the new language at the end of the section of law being amended, rather than striking out the section and inserting new language, is germane.

In the 88th Congress, a bill[14] relating to the cotton industry was under consideration. A provision in such bill sought to amend the Agricultural Act of 1949 by striking out a section of that law pertaining to corn price supports and inserting in lieu thereof language creating a new cotton program. An amendment was offered[15] which sought to add the provisions as to the new cotton program at the end of the section of existing law, thereby leaving the existing section of law pertaining to the corn program intact. Mr. John H. Kyl, of Iowa, made the point of order that the amendment was not germane; the Chairman,[16] however, having already stated that, "The purpose of this amendment is to correct the technical references," ruled without further elaboration that the amendment was germane.

Amendment Affecting Different Section of Existing Law

§ 35.5 To a joint resolution to amend a specific section of the Agricultural Adjustment Act of 1938 relating to the national allotment for cotton, an amendment affecting another section of that act relating to allotment of acreage was held to be not germane.

In the 76th Congress, a bill[17] was under consideration which re-

14. H.R. 6196 (Committee on Agriculture).

15. 109 CONG. REC. 23322, 88th Cong. 1st Sess., Dec. 4, 1963 (amendment offered by Mr. Harold D. Cooley [N.C.]).

16. John J. Rooney (N.Y.).

17. H.J. Res. 247 (Committee on Agriculture).

lated to minimum national allotments for cotton and which provided:

> *Resolved, etc.,* That section 343(b) of the Agricultural Adjustment Act of 1938, as amended (relating to the national allotment for cotton), is amended by adding at the end thereof the following new sentence: "The national allotment for any year (after 1939) shall be not less than 11,500,000 bales."

An amendment was offered, as follows:

> Amendment offered by Mr. [Butler B.] Hare [of South Carolina]: At the end of line 8 add the following: "*Provided,* That allotment of acreage to the various States be based upon the ratio of the number of cotton growers and their dependents in each State bears to the total number of such persons in the United States."

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

> MR. [MARVIN] JONES [of Texas]: Mr. Speaker, I desire to make a point of order against the amendment, that it is not germane. This resolution deals with section 343 of the Agricultural Adjustment Act, and this amendment has to do with section 344 of the State allotments.

The Speaker,[18] in sustaining the point of order, stated:

> . . . The Chair has considered the amendment offered by the gentleman from South Carolina and finds upon a careful reading of the amendment that it does not relate to the section of the act that the resolution under consideration seeks to amend and, therefore, cannot possibly be in order.[19]

Bill Affecting Amounts Available for Assistance to Producers of Certain Commodities—Amendment Modifying Portion of Law Addressing Requirements for Eligibility for Funds

§ 35.6 To a bill to amend a section of existing law with respect to amounts available for assistance to producers of certain commodities, an amendment to modify another section of that law with respect to substantive requirements for eligibility for funds under the law was held to be not germane.

In the 76th Congress, a bill[20] was under consideration to increase the credit resources of the Commodity Credit Corporation. The following amendment was offered:[1]

> Amendment offered by Mr. [Orville] Zimmerman [of Missouri]: At the end

18. William B. Bankhead (Ala.).

19. See the proceedings at 84 CONG. REC. 5911, 5912, 76th Cong. 1st Sess., May 22, 1939.

20. S. 3998 (Committee on Banking and Currency).

1. 86 CONG. REC. 9805, 76th Cong. 3d Sess., Aug. 1, 1940.

of line 7, strike out the period and insert a semicolon and add the following: *Provided,* That to obtain a loan on cotton, producer must furnish a certificate of grade and staple signed by a licensed classer whose license is issued by the United States Department of Agriculture.

Mr. Henry B. Steagall, of Alabama, made the point of order that the amendment was not germane to the bill. The Chairman,[2] sustaining the point of order, stated:

The bill now under consideration seeks to amend section 4, which deals with the amount only. The amendment offered by the gentleman from Missouri seeks to add a proposition which might be germane to the original act but which seems to the Chair not to be related to the section of the act here sought to be amended by the pending bill.

Surplus Agricultural Products for Needy—Amendment Providing for Food Stamp Plan

§ 35.7 To a bill to amend the act authorizing the Commodity Credit Corporation to make surplus agricultural products available for needy persons in the United States, an amendment providing a new and comprehensive food stamp plan for the distribution of surplus products was held to be germane.

In the 86th Congress, during consideration of a bill[3] to amend the Agricultural Trade Development and Assistance Act of 1954, an amendment was offered providing in part:[4]

Amendment offered by Mrs. Sullivan: . . . insert the following new section 14 . . . :

Sec. 14. Title III of the Agricultural Trade Development and Assistance Act of 1954, as amended, is further amended by adding at the end thereof the following new section:

"Sec. 306. (a) In order to promote the general welfare, raise the levels of health and of nourishment for persons whose incomes prevent them from enjoying adequate diets, and dispose in a beneficial manner of food commodities acquired by the Commodity Credit Corporation or the Department of Agriculture . . . the Secretary of Agriculture is hereby authorized to . . . put into operation . . . a program to distribute to needy persons in the United States through a food stamp system such surplus food commodities. . . ."

A point of order was raised against the amendment, as follows:[5]

MR. [CHARLES B.] HOEVEN [of Iowa]: Mr. Chairman, I make the point of order that the amendment is not germane to the extension of Public Law 480, as incorporated in the bill H.R. 8609.

The amendment proposes to establish a new distribution system within

2. Graham A. Barden (N.C.).

3. H.R. 8609 (Committee on Agriculture).

4. 105 CONG. REC. 16567, 16568, 86th Cong. 1st Sess., Aug. 20, 1959.

5. *Id.* at p. 16568.

the United States. H.R. 8609 contains no such provision to which this proposed amendment is germane.

In addition, the proposed amendment would suspend the operation of section 416 of the Agricultural Act of 1949, as amended, which is not before us.

The bill, H.R. 8609, contains only one reference to section 416, but this provision deals only with the labeling of surplus foods, not with the system of distributing these commodities. . . .

In defense of the amendment, the proponent, Mrs. Leonor Kretzer Sullivan, of Missouri, stated as follows:

. . . H.R. 8609 is a bill to amend the Agricultural Trade Development and Assistance Act of 1954. . . . The Agricultural Trade Development and Assistance Act of 1954 . . . contains provisions . . . authorizing domestic donations of surplus food to our own needy. This is contained in titles II and III of the law.

The bill before us amends title II and III in several respects. The bill before us furthermore contains language clearly applicable to the domestic distribution of surplus foods. . . .

I make one further point in contesting the point of order. Cannon's Precedents, volume VIII, section 2941, states:

An act continuing and reenacting an existing law is subject to amendment modifying the provisions of the law carried in the act. . . .

The Chairman[6] agreed with the contentions of Mrs. Sullivan and overruled the point of order, also citing the following statement of the Chair in a prior similar ruling:

The act which the bill proposes to amend and extend contains a provision relating to the subject matter and, as pointed out, is sufficiently broad and does cover the material offered in this amendment. . . .

Formula for State Participation in Food Stamp Program—Amendment Affecting Qualifications of Recipients

§ 35.8 To a bill authorizing funds for the food stamp program for the next fiscal year and changing the formula for state participation in the program, an amendment relating to the qualifications for recipients of aid under the program was held to be germane.

In the 90th Congress, during consideration of a bill[7] amending two sections of the Food Stamp Act of 1964, the following amendment was offered, affecting a third section:[8]

Amendment offered by Mr. [William F.] Ryan [of New York]: Add the following new section at the end of the bill:

6. Richard W. Bolling (Mo.).

7. H.R. 1318 (Committee on Agriculture).

8. 113 CONG. REC. 15159, 90th Cong. 1st Sess., June 8, 1967.

Sec. 3. Section 5 of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall issue regulations providing that—

"(1) families with very low money incomes may not be excluded from the program by minimum stamp purchase requirements which exceed their budgetary resources. . . .

"(3) families with very low money incomes may not be required to commit themselves to purchase stamps every month as a condition of participation in the program."

A point of order was raised against the amendment, as follows:[9]

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the purposes or objectives of this bill, that it does not amend any of the sections covered by this bill or the subject matter touched on by this bill.

This bill relates only to sections 15 and 16. The amendment offered by the gentleman from New York relates to section 5 of the Food Stamp Act.

The Chairman,[10] in ruling on the point of order, stated:

The bill, which has been amended, amends two sections of existing law.

The proposed amendment to add another section to the pending bill would amend a third section of existing law.

The Chair rules, therefore, that the amendment is germane.

9. *Id.* at p. 15162.

10. Phillip M. Landrum (Ga.).

Provisions Relating to Importation of Farm Workers—Penalties for Noncompliance With Provisions of Bill

§ 35.9 To a bill to amend the Agricultural Act of 1949 to authorize the Secretary of Labor to recruit and make certain provisions for agricultural workers from Mexico, an amendment providing, in one part, penalties for employing any Mexican alien not duly admitted "under the terms of this act or any other law" was held to be not germane.

In the 82d Congress, a bill[11] was under consideration which provided in part as follows:[12]

Be it enacted, etc., That the Agricultural Act of 1949 is amended by adding at the end thereof a new title to read as follows:

TITLE V—AGRICULTURAL WORKERS

Sec. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico), the Secretary of Labor is authorized—

11. H.R. 3283 (Committee on Agriculture).

12. See 97 CONG. REC. 7168, 82d Cong. 1st Sess., June 26, 1951.

(1) to recruit such workers . . .

(2) to establish . . . reception centers at or near the places of actual entry of such workers into the continental United States. . . .

(3) to provide transportation for such workers. . . .

The following amendment was offered:[13]

Amendment offered by Mr. Polk in the nature of a substitute for H.R. 3283: That the Agriculture Act of 1949 is amended by adding at the end thereof a new title to read as follows:

TITLE V—AGRICULTURAL WORKERS

Sec. 509. Any person who shall employ any Mexican alien . . . not lawfully entitled to enter . . . the United States under the terms of this act or any other law relating to the immigration or expulsion of aliens when such person . . . has reasonable grounds to believe . . . that such alien is not lawfully within the United States . . . shall be guilty of a felony. . . .

A point of order was raised against the amendment, as follows:[14]

MR. [HARRIS] ELLSWORTH [of Oregon]: . . . Section 509 of the proposed substitute deals only with the matter of finding information as to the illegal entry of alien Mexicans into the United States, and imposes a penalty for failure to supply information concerning such illegal entry. That is the sole purpose and the sole effect of this section 509. It does not refer to the employment of farm labor, and it does not go to the purpose of the bill.

Mr. Harold D. Cooley, of North Carolina, in support of the point of order, stated:[15]

Mr. Chairman, I would like to call attention to the fact that if section 509 had been introduced as a separate bill, it would not even have been referred to the Committee on Agriculture. It would have gone to the Immigration Committee.

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

MR. [JAMES G.] POLK [of Ohio]: Mr. Chairman, I call attention to the fact that this bill amends the Social Security Act, and I am speaking now on the bill before the House, H.R. 3283. It also amends the Immigration Act of 1917, and I refer to lines 7, 8, 9, and 10, on page 5. It amends the Internal Revenue Code, and I refer to lines 2, 3 and 4, at the top of page 5. In other words, in several instances the bill which is before the House amends other Federal statutes.

The Chairman,[16] in ruling on the point of order, stated:

As the Chair understands the rule of germaneness, its purpose is to provide for and protect the orderly procedure in the Committee of the Whole and in the House. It is to protect the legislative processes, to protect the membership from hasty, ill-considered, and extraneous subject matter being offered to the proposition under consideration. An amendment, to be germane to a bill under consideration, must be akin to and relative to the subject matter of

13. *Id.* at p. 7169.

14. *Id.* at pp. 7169, 7170.

15. *Id.* at p. 7170.

16. Albert A. Gore (Tenn.).

the bill. The Chair does not feel that the provision of a penalty or the provision for civil relief from a law seeking to be enacted would be a matter unakin or unrelated to the bill. However, there is specific matter in the amendment, to wit, "or any other law relating to the immigration [or] expulsion of aliens" which is to be found in section 509 to which specific objection was made. The Chair has examined the bill before the Committee and is unable to find reference to any other law relating to the immigration or expulsion of aliens.

Therefore, because of the references just cited, the Chair sustains the point of order.[17]

§ 35.10 To a proposition relating to the recruitment of farm laborers from Mexico, an amendment imposing penalties on any person employing Mexican labor not lawfully entitled to enter "under the terms of this act" was held to be germane.

In the 82d Congress, during consideration of a proposition relating to the recruitment of farm laborers from Mexico,[18] the following amendment was offered:[19]

> Amendment offered by Mr. Celler to the amendment offered by Mr. Polk: Add a new section as follows:
>
> Sec. —. Any person who shall employ as a farm laborer any Mexican alien . . . not lawfully entitled to enter . . . the United States under the terms of this act, when such person . . . has reasonable grounds to believe . . . that such alien farm laborer is not lawfully within the United States . . . shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding $1,000, or by imprisonment. . . .

Mr. Harold D. Cooley, of North Carolina, made the point of order that the amendment was not germane to the amendment under consideration. Mr. Emanuel Celler, of New York, in support of his amendment, stated:[20]

> . . . This is a bill concerning the operations of alien labor, what they shall do and what they shall not do, under the terms and conditions that they may or may not come over the border, and my amendment certainly is consistent with the purposes and aims of the bill in general. A penalty for violation of the terms laid down is germane.

The Chairman,[1] in ruling on the point of order, stated:

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17. See § 35.10, infra, for discussion of a similar amendment held to be germane because more narrowly worded.

18. Under consideration was H.R. 3283 (Committee on Agriculture) and an amendment thereto offered by Mr. James G. Polk (Ohio) at 97 CONG. REC. 7171, 82d Cong. 1st Sess., June 26, 1951.

For related proceedings and a description of the bill, see § 35.9, supra.

19. 97 CONG. REC. 7174, 82d Cong. 1st Sess., June 26, 1951.

20. *Id.* at p. 7175.

1. Albert A. Gore (Tenn.).

The Committee has before it a bill to which the gentleman from Ohio has offered an amendment, to which, in turn, the gentleman from New York has offered an amendment providing specific penalties for violation of the provisions of the bill when written into law. The rule of germaneness has been interpreted rather narrowly, but the Chair does not feel that it can declare or hold that the provision of a penalty for the violation of the provisions of the bill is new subject matter or unrelated subject matter.

Therefore, the point of order is overruled.[2]

—*Amendment Relating to Detention of Aliens and Affecting Prior Appropriations*

§ 35.11 To a bill amending the Agricultural Act of 1949 to permit importation of Mexican agricultural workers, an amendment relating to the detention of Mexican aliens generally in the United States and providing that prior appropriations be available to carry out the purposes of the provision was held to be not germane.

In the 82d Congress, during consideration of a bill[3] relating to importation of Mexican agricultural workers, the following amendment was offered:[4]

Amendment offered by Mr. [Emanuel] Celler [of New York]: Add a new section:

Sec. 512. Notwithstanding any other provision of law to the contrary and without regard to section 3709 of the revised statutes, the Attorney General is authorized to purchase, construct . . . and maintain . . . such detention facilities as may be necessary for the apprehension and removal to Mexico of Mexican aliens illegally in the United States. Appropriations made to the Immigration and Naturalization Service shall be available for expenditures to carry out the purposes of this act.

A point of order was raised against the amendment, as follows:[5]

MR. [HAROLD D.] COOLEY [of North Carolina]: [The amendment] broadens the scope of the legislation under consideration. It is not germane, and it actually constitutes an appropriation.

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

. . . As the Chair understands the bill before the committee, H.R. 3283, it applies to certain Mexican aliens as a class and as described in the bill. The amendment offered by the gentleman from New York broadens the group to include Mexican aliens illegally in the United States, beyond the class de-

2. See § 35.9, supra, for discussion of a similar but more broadly worded amendment which was held not to be germane.

3. H.R. 3283 (Committee on Agriculture). See § 35.9, supra, for further discussion of the bill.

4. 97 CONG. REC. 7274, 82d Cong. 1st Sess., June 27, 1951.

5. *Id.* at p. 7275.

6. Albert A. Gore (Tenn.).

scribed in the bill. The amendment also proposes to appropriate funds for a certain purpose described in the amendment.

For these two reasons, the Chair is constrained to sustain the point of order.

—Amendment Affecting Labor Standards Under Different Act

§ 35.12 To a bill amending the Agricultural Act of 1949 to permit importation of Mexican agricultural workers, an amendment providing that notwithstanding the provisions of the Fair Labor Standards Act, "the Secretary of Labor is empowered to authorize . . . the employment in agriculture of employees under the age of 16 years," was held to be not germane.

In the 82d Congress, during consideration of a bill[7] relating to importation of Mexican agricultural workers, an amendment was offered[8] as described above. A point of order was raised against the amendment, as follows:[9]

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . The amendment is obviously not in order, since the author of the amendment clearly indicates it is an effort to amend the Fair Labor Standards Act, which is not before the House at this time at all.

Mr. Eugene J. McCarthy, of Minnesota, in support of the amendment, stated:

Mr. Chairman, I would suggest that there is an amendment to the Fair Labor Standards Act already in the bill, and it would seem to me another amendment to the same effect would not constitute a serious obstacle.

The Chairman,[10] in ruling on the point of order, stated:

The bill H.R. 3283 refers to a certain class of Mexican nationals, as described in the bill. The amendment offered by the gentleman from Texas does not relate to this group described in the bill, but to an entirely different group of individuals—American citizens and residents of the United States. The amendment therefore is beyond the purview of the bill H.R. 3283, and the Chair sustains the point of order.

Common Carrier Rates for Manufactured Products—Amendment Relating to Rates for Farm Commodities

§ 35.13 To a bill to amend the Interstate Commerce Act with respect to those provisions making it unlawful for a common carrier to give un-

7. H.R. 3283 (Committee on Agriculture). See § 35.9, supra, for further discussion of the bill.
8. See 97 CONG. REC. 7275, 82d Cong. 1st Sess., June 27, 1951.
9. *Id.* at p. 7276.
10. Wilbur D. Mills (Ark.).

reasonable preferences and authorizing the Interstate Commerce Commission to investigate rates for manufactured products, an amendment relating to rates for farm commodities and authorizing the Commission to investigate such rates was held to be germane.

In the 76th Congress, a bill[11] was under consideration amending the Interstate Commerce Act. The bill stated in part:[12]

> Sec. 6. (a) Paragraph (1) of section 3 of the Interstate Commerce Act, as amended, is amended to read as follows:
>
> (1) It shall be unlawful for any common carrier . . . to . . . give . . . any undue or unreasonable preference or advantage to any particular person, company, firm, corporation . . . district, territory, or any particular description of traffic, in any respect whatsoever. . . .
>
> (b) The Interstate Commerce Commission is authorized and directed to institute an investigation into (certain) rates on manufactured products. . . .

The following amendment was offered:[13]

> Amendment offered by Mr. Jones of Texas: On page 202, line 12, after the word "ever", strike out the quotation marks; and, after line 12, add the following:
>
> (1a) It is hereby declared to be the policy of Congress that shippers of wheat, cotton, and other farm commodities for export should have substantially the same advantage of reduced rates as compared to shippers of such commodities not for export that are in effect in the case of shipment of industrial products for export as compared with shipments of industrial products not for export, and the Interstate Commerce Commission is hereby directed to institute such investigations, to conduct such hearings, and to issue orders making such revision of rates as may be necessary for the purpose of carrying out such policy.

Mr. Alfred L. Bulwinkle, of North Carolina, raised the point of order that the amendment was not germane to the section of the bill to which offered, and contended that the language to which the amendment was directed was that referring to investigation of rates on manufactured products.[14] Mr. Marvin Jones, of Texas, in responding to the point of order made by Mr. Bulwinkle, pointed out that paragraph (1), to which the amendment was actually directed, related to "all kinds of discrimination in freight rates." The Chairman[15] overruled the point of order.

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11. S. 2009 (Committee on Interstate and Foreign Commerce).

12. See 84 CONG. REC. 9868, 76th Cong. 1st Sess., July 24, 1939.

13. *Id.* at pp. 9868, 9869.

14. *Id.* at p. 9869.

15. R. Ewing Thomason (Tex.).

Free Importation of Commodity—Amendment To Increase Domestic Supply of Commodity by Action of National Production Authority

§ 35.14 To a bill proposing to amend the Tariff Act of 1930 to provide for the free importation of twine used for baling hay, straw and the like, an amendment proposing an increase in the domestic supply of baling twine through allocation by the National Production Authority was held to be not germane.

In the 82d Congress, during consideration of a bill[16] providing as described above, the following amendment was offered:[17]

> Amendment offered by Mr. Edwin Arthur Hall: Page 1, line 7, insert a new section as follows:
>
> The National Production Authority shall take all steps possible to allocate from domestic supplies enough baling twine to meet the needs of American farmers not only for the 1951 purpose but for all subsequent emergencies.

Mr. Jere Cooper, of Tennessee, made the point of order that the amendment was not germane to the bill. In defense of the amendment, the proponent stated as follows:

> MR. EDWIN ARTHUR HALL [of New York]: Mr. Chairman, we are here to try to get baling twine for the farmers of the country. . . . [T]his amendment should be submitted to a vote since it is an honest effort to accomplish the objective which we are all here to try to accomplish.

The Chairman,[18] in ruling on the point of order, stated:

> The gentleman from New York offers an amendment that has for its purpose apparently an increase in the domestic supply of baling twine. The pending legislation is an amendment to the Tariff Act of 1930. It appears from an examination of the gentleman's amendment that it goes far beyond the scope of the bill, in that it applies to different legislation; therefore the Chair sustains the point of order.

Notice to Congress of Curtailment of Agricultural Exports—Payments to Farmers Affected

§ 35.15 To a section requiring notice to Congress of curtailment of export of agricultural commodities, contained in a title of a bill reported from the Committee on International Relations extending and amending the Export Administration Act, an amendment requiring domestic

16. H.R. 1005 (Committee on Ways and Means).

17. 97 CONG. REC. 11281, 82d Cong. 1st Sess., Sept. 13, 1951.

18. Brooks Hays (Ark.).

payments to farmers having in storage commodities for which exports have been suspended was held not germane as beyond the scope and subject matter of the section or title.

On Apr. 20, 1977,[19] during consideration of H.R. 5840[20] in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

> Sec. 105. Section 4(f) of the Export Administration Act of 1969, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new paragraph:
>
> "(3) If the authority conferred by this section is exercised to prohibit or curtail the exportation of any agricultural commodity in order to effectuate the policies set forth in clause (B) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. . . .
>
> MR. [KEITH G.] SEBELIUS [of Kansas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Sebelius: Page 8 after line 21, insert the following:
>
> "(4)(A) Notwithstanding any provision of law, whenever the President of the United States or any other member of the executive branch of the Federal Government suspends or causes a suspension of export sales of corn, wheat, soybeans, grain sorghum, or cotton, the Secretary of Agriculture shall make payments described in subsection (B) and (C) to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended; except that no such payments may be made with regard to any such commodity unless, at the close of the calendar month preceding the calendar month in which the suspension is initiated, the price received by producers of such commodity was less than the parity price.
>
> "(B) The first payment described in subsection (A) shall become payable at the initiation of the suspension of export sales of the commodity concerned. Such payment shall be made at a rate of 10 per centum of the parity price per bushel or bale of the commodity concerned which was produced by the farm owner or operator and which is held in storage by him at the time of the initiation of the suspension. . . .

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, apparently the amendment the gentleman from Kansas (Mr. Sebelius) has presented is a parity amendment pending in the part of the bill before the Agriculture Committee.

MR. SEBELIUS: That is right.

MR. ZABLOCKI: It is not germane to section 105, which deals solely with existing authority of the President to

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19. 123 CONG. REC. 11437, 11440, 11441, 95th Cong. 1st Sess.

20. The Export Administration Amendments of 1977.

limit export controls for foreign policy purposes under the Export Administration Act.

Second, the amendment gives the President new authority where export controls are imposed for new purposes under a new act.

And, third, this new authority deals solely with domestic matters which are within the jurisdiction of another country.

As I said, it is a parity amendment.

Lastly, this is a farm subsidy issue, not an issue of foreign affairs.

This bill does not deal with agricultural parity, it does not deal with support controls.

Therefore, Mr. Chairman, I submit that the amendment is not in order. . . .

THE CHAIRMAN:[1] The Chair is ready to rule.

H.R. 5840 is a bill to amend the Export Administration Act of 1969 in order to extend the authorities of that act, improve the administration of export controls under that act, and to strengthen the antiboycott provisions of that act.

Section 105 of the bill as amended amends the procedure by which the Secretary of Commerce can notify the Congress of the exercise of authority curtailing exports of agricultural products. It thereafter gives the Congress a certain period of time within which to disapprove if it so chooses.

The amendment offered by the gentleman from Kansas (Mr. Sebelius) goes beyond the purview of the title and the section to which offered, in that it would require payments by the Secretary of Agriculture to any farmowner or operator who has in storage at the beginning of the suspension any amount of the commodity for which export sales have been suspended.

For the reasons stated by the Chair and the reasons given by the gentleman from Wisconsin, the point of order is sustained.

1. Frank E. Evans (Colo.).

Size of Specified Container Under Standard Container Act—Amendment Delegating Authority to Secretary of Agriculture to Regulate Various Container Sizes

§ 35.16 To a bill amending the Standard Container Act only to provide for one additional size of container, an amendment inserting in the act a new section delegating to the Secretary of Agriculture authority to regulate the size of certain containers was held not germane.

In the 83d Congress, a bill[2] was under consideration to amend the Standard Container Act of 1928. The bill stated in part:[3]

> (bb) The standard three-eighths bushel hamper or round-stave basket shall contain eight hundred and six and four-tenths cubic inches.

2. H.R. 8357 (Committee on Interstate and Foreign Commerce).

3. See 100 CONG. REC. 6408, 83d Cong. 2d Sess., May 11, 1954.

An amendment was offered[4] which stated in part:

> Sec. 3. Whenever in his judgment such action is advisable . . . the Secretary of Agriculture may by regulations—
>
> (1) provide for standard hampers and round stave baskets for fruits and vegetables. . . .

Mr. Joseph P. O'Hara, of Minnesota, made the point of order that the amendment was not germane, stating,[5] "[I]t involves an attempt to change the Constitution of the United States in delegating authority to the Secretary of Agriculture. . . ." Mr. Peter F. Mack, Jr., of Illinois, the proponent of the amendment, stated:

> . . . I believe this amendment merely delegates authority for administration to the Secretary of Agriculture. The Secretary of Agriculture already has, by reason of the act of 1928, authority to establish allowances for various containers. I believe that this amendment merely gives him additional authority to establish containers in addition to the ones already provided for.

The Chairman[6] sustained the point of order, citing the rule that:

> Where a bill proposes to amend a law in one particular . . . amendments seeking to repeal the law or relating to the terms of the law rather than to the bill are not germane.

4. *Id.* at pp. 6408, 6409.
5. *Id.* at p. 6409.
6. Timothy P. Sheehan (Ill.).

Bill To Extend Price Control Act—Amendment To Exempt Livestock Products

§ 35.17 To a bill to extend the Price Control Act, an amendment providing that notwithstanding any provisions of the act no regulation, directive, or allocation should be issued or maintained with respect to livestock or any edible product processed from livestock was held germane.

In the 79th Congress, during consideration of the Emergency Price Control Act,[7] the following amendment was offered:[8]

> Amendment offered by Mr. [James W.] Wadsworth [Jr., of New York]: On page 4, after line 25, add a new section to read as follows:
>
> Sec. 4. Section 2 of the Emergency Price Control Act of 1942, as amended, is amended by inserting at the end of such section a new subsection as follows:
>
> "(p) Notwithstanding any provisions of this act no regulation, order, directive, or allocation shall be issued, made, or maintained (including directives for distribution or price schedules) with respect to livestock or any edible product processed in whole or substantial part from livestock."

7. H.R. 6042 (Committee on Banking and Currency).
8. 92 CONG. REC. 3909, 79th Cong. 2d Sess., Apr. 17, 1946.

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

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it goes beyond the scope of the bill and is not germane to either the section or the bill.

The Chairman,[9] in ruling on the point of order, stated:

> . . . The Chair invites attention to the fact that the amendment is confined to the Emergency Price Control Act of 1942 which is sought here to be amended, and the Chair is of the opinion that the amendment is germane.

Section of Price Control Act Extension Relating to Meat Subsidies—Amendment To Eliminate Livestock and Meat Subsidies

§ 35.18 To a section of the Emergency Price Control Act relating to subsidies for meat and other commodities, an amendment seeking to eliminate livestock and meat subsidies was held germane.

The following proceedings in the 79th Congress,[10] during consideration of the Emergency Price Control Act,[11] concerned the germaneness of an amendment offered by Mr. John W. Flannagan, Jr., of Virginia:

> Amendment offered by Mr. Flannagan:
>
> 1. Amend section 5, page 6, line 20, by striking out "meat, $715,000,000."
>
> 2. Amend section 5, page 8, line 2, by inserting a colon in lieu of the period at the end of the sentence and adding the following: "*Provided further*, That no funds . . . shall be used after June 30, 1946, to continue any existing program or to institute any new program for the payment of subsidies on livestock or meat derived from livestock . . . *And provided further*, That in order to prevent the reduction of livestock prices upon the elimination of such livestock and meat subsidy payments, the Administrator shall make corresponding increases in maximum prices of livestock, meat, and meat products. . . ."

> MR. [FRANK E.] HOOK [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground, first, that it is not germane to the bill, and, second, that it goes far beyond the authorization and scope of this bill. The bill only provides for the extension of the Office of Price Administration and Stabilization and this takes in many other acts and agencies. . . .
>
> MR. FLANNAGAN: The only purpose this amendment would accomplish would be to eliminate entirely meat subsidies.
>
> THE CHAIRMAN:[12] . . . The section relates to the question of subsidies. The amendment offered by the gentleman from Virginia (Mr. Flannagan)

9. Jere Cooper (Tenn.).

10. 92 CONG. REC. 3904, 79th Cong. 2d Sess., Apr. 17, 1946.

11. H.R. 6042 (Committee on Banking and Currency).

12. Jere Cooper (Tenn.).

likewise relates to the question of subsidies. The Chair believes the amendment is germane and overrules the point of order.

Amendment Modifying Definition of "Agriculture" in Fair Labor Standards Act

§ 35.19 To a substitute modifying the definition of the term "agriculture" in the Fair Labor Standards Act of 1938 to include the processing of tobacco, and containing diverse other amendments to that Act, an amendment adding to that definition transportation of fruit and vegetables and transportation of persons employed in harvesting such commodities was held to be germane.

In the 87th Congress, a bill (13) was under consideration to amend the Fair Labor Standards Act of 1938 and to establish a new minimum wage. The following amendment was offered to the bill: (14)

> Amendment offered by Mr. [William H.] Ayres [of Ohio]: Strike out all after the enacting clause and insert the following: "That this Act may be cited as the 'Fair Labor Standards Amendments of 1961.'"
>
> DEFINITIONS
>
> Sec. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended)," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco, which processing shall include, but shall not be limited to, drying, curing . . . and bailing, prior to the stemming process,".
>
> (b) Paragraph (m) of section 3 of such Act, defining the term "wage", is amended by inserting before the period at the end thereof a colon and the following: "*Provided*, That the cost of board, lodging or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide individual contract or collective bargaining agreement applicable to the particular employee".
>
> (c) Section 3 of such Act is further amended by adding at the end thereof the following new paragraphs: . . .
>
> "(q) 'Enterprise' means the related activities performed (either through unified operation or common control) by any person or persons for a common retail business purpose . . .
>
> "(r) 'Enterprise engaged in commerce or in the production of goods for commerce' means any enterprise which has five or more retail establishments and which operates such establishment in two or more States.
>
> "(s) 'Retail establishment' shall mean an establishment 75 per centum of whose annual dollar volume of sales of goods is not for resale and is recognized as retail sales in the particular industry. . . ."
>
> Sec. 3. Section 4 of such Act is amended by adding at the end thereof the following new subsection:

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13. H.R. 3935 (Committee on Education and Labor).

14. 107 CONG. REC. 4797, 87th Cong. 1st Sess., Mar. 24, 1961. See also § 42.7, infra, for discussion of this ruling.

"(e) Whenever the Secretary has reason to believe that in any industry under this Act the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter and shall make a full and complete report of his findings and determinations to the President and to the Congress.". . .

Sec. 11. The Secretary of Labor shall study the complicated system of exemptions now available for the handling and processing of agricultural products under such Act and particularly sections 7(b)(3), 7(c), and 13(a)(10), and shall submit to the second session of the Eighty-seventh Congress at the time of his report under section 4(d) of such Act a special report containing the results of such study and information, data, and recommendations for further legislation designed to simplify and remove the inequities in the application of such exemptions.

Subsequently, the following amendment was offered:[15]

Amendment offered by Mr. [Albert S.] Herlong [Jr.], of Florida, to the amendment offered by Mr. Ayres, of Ohio:

Page 2, line 5, strike out the period and add the following: "and in the case of fruits and vegetables includes transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity."

Mr. Roman C. Pucinski, of Illinois, made a point of order against the Herlong amendment on the ground that it was not germane. In support of the point of order, Mr. James G. O'Hara, of Michigan, stated:

The amendment offered by the gentleman from Florida attempts to amend not the act before us, but Public Law 78, under which migrant labor is brought into the country, and the other act of Congress under which the U.S. Employment Service is established.

An exemption already exists under the Fair Labor Standards Act, exempting agricultural labor from the application of the Fair Labor Standards Act, and this is an attempt to amend not the Fair Labor Standards Act, but other acts passed by various Congresses.

The Chairman,[16] in ruling on the point of order, stated:

This is unquestionably an amendment to the Fair Labor Standards Act. It specifically refers to the Fair Labor Standards Act.

The Chair overrules the point of order.

Bill Broadly Amending National Labor Relations Act—Amendment Providing for Injunctions Against Violation of No-strike Agreements

§ 35.20 To a bill amending several sections of the National

15. *Id.* at p. 4806.

16. Francis E. Walter (Pa.).

Labor Relations Act dealing with procedures and remedies as to labor elections, organization and activities both during and after the initial stage of labor organization, an amendment adding a new section to amend a section of the law, already amended by the bill, to afford a judicial remedy to enjoin violation of no-strike agreements between employers and labor organizations, was held germane.

On Oct. 6, 1977,[17] during consideration of H.R. 8410[18] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

THE CHAIRMAN:[19] Are there amendments to section 10 of the bill?

If not, the Clerk will read.

The Clerk read as follows:

Sec. 11. Section 10(m) is amended by inserting "under circumstances not subject to section 10(l)," after "section 8."

AMENDMENT OFFERED BY MR. ERLENBORN

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: Page 28, after line 5, insert the following new section 12, and renumber the subsequent section accordingly:

Sec. 12. Section 10 of the National Labor Relations Act, as amended, is amended by adding at the end thereof the following new subsection:

"(n) Where there exists an agreement between an employer and a labor organization, whether express or implied, not to strike, picket or lockout, a party to the agreement, or the Board if it finds that the public interest would be served thereby, shall have the power to petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where either or both of the parties reside or transact business, for such temporary injunctive relief or restraining order as is necessary to prevent any person from engaging in, or inducing or encouraging any employee of the employer to engage in, conduct in breach of such agreement, irrespective of the nature of the dispute underlying such strike, picket or lockout, and such court shall have jurisdiction to grant to such party or the Board such temporary injunctive relief or restraining order as it deems just and proper."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, this amendment amends the Norris-LaGuardia Act of 1932 prohibiting Federal courts from issuing injunctions in labor disputes.

It also amends title II, the National emergency dispute provision of the Labor Management Relations Act of 1947. It eliminates the 80-day cooling-off period provided in title II. It re-

17. 123 CONG. REC. 32609, 95th Cong. 1st Sess.

18. The Labor Reform Act of 1977.

19. William H. Natcher (Ky.).

writes the definition of what constitutes an emergency to be any situation in which "the public interest would be served." H.R. 8410 is limited to the subject of remedies and procedures relating to the right of employees to organize and bargain collectively. Amendments to Norris-LaGuardia and Taft-Hartley are not germane. . . .

MR. ERLENBORN: . . . My amendment, as I think the Chair is aware, amends section 10 of the National Labor Relations Act. Section 10 is amended in the bill before us.

This amendment would add section 10(n) to that act. It is remedial, it is procedural, and it is consonant with the bill before us as reported by the committee.

Mr. Chairman, I think it is clearly a remedial, procedural amendment to a section of the act which has been amended by the committee bill and is in order under all of the previous rulings of the Chair.

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from Illinois [Mr. Erlenborn] adds a new section to the bill. The bill as a whole does not deal exclusively with the period of initial organizational activity as it relates to remedies. Certain remedies in the bill go to post-organizational conduct. The amendment adds a new remedy.

In the opinion of the Chair, the amendment is germane to the bill as a whole and the point of order is overruled.

Bill Amending One Section of Labor-Management Relations Act—Amendment Affecting Entire Act

§ 35.21 To a bill amending a section of the Labor-Management Relations Act to permit employer contributions for joint industry promotion of products within the construction industry, an amendment applicable in scope to all industries covered by the act and relating to funds established for political education was held to be not germane.

In the 90th Congress, during consideration of a bill[20] amending the Labor-Management Relations Act of 1947, the following amendment was offered:[1]

> Amendment offered by Mr. [Marvin L.] Esch [of Michigan]: On page 3, line 17, before the period, insert the following:
>
> *Provided further,* That nothing in the Labor-Management Relations Act, 1947, as amended, shall be construed to make unlawful or to prohibit an employer from participating in the joint administration of funds established by a labor organization for purposes of political education.

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20. H.R. 15198 (Committee on Education and Labor).

1. 114 CONG. REC. 23403, 90th Cong. 2d Sess., July 25, 1968.

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

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment on the ground it is not germane. It would establish the joint administration of funds for political purposes, a subject not mentioned in the subject matter of the legislation before us.

The Chairman,[2] in ruling on the point of order, stated:

The bill under consideration amends only section 302(c) of the act, whereas the proposed amendment attempts to amend the entire act and brings in new matter that is not covered in section 302(c) or in the bill.

The Chair rules that the amendment is not germane, and sustains the point of order.

Negotiation of Labor Disputes—Amendment To Empower President To Seize Plants Threatened With Work Stoppages

§ 35.22 To a bill extending and amending a law that provided for settlement of labor disputes primarily through negotiation between the parties to such disputes, an amendment to empower the President to take possession of plants threatened with work stoppages that are considered to endanger the national defense was held not germane.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,[3] the following amendment was offered:[4]

Amendment offered by Mr. [Richard W.] Bolling [of Missouri]: On page 3, line 15, insert the following section:

Sec. 103: Title II of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new section:

"Sec. 202. (a) Whenever the President . . . acting upon the written recommendation of the National Security Council, shall find that the national defense is endangered by a stoppage of production or a threatened stoppage of production in any one or more plants, mines, or facilities, as a result of the present management-labor dispute in the steel industry, the President is . . . authorized to take possession of and to operate such plants, mines, or facilities. . . ."

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

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make the point of order that the amendment is out of order on the ground that it is not germane to this section or to this bill; that it is affirmative legislation not within the purview of the jurisdic-

2. Neal Smith (Iowa).

3. H.R. 8210 (Committee on Banking and Currency).

4. 98 CONG. REC. 7654, 82d Cong. 2d Sess., June 19, 1952.

tion covered by the language of this act.

The Chairman,[5] in ruling on the point of order, stated:[6]

> The Chair has had an opportunity to study the amendment offered by the gentleman from Missouri [Mr. Bolling] and it is the opinion of the Chair that the amendment proposes to make basic changes in our labor legislation. The amendment proposes further to amend title II of the Defense Production Act of 1950, which is the authority to requisition property. The amendment goes beyond . . . the mere requisition of property and . . . proposes to make changes in our labor laws.
>
> In view of the fact that it goes beyond the scope of title II of the Defense Production Act of 1950, the Chair is constrained to sustain the point of order. . . .

Bill To Permit Common Situs Picketing—Amendment Relating to Another Section of Law Providing Remedies for Unfair Practices

§ 35.23 Where it is proposed to amend existing law in one particular, an amendment to further amend the law in another respect unrelated to the bill is not germane; thus, to a narrowly drafted bill designed to amend section 8 of the National Labor Relations Act, dealing with unfair labor practices, to permit common situs picketing under certain circumstances, an amendment further qualifying the right to so picket and providing a civil remedy for persons injured by illegal pickets was ruled out as not germane, being beyond the scope of the bill, since the law itself provided remedies for unfair labor practices in another section and the bill was not sufficiently broad to admit as germane amendments relating to that section.

During consideration of H.R. 5900 in the Committee of the Whole on July 25, 1975,[7] the Chair sustained a point of order in the circumstances described above. The section of the bill pending and the amendment offered thereto were as follows:

> The Clerk read as follows:
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 8(b)(4) of the National Labor Relations Act, as amended, is amended by inserting before the semicolon at the end thereof "; *Provided further,* That nothing contained in clause (B) of this paragraph (4) shall be construed to prohibit any strike or refusal to

5. Wilbur D. Mills (Ark.).

6. 98 CONG. REC. 7655, 82d Cong. 2d Sess., June 19, 1952.

7. 121 CONG. REC. 24819, 24841, 94th Cong. 1st Sess.

perform services or any inducement of any individual employed by any person to strike or refuse to perform services at the site of the construction, alteration, painting, or repair of a building, structure, or other work and directed at any of several employers who are in the construction industry and are jointly engaged as joint venturers or in the relationship of contractors and subcontractors in such construction, alteration, painting, or repair at such site, and there is a labor dispute, not unlawful under this Act or in violation of an existing collective-bargaining contract, relating to the wages, hours, or other working conditions of employees employed at such site by any of such employers and the issues in the dispute do not involve a labor organization which is representing the employees of an employer at the site who is not engaged primarily in the construction industry; *Provided further*, Except as provided in the above proviso nothing herein shall be construed to permit any act or conduct which was or may have been an unfair labor practice under this subsection; *Provided further*, That nothing in the above provisos shall be construed to prohibit any act which was not an unfair labor practice under the provisions of this subsection existing prior to the enactment of such provisos: *Provided further*, that nothing in the above provisos shall be construed to authorize picketing, threatening to picket, or causing to be picketed, any employer where an object thereof is the removal or exclusion from the site of any employee on the ground of sex, race, creed, color, or national origin. . . .

MR. [W. HENSEN] MOORE [of Louisiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moore: Page 5, line 3, immediately after "proviso;" add the following: "*Provided further*, That nothing in the above provisos shall be construed to permit picketing of an employer who is not a party to a dispute over an economic matter in cases when picketing is conducted in a manner that would cause that employer's employees to cease work and the employees of that employer have a lower wage scale than that of the aggrieved labor organization; and any employee who ceases work because of a violation of this proviso may bring a civil action against the labor organization in any United States district court of competent jurisdiction to recover the wages lost as a result of such violation, and the court shall award costs and reasonable attorneys' fees to the prevailing plaintiff.". . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . I make the point of order that the amendment offered by the gentleman from Louisiana (Mr. Moore) is not germane to the purposes of the bill before us.

The bill before us is a very narrowly drawn piece of legislation that affects only 8(b)(4)(B) of the act. It affects only the question of construction workers picketing a construction site, and it goes very narrowly to that point.

On the other hand, the amendment offered by the gentleman from Louisiana (Mr. Moore) goes ahead and sets up a cause of action against labor organizations in Federal district courts, recovering lost wages and so forth.

It might be a germane provision to the National Labor Relations Act, but it is not a germane amendment to this particular section of the act or to the bill that is now before us. . . .

MR. MOORE: Mr. Chairman, I oppose the point of order on the ground that

this bill takes away this power under the appropriate section of this act. All this does is exempt this proviso of this particular action as it applies to these particular employees, and this exemption to such a provision in this bill is germane. The fact that it gives the right of civil action means nothing more than to strengthen the abilities of this particular proviso. Therefore, Mr. Chairman, I submit that it is indeed very much germane.

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

The gentleman from Michigan (Mr. O'Hara) makes the point of order that the amendment offered by the gentleman from Louisiana (Mr. Moore) is not germane.

The gentleman from Louisiana (Mr. Moore) has been kind enough to submit a copy of his amendment in advance, and the Chair has had the opportunity to study the amendment and to read the report of the committee, and the bill.

The Chair would state that the fundamental purpose of the bill is to permit under certain conditions situs strikes which are, as the result of a Supreme Court decision, considered to be unfair labor practices under section 8(b) of the National Labor Relations Act.

The Chair notes that the amendment provides a civil remedy for violation of the provisions of the amendment. The act itself, in another section, provides remedies for unfair labor practices. The remedy proposed here might be germane to that section of the act containing such remedies, however that section of the act is not before the Committee, and the specific amendment to section 8(b)(4) of the act contained in this bill is not such an inclusive amendment to existing law as to open the entire act to amendment under the precedents of the House.

The Chair therefore finds that the provision for civil remedies for unfair labor practices is not germane to the portion of the act defining those practices, and sustains the point of order.

Requirement of Certification of Elections Involving Labor Unions—Amendment Containing Additional Circumstances in Which Certification Required

§ 35.24 While an amendment narrowly amending one portion of existing law does not necessarily open up the entire law to amendment, such an amendment may be amended by adding exceptions and definitions modifying its effect on that portion of law if related to the same subject; thus, to an amendment amending sec. 10(e) of the National Labor Relations Act to require NLRB certifications of employee elections of unions as exclusive bargaining agents only where there has been a secret ballot, a substitute amendment containing the same requirement with ex-

8. William H. Natcher (Ky.).

ceptions where an employer has been shown to have undermined the election or is otherwise estopped from challenging the election was held germane as a restatement of the original amendment with related exceptions.

During consideration of H.R. 8410[9] in the Committee of the Whole on Oct. 6, 1977,[10] the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

THE CHAIRMAN:[11] If there are no additional amendments to section 8, the Clerk will read.

The Clerk read as follows:

Sec. 9. (a) The third sentence of subsection 10(e) is amended by inserting immediately before the period at the end therof a comma and the following: "nor shall any objection be considered by the court unless a petition for review pursuant to subsection (f) of this section has been timely filed by the party stating the objection". . . .

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

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Amend Section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of Section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with Section 9(c).". . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan as a substitute for the amendment offered by Mr. Ashbrook: Amend section 9 by renumbering subsection (b) thereof as (c) and inserting the following new subsection 9(b):

"(b) The fourth sentence of section 10(e) is amended to read as follows:

"The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive: *Provided*, That no finding of the Board that a representative is the exclusive representative of the employees in a unit for purposes of collective bargaining shall be accepted by the court unless such representative has been certified by the Board after a secret ballot election conducted in accordance with subsection (c) of section 9 or has been determined to be a representative defined in subsection (a) of section 9 by the Board in an order entered pursuant to subsection (c) of this section: *Provided*, That no such order shall be entered where the employer has not engaged in conduct, unlawful under this Act, which undermines a

9. The Labor Reform Act of 1977.

10. 123 CONG. REC. 32607, 32608, 95th Cong. 1st Sess.

11. William H. Natcher (Ky.).

free and fair election under subsection (c) of section 9: . . . *provided further*, That where the employer agrees to recognize an individual or labor organization as a representative defined in subsection (a) of section 9 on the basis of proof of majority support other than a Board certification and such support is in fact demonstrated, the individual or labor organization so chosen shall be considered to be a representative for purposes of subsection (a) of section 9. . . .

MR. ASHBROOK: Mr. Chairman, I raise the point of order on the basis of the Chair's previous construction of H.R. 8410 and amendments offered thereto.

I point out to the Chair the amendment offered by the gentleman from Michigan (Mr. Ford) is not within the scope of the bill. It refers in three places to section 9(a) of the National Labor Relations Act. Section 9(a) is not opened up, as the Chair can determine, by H.R. 8410. It is nongermane to my amendment. It goes beyond the scope of my amendment. The gentleman from Michigan himself has indicated that what he is trying to do is codify a principle in case law. That in effect is a substantive effort. . . .

MR. FORD of Michigan: . . . Mr. Chairman, I agree with the gentleman that I am attempting to codify the case law, but I thought that I was agreeing with his attempt to codify the case law because we are both citing the same case as authority for the language we would now have as a part of the statute.

As to that part of the change in the amendment that is common to both his amendment and mine, the basis of the case law we have cited is exactly the same. Mine certainly could not be found not to be germane, inasmuch as we rely on exactly the same basis for the language. Moreover, there is nothing in my substitute that makes substantive changes in the law with respect to the rights of employers and employees. It has to do only with procedural practices in keeping with the entire thrust of this bill to improve and streamline and codify for that purpose past practices and procedures.

With respect to section 9 of the act, while it might be said that these procedures refer to section 9 of the act, for that matter they refer to all of the act. But they are limited, and this amendment is limited to affecting the method by which these improvements achieve the end of the act and not intended in any way to effect a substantial change in the sections of the act that are subject to this procedure. . . .

MR. ASHBROOK: Mr. Chairman, I would merely want to reiterate that the gentleman's amendment clearly refers to section 9(a). Section 9(a) has not been opened up by this act. It is not a proper substitute. The Chair on several occasions has taken a very strict interpretation of H.R. 8410 as it relates to the National Labor Relations Act, and I do not believe it can be opened up at this point inconsistent with those rulings.

THE CHAIRMAN: The Chair would like to inquire of the gentleman from Michigan (Mr. Ford) as to how his substitute would affect section 9(a) of the act.

MR. FORD of Michigan: 9(a) of the bill?

THE CHAIRMAN: In a manner not affected by the amendment offered by

the gentleman from Ohio (Mr. Ashbrook). . . .

MR. FORD of Michigan: Mr. Chairman, I do not believe that I do. I believe that the gentleman limits the method by which a collective bargaining arrangement can come into being, and we simply return to the existing law.

If the gentleman would make a change in existing law, we stay with the existing law.

THE CHAIRMAN: The Chair is ready to rule.

The question, of course, pertains to the germaneness of the amendment offered by the gentleman from Michigan (Mr. Ford) as a substitute for the amendment offered by the gentleman from Ohio (Mr. Ashbrook). That is the test.

The substitute amendment offered by the gentleman from Michigan (Mr. Ford), down to section 9, in the middle of the first page, contains the same language of the amendment offered by the gentleman from Ohio (Mr. Ashbrook). From that point in the substitute, the Chair is of the opinion that the substitute sets forth exceptions to the Ashbrook amendment and incorporates definitions contained in section 9(a) of the act without amending other sections of the law, and it seems to be related to and is germane to the amendment offered by the gentleman from Ohio (Mr. Ashbrook).

Therefore, the Chair overrules the point of order.

Procedural Rules Governing Labor Organization and Elections—Amendment Relating to Unfair Labor Practices

§ 35.25 Where the pending section of a bill proposes to amend existing law in one particular, an amendment to further amend the law in another respect unrelated to the pending portion of the bill and to the portion of existing law which it amends is not germane; thus, to a section of a bill amending that section of the National Labor Relations Act relating to procedural rules governing labor elections and organization, an amendment changing the same section of existing law to require the promulgation of rules defining certain conduct as grounds for voiding a labor election was held not germane, where neither the pending section nor the bill itself addressed the subject of unfair labor practices as dealt with in another section of existing law.

During consideration of H.R. 8410 [12] in the Committee of the Whole on Oct. 5, 1977,[13] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

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

The Clerk read as follows:

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12. The Labor Reform Act of 1977.

13. 123 CONG. REC. 32500, 32501, 95th Cong. 1st Sess.

Amendment offered by Mr. Ashbrook: Page 17, line 5, insert "(i)" after "(A)" and insert the following new subparagraph (ii) after line 15:

"(ii) which shall assure that the expressing of any views, arguments, opinion, or the making of any statement (including expressions intended to influence the outcome of an organizing campaign, a bargaining controversy, a strike, lockout, or other labor dispute), or the dissemination thereof, whether in written, printed, graphic, visual, or auditory form, shall not constitute grounds for, or evidence justifying, setting aside the results of any election conducted under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit.". . .

MR. [WILLIAM D.] FORD [of Michigan]: Mr. Chairman, I insist upon my point of order. . . .

Mr. Chairman, the amendment offered is to section 3 of the bill, which in its present form amends section 6 of the National Labor Relations Act, which is the rulemaking authority of that act. Under section 3, the Board is directed to make rules that: First, affect union actions during representation campaigns; second, define classes of representation cases; and third, schedules governing the holding of elections.

The amendment proposed effectively changes section 8(c) of the National Labor Relations Act, not before us in this bill, which deals with unfair labor practices. As such, it is not directed at the limited subject and scope of this bill in dealing with rulemaking amendments, as H.R. 8410 directs.

It is not in keeping with the act, and the bill, which provides broad discretion to the Board in its rulemaking capacity. Rather, it restricts absolutely the nature and substance of the rule the Board is directed to make.

The amendment deals not only with organization campaign and representation cases, which is the subject matter of this bill, but with strikes, lockouts, and other labor disputes which are not within the parameters of H.R. 8410, or section 3 of the committee bill.

Mr. Chairman, the amendment is therefore nongermane. . . .

MR. ASHBROOK: Mr. Chairman, on page 17 of the bill, starting with line 1 of this act, it says:

> The Board shall within 12 months after the date of enactment of the Labor Reform Act of 1977 issue regulations to implement the provisions of section 9(c)(6) including rules—

And it goes on, as a matter of fact, on lines 3 through 15 in the subject matter we just dispensed with a few moments ago. We specifically dealt with the subject matter of both employers and employees attempting free speech, speaking to those employees, I think, going back again to page 16 and talking about making the regulations, referring to rules and regulations as may be necessary to carry out the provisions of this act.

Mr. Chairman, in the very preamble of this act it says:

> To amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

Mr. Chairman, I feel that this amendment, calling upon the Board to issue rules, in addition to the rules that are in H.R. 8410, is within the parameters of the debate and therefore the point of order should be overruled.

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

The Chair has carefully followed the remarks of both gentlemen. The Chair is of the opinion that the point of order made by the gentleman from Michigan (Mr. Ford) should be sustained.

The Chair would like to state that under section 3 of the committee bill that is now before the Committee it amends section 6 of the National Labor Relations Act and restates the existing authority of the NLRB to promulgate rules and regulations to carry out the provisions of the act, specifically including certain authority to make procedural rules governing elections and governing the period of initial stages of organizational activity. The section of the bill does not go to newly mandated directions to the Board to promulgate regulations to implement section 8 of the act.

The amendment offered by the gentleman from Ohio (Mr. Ashbrook), while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations, and the amendment would by its terms elevate those regulations to a position of substantive law, which regulations would conclusively pronounce what conduct shall or shall not constitute grounds for setting aside an election.

In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of whether conduct, for the first time, would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

Therefore, the point of order is sustained.

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

During consideration of H.R. 8410[15] in the Committee of the Whole on Oct. 5, 1977,[16] the Chair, in sustaining a point of order against the amendment described above, reiterated the proposition that an amendment must be germane to the section of the bill to which it is offered. The proceedings were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 19, after line 5, insert the following new paragraph (c):

"(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to imple-

14. William H. Natcher (Ky.).

15. The Labor Reform Act of 1977.

16. 123 CONG. REC. 32507, 32508, 95th Cong. 1st Sess.

ment the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board)."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. Ashbrook), although in some ways meritorious, is offered to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

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

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

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

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

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

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

Provisions Affecting Ceiling Prices Applicable to Certain Personal Services—Amendment Affecting Prices Applicable to Manufacturers

§ 35.27 To a committee amendment making price and wage

17. William H. Natcher (Ky.).

ceilings inapplicable to services of barbers and beauticians, an amendment to govern ceiling prices "applicable to manufacturers or processors for any item of material derived . . . from an agricultural commodity," was held to be not germane.

In the 82d Congress, a bill[18] was under consideration comprising amendments to the Defense Production Act of 1950. To a committee amendment as described above, the following amendment was offered:[19]

> Amendment offered by Mr. [William R.] Poage [of Texas]: Page 18, after line 4, insert the following:
>
> (j) Section 402 of the Defense Production Act of 1950 is hereby amended by adding at the end thereof a new subsection reading as follows:
>
> "It shall be unlawful to establish or maintain any ceiling price applicable to manufacturers or processors for any item of material derived in whole or in substantial part from an agricultural commodity if such ceiling price for any such item of material is fixed and maintained at less than the sum of the following:
>
> "(1) The current cost of the material used . . .
>
> "(2) All costs currently incurred in the processing or manufacturing operation and distribution of such item . . .
>
> "(3) A reasonable profit. . . ."

Mr. Wright Patman, of Texas, having raised a point of order against the amendment, the Chairman[20] ruled as follows:

> The Chair feels that the purpose of the amendment is not germane to the committee amendment and therefore the Chair sustains the point of order.

Persons Eligible for Disaster Loans—Amendment Adding "Freeze" to Types of Disaster Included Within Terms

§ 35.28 To a bill enlarging the class of persons eligible under existing law for loans necessitated by "floods or other catastrophes," an amendment modifying the title of the existing act expressly to include "freeze" as one form of disaster to be included within the terms of the bill was held to be not germane.

In the 75th Congress, a bill[1] was under consideration to extend the lending authority of the Disaster Loan Corporation. The purposes of the bill were explained as follows:[2]

> MR. [HENRY B.] STEAGALL [of Alabama]: . . . It will be remembered

18. H.R. 3871 (Committee on Banking and Currency).
19. 97 CONG. REC. 8322, 82d Cong. 1st Sess., July 17, 1951.
20. Wilbur D. Mills (Ark.).
1. H.J. Res. 251 (Committee on Banking and Currency).
2. 81 CONG. REC. 3353, 75th Cong. 1st Sess., Apr. 9, 1937.

that on February 11, 1937, we passed an act for the establishment of the Disaster Loan Corporation to be officered by officials of the Reconstruction Finance Corporation for the purpose of making loans to sufferers from disasters during the year 1937. . . .

The provisions of the pending resolution extend the benefits of the act of February 11, 1937, to sufferers from disasters during the year 1936, so that anybody who was not taken care of under the former act will be eligible for loans under the recent legislation. Victims of disasters in 1936 will share in the benefits of the recent act. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. [Thomas F.] Ford of California: On page 1, line 4, after the word "floods", add a comma and the word "freeze."

Mr. Steagall having raised a point of order against the amendment, the Speaker[3] ruled as follows:

The amendment offered by the gentleman from California [Mr. Ford] proposes to amend the title of an existing law. The Chair is of the opinion that an amendment to the title of an existing act is not germane to the substantive matter of the proposed joint resolution, and, therefore, sustains the point of order.

Mutual Security Act—Amendment Modifying Provisions Affecting Use of Surplus Agricultural Commodities

§ 35.29 To a bill amending the Mutual Security Act of 1954, an amendment, offered for purposes of modifying that part of the act relating to the use of surplus agricultural commodities, which sought to give the President the authority to furnish surplus agricultural commodities to the United Nations for certain purposes was held to be germane.

In the 86th Congress, during consideration of a bill[4] to amend the Mutual Security Act of 1954, the following amendment was offered:[5]

Amendment offered by Mr. [Leonard G.] Wolf [of Iowa]: On page 8, line 16, strike out the quotation mark and immediately below line 16 insert the following:

Sec. 401A. (a) In keeping with the purpose and objective of the Mutual Security Act, to assist in stabilizing economies . . . and to help eliminate famines and hunger in ways that will promote economic development, the President is authorized . . . to furnish, without charge, to the United Nations or to any agency thereof, from stocks of the Commodity Credit Corporation, commodities which are surplus, as determined by the Secretary of Agriculture. . . .

Mr. John Taber, of New York, made the point of order that the amendment was not germane to

3. William B. Bankhead (Ala.).

4. H.R. 7500 (Committee on Foreign Affairs).

5. 105 CONG. REC. 11297, 86th Cong. 1st Sess., June 17, 1959.

the bill. The Chairman,[6] in ruling on the point of order, stated:[7]

> The Chair has had an opportunity to examine the amendment, also the Mutual Security Act of 1954, as amended, particularly title IV thereof, which has to do with special assistance and other programs, and calls attention to the fact that in title IV there is specific mention of surplus agricultural commodities pursuant to the Agricultural Trade, Development, and Assistance Act of 1954.
>
> The Chair feels that this amendment is germane to the bill now before the Committee, and, therefore, overrules the point of order made by the gentleman from New York.

—*Additional Sense of Congress Expression*

§ 35.30 Where a bill under consideration reenacted and amended the Mutual Security Act of 1954, an amendment adding to the statements of congressional policy contained in the act a further statement of policy which related to treaties affecting jurisdiction over American military personnel in foreign countries was held to be germane.

In the 85th Congress, a bill[8] was under consideration to amend the Mutual Security Act of 1954. To such bill, the following amendment was offered:[9]

> Amendment offered by Mr. [Omar T.] Burleson [of Texas]: On page 1, after line 4, insert: Section 2 of the Mutual Security Act of 1954, as amended, which expresses a statement of policy, is amended by the addition of the following paragraph at the end of the statement:
>
> (a) It is the sense of the Congress . . . that in order to . . . maintain the rights and privileges for our citizens who are serving with our Armed Forces in other countries . . . the President should forthwith address to the North Atlantic Council . . . a request for revision of article VII of (the NATO Status of Forces Agreement) for the purpose of eliminating or modifying article VII so that the United States may exercise exclusive criminal jurisdiction over American military personnel stationed within the boundaries of parties to the treaty. . . .

A point of order against the amendment was raised by Mr. Albert S. J. Carnahan, of Missouri, who stated:[10]

> Mr. Chairman, the Mutual Security Act of 1954, which the bill S. 2130 seeks to amend, states in its statement of policy among other things that the Congress of the United States "declares it to be the policy of the United States to continue as long as such danger to the peace of the world and to the security of the United States persists to make available to free nations and

6. Wilbur D. Mills (Ark.).

7. 105 CONG. REC. 11298, 86th Cong. 1st Sess., June 17, 1959.

8. S. 2130 (Committee on Foreign Affairs).

9. 103 CONG. REC. 12007, 12008, 85th Cong. 1st Sess., July 17, 1957.

10. *Id.* at p. 12008.

peoples upon request, assistance of such nature and in such amounts as the United States deems advisable, compatible with its own stability, strength, and other obligations, and as may be needed and effectively used by such free nations and peoples to help them maintain their freedom."

This legislation does not provide for the conduct, management, or regulation of American forces abroad. Consequently, the amendment is not germane.

Speaking in support of the point of order, Mr. John M. Vorys, of Ohio, stated:[11]

Mr. Chairman, on page 407 of the Rules of the House of Representatives on the matter of germaneness appears the statement that to a bill modifying an existing law as to one specific particular an amendment relating to the terms of the law other than those dealt with by the bill is not germane. Volume V, page 806, of Cannon's Precedents is cited and there are other citations as well.

Mr. Chairman, this amendment attempts to amend the purpose clauses of the mutual security law, which is a part of the bill which is not amended by the amendment contained in the bill, S. 2130, which is now before the House. . . . In addition, the amendment . . . would amend the Uniform Code of Military Justice. Article 14 of the code provides that under such regulations as the Secretary concerned may prescribe, a member of the Armed Forces accused of an offense against civil authority may be delivered upon request to the civil authority for trial. Article 5 of the same code says:

"This chapter applies in all places."

So that this would purport to amend the Uniform Code of Military Justice. . . .

Other Members spoke on the point of order, as follows:[12]

MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, certainly in the first place the method of trial of United States troops stationed abroad is not germane in an economic and military aid bill for foreign countries.

Secondly, attention should be called to the statement that has been made by the gentleman from Ohio that the revision of United States treaties or executive agreements in this type of a bill is clearly not germane to the purpose of the bill.

Thirdly, as stated by the gentleman from Texas, the sponsor of the particular amendment, if his purpose is directly or indirectly to have a reduction effect upon the number of armed United States forces abroad or the number of military people in our military installations, that policy is clearly a matter of jurisdiction of the House Armed Services Committee, and is not in any way connected with or germane to this legislation. . . .

MR. [FRANK T.] BOW [of Ohio]: . . . This amendment merely amends the purpose clauses of the act of 1954, in which there are other purposes other than the ones which have been referred to. This does not attempt to amend the treaty. . . . It simply expresses the sense of the Congress that the President take some action to at-

11. *Id.* at pp. 12008, 12009.

12. *Id.* at p. 12009.

tempt to renegotiate and place no mandatory provisions at all upon the President. It simply expresses the will of the Congress under the purpose clauses of this legislation, as a matter of policy. . . .

MR. [WINSTON L.] PROUTY [of Vermont]: . . . I think if we look at the proposed amendment we will find it deals with a different subject matter. The subject matter of the bill S. 2130 is mutual security. The subject matter of the amendment is qualification of treaties or other international agreements. . . .

Mr. Vorys further observed:

. . . The fact that it is a policy statement rather than a direct amendment does not make it any the more germane.

The Chairman,[13] in ruling on the point of order, stated:[14]

Attention is . . . invited to the fact that the amendment does not seek to amend the treaty-making powers, it does not seek to amend the Code of Military Justice. It simply expresses the sense of Congress that the President should forthwith address to the North Atlantic Council, and so forth. It is an expression of the sense of Congress going one step further than the expressions of the sense of Congress provided in the Mutual Security Act of 1954. . . .

. . . [T]he Chair is of the opinion that the amendment is an additional expression of the sense of Congress in line with the expressions of the sense of Congress contained in the Mutual Security Act of 1954, it is germane to the pending bill, and, therefore, overrules the point of order.

Bill Amending Foreign Assistance Act—Amendment to Law Referred to in Act

§ 35.31 To a bill amending the Foreign Assistance Act of 1961, which had authorized the use of funds generated under the Agricultural Trade Development and Assistance Act of 1954, an amendment offered as a new section which sought to amend the Agricultural Trade Development and Assistance Act of 1954 by adding further provisions relating to agreements with foreign nations under which such funds were generated, specifically with respect to the power of the President to negotiate agreements with foreign nations for sale of surplus commodities in exchange for foreign currencies, was held to be germane.

In the 87th Congress, during consideration of a bill[15] amending the Foreign Assistance Act of 1961, the following amendment was offered which related to the

13. Jere Cooper (Tenn.).

14. 103 CONG. REC. 12010, 85th Cong. 1st Sess., July 17, 1957.

15. H.R. 11921 (Committee on Foreign Affairs).

power of the President to negotiate agreements for the sale of surplus commodities in exchange for foreign currencies:[16]

> Amendment offered by Mr. Barry: On page 16, after line 15 insert the following:
>
> Sec. 404. Section 101(f) of the Agricultural Trade Development and Assistance Act of 1954, as amended, is amended to read as follows:
>
> "(f) obtain rates of exchange applicable to the sale of commodities in European countries under such agreements which are not less favorable than the highest of exchange rates legally obtainable from the Government or agencies thereof in the respective countries."

In regard to the amendment, the proponent, Mr. Robert R. Barry, of New York, stated:

> Mr. Chairman, the amendment which I am proposing is intended to assure that our surplus farm commodities are sold on best possible terms—specifically, at rates of exchange not less favorable than the highest rates legally obtainable from the governments, or governmental agencies, of the purchasing countries.

A point of order against the amendment was explained as follows:

> MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, the amendment here is to Public Law 480, which is the Agricultural Act, and the particular section to which it is addressed is section 101(f) of Public Law 480. That is not now before the House. The gentleman's amendment is not germane to any section of the bill. I therefore insist on the point of order.

The following exchange[17] related to the point of order:

> THE CHAIRMAN:[18] The burden of proof is always on the person who proposes an amendment. . . .
>
> MR. BARRY: I believe it is germane. Therefore, I am asking for a ruling to sustain my belief.
>
> THE CHAIRMAN: The bill before the Committee, H.R. 11921, to amend further the Foreign Assistance Act of 1961, as amended, and for other purposes, refers, of course, to the act of 1961. In the act of 1961 itself specific provision was made for amendment of the Agricultural Trade Development and Assistance Act of 1954, to which the amendment offered by the gentleman from New York refers.
>
> The Chair believes that the subject matter of the Agricultural Trade Development and Assistance Act of 1954 is included within the purview of the Foreign Assistance Act of 1961, which is the bill before the Committee and, therefore, feels that the amendment offered by the gentleman from New York [Mr. Barry] is germane to the bill. The Chair overrules the point of order.

—Amendment Relating To Subject Matter Stricken From Bill

§ 35.32 To a bill amending the Foreign Assistance Act of

16. 108 CONG. REC. 13431, 87th Cong. 2d Sess., July 12, 1962.

17. *Id.* at pp. 13431, 13432.

18. Wilbur D. Mills (Ark.).

1961 and other general laws related to the mutual security program, an amendment relating to the appointment of Members to attend the NATO Parliamentary Conferences, which had been the subject matter of a provision stricken from the bill, was held to be not germane.

In the 87th Congress, the Foreign Assistance Act of 1962 (19) was under consideration, containing the following provision: (20)

PART IV—AMENDMENTS TO OTHER LAWS

Sec. 403. The first section of the Act entitled "An Act to authorize participation by the United States in the Interparliamentary Union," approved June 28, 1935, as amended (22 U.S.C. 276), is amended by adding at the end thereof the following: "Not less than two of the principal delegates to each of the Conferences of the Interparliamentary Union shall be members of the House Committee on Foreign Affairs, and not less than two of such delegates shall be members of the Senate Committee on Foreign Relations."

The above provision having been stricken, the following amendment was offered to the bill: (1)

Amendment offered by Mr. [Robert R.] Barry [of New York]: On page 16, after line 15, insert the following:

Sec. 404. The first section of the Act entitled "An Act to authorize participation by the United States in parliamentary conferences of the North Atlantic Treaty Organization," approved July 11, 1956, is amended by adding at the end thereof the following: "Of the appointments made by the Speaker of the House not less than two shall be members of the Foreign Affairs Committee."

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

MR. [WAYNE L.] HAYS [of Ohio]: . . . [The amendment] deals with an act of Congress which is a separate act, and which is not contained in this bill. Since section 403 has been stricken, there is nothing in this bill about any interparliamentary group whatever. Therefore it is not germane to the bill.

The Chairman,(2) in ruling on the point of order, stated:

. . . Just a moment ago section 403 was stricken from the bill. That section was the only section that had anything to do with any international group. This amendment refers to parliamentary conferences of the North Atlantic Treaty Organization. The bill itself has the purpose of further amending the Foreign Assistance Act of 1961, as amended, and for other purposes.

The Chair is of the opinion that the amendment offered by the gentleman from New York [Mr. Barry] under the circumstances goes beyond the purport of the bill, and therefore sustains the

19. H.R. 11921 (Committee on Foreign Affairs).

20. See 108 CONG. REC. 13428, 87th Cong. 2d Sess., July 12, 1962.

1. *Id.* at p. 13431.

2. Wilbur D. Mills (Ark.).

point of order raised by the gentleman from Ohio [Mr. Hays].

Amendments to Other Acts

§ 35.33 To a bill amending the Foreign Assistance Act of 1961, amendments to the Mutual Security Act of 1954 and the Legislative Appropriation Act of 1961, were conceded to be not germane.[3]

Foreign Assistance—Amendment Relating to Committee Expenses for Foreign Travel

§ 35.34 To a bill authorizing general foreign assistance programs, an amendment relating to reports on committee expenditures for foreign travel was conceded to be not germane.

During consideration of the Foreign Assistance Act of 1961,[4] the following amendment was offered as a new section:[5]

> Sec. 404. (a) Subsection (b) of section 502 of the Mutual Security Act of 1954 is amended by inserting immediately before the last sentence thereof the following new sentences: "No such report shall contain any miscellaneous item or other item grouping together under a general heading expenditures for dissimilar purposes but shall specify, item by item, each individual expenditure. . . ."
>
> (b) Subsection (b) of section 105 of the Legislative Branch Appropriation Act, 1961, is amended by inserting immediately before the last sentence thereof the following new sentences:
>
> "No such report shall contain any miscellaneous item. . . ."

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

> MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make a point of order against the amendment on the ground again that there is nothing in this bill relating to the expenditure of committee funds, of select or special committees, or traveling committees and, therefore, the amendment is not germane to the bill.

The following exchange then occurred:

> MR. [HAROLD R.] GROSS [of Iowa]: Mr. Chairman, I concede the point of order.
>
> THE CHAIRMAN:[6] The gentleman from Iowa concedes the point of order. . . .

Military Assistance to Foreign Nations—Transfer of Military Equipment to Israel

§ 35.35 To a bill authorizing foreign assistance and

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3. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962. See Sec. 35.34, infra, for fuller treatment of this precedent.

4. H.R. 11921 (Committee on Foreign Affairs).

5. 108 CONG. REC. 13432, 87th Cong. 2d Sess., July 12, 1962.

6. Wilbur D. Mills (Ark.).

amending several provisions of the basic law relating to military assistance, an amendment authorizing the President to negotiate with Israel concerning the sale to that nation of certain military equipment was held to be germane.[7]

§ 35.36 To a bill amending those provisions of the Foreign Assistance Act of 1961 relating to military assistance to foreign nations, an amendment authorizing the transfer of military planes to Israel under conditions and procedures compatible with the basic law was held to be germane.

In the 90th Congress, during consideration of the Foreign Assistance Act of 1968,[8] the following amendment was offered:[9]

> Amendment offered to the committee amendments offered by Mr. [Lester L.] Wolff [of New York]: on page 11, line 9, after the Conte amendment insert:
>
> (d) The President shall take such steps as may be necessary . . . to negotiate an agreement with the Government of Israel providing for the sale by the United States of not less than 50 military planes. . . .

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

> MR. [WAYNE L.] HAYS [of Ohio]: I raise a point of order against the amendment because it would order the President to make an affirmative determination. It has been ruled here many times that one cannot do that.
>
> In addition, it is not germane to the bill because we are coming up with a military sales bill, and this bill has nothing about military sales in it. The amendment may be germane to the military sales bill.

The Chairman,[10] in ruling on the point of order, stated:

> . . . Part II of chapter 2 of the Foreign Assistance Act of 1961, section 503, designating the general authority, states the President is authorized to furnish military assistance on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance.
>
> The Chair will hold that the amendment offered by the gentleman from New York further authorizes the President to take such steps as may be necessary to negotiate an agreement with the Government of Israel providing for the sale of military planes, and is a condition in keeping with the authority

7. 114 CONG. REC. 22098, 90th Cong. 2d Sess., July 18, 1968. See § 35.36, infra.

8. H.R. 15263 (Committee on Foreign Affairs).

9. 114 CONG. REC. 22098, 90th Cong. 2d Sess., July 18, 1968.

10. Charles M. Price (Ill.).

already given to the President in section 503 of the Foreign Assistance Act of 1961, as amended, and therefore holds the amendment to be germane. The Chair overrules the point of order.

Bill Amending Mutual Security Act of 1954—Amendment Authorizing Librarian of Congress To Use Foreign Currencies in Acquisitions

§ 35.37 To a bill relating to military and economic assistance to foreign countries and amending the Mutual Security Act of 1954, an amendment was held to be not germane which authorized the Librarian of Congress to use designated foreign currencies in connection with programs for the evaluation and acquisition of certain foreign books and materials.

In the 85th Congress, a bill (11) was under consideration amending the Mutual Security Act of 1954. The following amendment was offered to the bill: (12)

> Amendment offered by Mr. [John D.] Dingell [Jr., of Michigan]:
>
> (m) Add a new section as follows:
>
> Sec. 519. Overseas programs relating to scientific and other significant works (a) The Librarian of Congress, in consultation with the National Science Foundation and other interested agencies, is authorized to establish programs outside of the United States for (1) the analysis and evaluation of foreign books . . . and other materials to determine whether they would provide information of technical or scientific significance in the United States . . . and the acquisition of such books. . . .
>
> . . . [T]he Librarian of Congress may, in carrying out the provisions of this section . . . use currencies, or credits for currencies, of any foreign government (1) held or available for expenditure by the United States and not required by law or agreement with such government to be expended or used for another purpose. . . .

The following exchange concerned a point of order raised against the amendment:

> MR. [JOHN] TABER [of New York]: Mr. Chairman, this amendment is not germane to the bill or at this place in the bill. . . .
>
> Mr. Chairman, this amendment sets up an outfit in the Library of Congress which is not mentioned anywhere else to review a great bunch of books. . . .
>
> THE CHAIRMAN: (13) . . . The Chair is not, of course, passing on the merits of the amendment offered by the gentleman from Michigan. The amendment is obviously not germane to the purposes of the pending bill. The Chair sustains the point of order.

A subsequent exchange concerned the timeliness of Mr. Taber's point of order:

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11. H.R. 12181 (Committee on Foreign Affairs).

12. 104 CONG. REC. 8751, 85th Cong. 2d Sess., May 14, 1958.

13. Hale Boggs (La.).

MR. [WAYNE L.] HAYS of Ohio: Mr. Chairman, I make the point of order that the gentleman from New York [Mr. Taber] was much too late in making his point of order, inasmuch as the amendment had already been read and debate had started.

THE CHAIRMAN: The gentleman from New York [Mr. Taber] was on his feet at the time and was recognized by the Chair as soon as the Chair saw the gentleman on his feet. The point of order of the gentleman from Ohio comes too late.

Foreign Assistance to Certain Nations—Amendment Requiring Reports on Human Rights Violations by Any Nation

§ 35.38 To a bill amending existing law to authorize foreign economic assistance to nations qualifying as recipients under that law, but not addressing foreign relations with countries not receiving such assistance, an amendment to that law to require reports on human rights violations by all foreign countries, not merely those receiving aid under the law, was conceded to be broader in scope and was ruled out as not germane.

During consideration of H.R. 12222 [14] in the Committee of the Whole, a point of order against the amendment described above was conceded and sustained. The proceedings of May 12, 1978,[15] were as follows:

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Michel: On page 48, immediately after line 15, insert the following new subsection:

"(e) Section 116(d)(1) of such Act is amended by inserting immediately before the semicolon "and in all other foreign countries (except those countries with respect to which a report is transmitted pursuant [to another section])."

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I reserve a point of order against the amendment. . . .

MR. MICHEL: . . . [I]f the gentleman insists on his point of order, I would concede it in the interests of time.

Mr. Chairman, in the interest of time I will concede the point of order and will offer another amendment.

THE CHAIRMAN:[16] The point of order is conceded and sustained.

Laws Concerning State Department and Foreign Relations—Guidelines for Acceptance of Foreign Gifts

§ 35.39 To a House bill containing diverse amendments

14. The International Development and Food Assistance Act of 1978.

15. 124 CONG. REC. 13499, 13500, 95th Cong. 2d Sess.

16. Elliott Levitas (Ga.).

to existing laws within the jurisdiction of the Committee on International Relations, relating to foreign relations and the operation of the Department of State and related agencies, a portion of a Senate amendment thereto contained in a conference report, amending the Foreign Gifts and Decorations Act (within the jurisdiction of the same committee) to provide guidelines and procedures for the acceptance of foreign gifts by United States employees and to provide that the House Committee on Standards of Official Conduct adopt regulations governing acceptance by Members and House employees of foreign gifts, was held germane when a point of order was raised against a portion of the conference report under Rule XXVIII, clause 4.

The proceedings of Aug. 3, 1977, relating to the conference report on H.R. 6689, the Foreign Relations Authorization Act for fiscal 1978, are discussed in § 26.28, supra.

General Sanctions Offered to Specific Sanctions

§ 35.40 To a bill dealing with enforcement of United Nations sanctions against one country in relation to a specific trade commodity, an amendment permitting the president to suspend all economic relations and communications between the United States and any other country, on the basis of human rights violations as determined by the president, was held to be not germane.

On Mar. 14, 1977,[17] the Committee of the Whole had under consideration H.R. 1746, amending the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome. The bill permitted the president to enforce United States compliance with United Nations Security Council sanctions against trade with Rhodesia particularly with reference to the importation of Rhodesian chrome. The proceedings were as follows:

> *Be it amended by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) is amended—
>
> (1) by adding at the end of subsection (a) the following new sentence: "Any Executive order which is issued under this subsection and which applies measures against Southern Rho-

17. 123 CONG. REC. 7432, 7446, 7447, 95th Cong. 1st Sess.

desia pursuant to any United Nations Security Council Resolution may be enforced, notwithstanding the provisions of any other law; and

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

"(c)(1) During the period in which measures are applied against Southern Rhodesia under subsection (a) pursuant to any United Nations Security Council Resolution, a shipment of any steel mill product (as such product may be defined by the Secretary) containing chromium in any form may not be released from customs custody for entry into the United States if—

"(A) a certificate of origin with respect to such shipment has not been filed with the Secretary; or

"(B) in the case of a shipment with respect to which a certificate of origin has been filed with the Secretary, the Secretary determines that the information contained in such certificate does not adequately establish that the steel mill product in such shipment does not contain chromium in any form which is of Southern Rhodesian origin. . . .

The Clerk read as follows:

Amendment offered by Mr. [Elliott] Levitas [of Georgia]: Strike out all after the enacting clause and insert in lieu thereof the following:

That section 5(a) of the United Nations Participation Act of 1945 is amended—

(1) by inserting "(1)" immediately after "(a)"; and

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

"(2)(A) Subject to the conditions prescribed in subparagraph (B), if the President determines that the government of a foreign country is engaged in a consistent pattern of gross violations of internationally recognized human rights (including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person), the President may, through any agency which he may designate and under such orders, rules, and regulations as may be prescribed by him, suspend (in whole or in part) economic relations or rail, sea, air, postal, telegraphic, radio, and other means of communication between that foreign country or any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof, or involving any property subject to the jurisdiction of the United States. . . .

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I make the point of order the amendment is not germane.

THE CHAIRMAN:[18] The Chair is prepared to rule.

The bill deals only with United Nations sanctions against importation of chrome, while the amendment offered by the gentleman from Georgia deals with embargoes and other economic sanctions on any material or commercial transaction. Also, the bill deals only with sanctions against Rhodesia, both in the title and in the body of the bill. The amendment offered by the gentleman from Georgia permits U.S. rather than U.N. sanctions to be imposed on products or communications from any foreign country. It is the opinion of the Chair that the amendment is not germane, and the Chair sustains the point of order.

§ 35.41 To a bill amending existing law for limited pur-

18. Neal Smith (Iowa).

poses, an amendment further changing that law but affecting programs beyond the scope of the bill and the law being amended and waiving other inconsistent provisions of law is not germane.

On Sept. 23, 1977,[19] the Committee of the Whole had under consideration a bill[20] jointly reported from the Committees on Ways and Means and Interstate and Foreign Commerce to enable the Department of Health, Education and Welfare to investigate and prosecute fraud and abuse in the medicare and medicaid health programs within their respective jurisdictions. An amendment was recommended by the Committee on Ways and Means to prohibit any federal officer or employee from disclosing any identifiable medical record in the absence of patient approval. The amendment was held not germane, as exceeding the scope and subject matter of the bill. The proceedings were as follows:

THE CHAIRMAN:[1] The Clerk will report the second amendment recommended by the Committee on Ways and Means.

The Clerk read as follows:

Amendment offered by the Committee on Ways and Means: Page 66, strike out line 22 down through and including line 5 on page 70 and insert in lieu thereof:

(l)(1) Part A of title XI of such Act (as amended by section 3(a) of this Act) is amended by adding after section 1124 the following new section:

"DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE MEDICAL RECORDS

"Sec. 1125. (a)(1) Notwithstanding any other provision of this Act except paragraph (2) of this subsection, no officer, employee, or agent of the United States, or any office, agency, or department thereof, or any Professional Standards Review Organization or any person acting or purporting to act on behalf of such Organization, may inspect, acquire, or require the disclosure of, for any reason whatever, any individually identifiable medical record of a patient, unless the patient has authorized such inspection, acquisition, or disclosure in accordance with subsection (b). . . .

(2) After taking into consideration the recommendations contained in the final report of the Privacy Protection Study Commission (established under section 5 of the Privacy Act of 1974), the Secretary of Health, Education, and Welfare shall prepare and submit, not later than three months after the date such Commission submits its final report, to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and to the Committee on Human Resources and the Committee on Finance of the Senate a report containing specific recommendations (including draft legislation) for the timely development and implementation of appropriate procedures (including use of detailed written consent forms) in order to (A) maintain the confidentiality of individually identifiable

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19. 123 CONG. REC. 30532–34, 95th Cong. 1st Sess.

20. H.R. 3, Medicare-Medicaid Antifraud and Abuse Amendments.

1. Gerry E. Studds (Mass.).

> medical records (whether they relate to medical care provided directly by, or through the financial assistance of, the Federal Government or not), and (B) prevent the unwarranted inspection by, and disclosure to, Federal officers, employees, and agents and Professional Standards Review Organizations of such records. . . .

MR. [RICHARDSON] PREYER [of North Carolina]: Mr. Chairman, I raise a point of order against the amendment. . . .

[T]his amendment in its scope would apply far beyond the purpose of the bill and the jurisdiction of the committee. The jurisdiction of the committee and the purpose of the bill is to deal with the Department of Health, Education, and Welfare and increase the Department's ability to investigate and prosecute medicare and medicaid fraud and abuse.

However, the amendment covers not only the Department of Health, Education, and Welfare but all the officers, employees, and agents of the United States. The committee report specifically states, "Under the bill PSRO's and employees or agents of the Federal Government may not inspect, acquire or require the disclosure of individually identifiable medical records." The Ways and Means Committee does not have jurisdiction, for example, over the employees of the Department of Defense, the Veterans' Administration, or the Federal courts.

In addition this amendment clearly conflicts with the Deschler precedent in chapter 28, section 8.1, which states that—

> To a bill limited in its application to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane.

Finally, Mr. Chairman, I note the amendment attempts to supersede all other laws and regulations of the United States in conflict with this amendment. This violates the principle of the Deschler precedent in chapter 28, section 29.4 which states that—

> To a bill referring to certain provisions of existing law, an amendment repealing a portion of that law was held not germane. . . .

MR. [PHILIP M.] CRANE [of Illinois]: . . . Mr. Chairman, I rise in opposition to the point of order. The Ways and Means amendment, set forth as section 5(l) of H.R. 3 as reported by that committee, is clearly germane to the original bill and the bill in its current form.

In the first place, Mr. Chairman, H.R. 3 ostensibly has as its purpose the prevention of fraud and abuse in the medicare and medicaid programs. To achieve that objective, a very complex set of provisions were put into the original bill, including provisions in section 5, that greatly strengthen the investigatory and enforcement roles of professional standards review organizations (PSRO's).

These organizations do not simply acquire and inspect records only of medicare and medicaid patients, or of doctors and other health professionals who treat only those patients. Quite the contrary is true. PSRO's are required to compile statistically valid "profiles" of patients and providers, in order to identify, among other things, patterns of suspected unnecessary services and treatment that does not conform to "appropriate" medical standards. In so doing, they not only

may—they must—inspect, acquire, and require the disclosure of the records of private patients and their doctors. . . .

Mr. Chairman, I am well aware of the precedents of this body—and I am certain that my colleagues on the Ways and Means Committee are as well—that would not allow section 5(l) of H.R. 3 to be broader in scope than the original bill. The fact is, however, that section 5(h) of the bill now before us clearly extends the specter of unauthorized violations of patients' rights to confidentiality to all patients, by all Federal agencies and departments. There is no way for Congress to know, in advance, precisely who will seek to inspect, acquire or require the disclosure of the data and records gathered by a PSRO and mandated to be shared with others by the original language of H.R. 3. Furthermore, a private patient's medical record can be transformed into a medicare or medicaid patient's record simply by a change in the status of the patient—his becoming eligible, for example, through disability, age, or poverty. The medicare and medicaid programs have much to fear if the kinds of safeguards provided for in the Crane-Stark amendment are not extended to all records of patients and all Federal officials.

The Crane-Stark amendment most certainly relates to the fundamental purpose of H.R. 3, and applies only to those individuals, agencies and departments that are within the scope of the original bill. To decide otherwise would, I respectfully submit, significantly and adversely affect the very patients who are the intended beneficiaries of this important legislation. It would create potential barriers between patient and doctor by inhibiting free communication, since there would be no guarantees that their jobs would be secure or their friends and families would be free from interrogation and investigation by the Federal Government. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from North Carolina makes the point of order against the amendment recommended by the Committee on Ways and Means printed on page 66, line 22, through page 70, line 5, on the grounds that it is not germane to the bill H.R. 3.

The bill amends several titles of the Social Security Act to correct fraudulent activities under the medicare and medicaid programs by strengthening penalty sanctions, increasing disclosure of information requirements, improving the professional standards review program, and by proposing certain administrative reforms.

The amendment recommended by the Committee on Ways and Means, while addressing the role of professional standards review organizations in permitting disclosure of confidential medical records of patients under medicare and medicaid programs, goes beyond that issue and encompasses a prohibition against any officer or employee of the Federal Government from disclosing any identifiable medical record absent specific authorization from the patient. As drafted, the amendment would supersede any other provision of law which would otherwise permit Federal officials to disclose medical records, and would appear to affect health programs which are not medicare or medicaid related which do

not involve PSRO participation and which are not established under the Social Security Act.

For this reason, the Chair holds that the amendment recommended by the Committee on Ways and Means is not germane to H.R. 3 and sustains the point of order.

Bill Amending One Title of Social Security Act—Amendment to Different Title

§ 35.42 To a bill to amend one title of the Social Security Act to provide a national program for war mobilization and reconversion, an amendment offered to amend another title of the act and relating to military pay and allowances was held not germane.

In the 78th Congress, during consideration of the War Mobilization and Reconversion Bill of 1944,[2] the following amendment was offered:[3]

> Amendment offered by Mr. [H. Jerry] Voorhis of California: On page 39, line 24, add the following new title, Title 4, section 401:
>
> Title II of the Social Security Act, as amended, is amended by adding at the end thereof the following new section:
>
> "MILITARY SERVICE BENEFITS
>
> "Sec. 210. (a) For the purposes of this title, an individual who is engaged in military service within the period beginning with October 1, 1940, and ending 1 year after the termination of the emergency declared by the President on May 27, 1941, shall be deemed to have been paid for each month in which he performs any military service within such period wages equal to [a specified amount]. . . ."

A point of order was raised against the amendment, as follows:[4]

> MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from California (Mr. Voorhis) that it is not germane to this bill or any part of it. It relates to military pay and allowances, which is certainly not within the scope of anything in this bill. . . .
>
> . . . I submit further that the gentleman's amendment is to title II of the Social Security Act, which is not . . . dealt with in the pending bill at all. The only amendment to the Social Security Act in this bill relates to title III.

The Chairman,[5] adopting the reasoning of Mr. Cooper, sustained the point of order.[6]

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2. S. 2051 (Committee on Ways and Means).

3. 90 CONG. REC. 7465, 78th Cong. 2d Sess., Aug. 31, 1944.

4. *Id.* at pp. 7465, 7466.

5. Fritz G. Lanham (Tex.).

6. 90 CONG. REC. 7466, 78th Cong. 2d Sess., Aug. 31, 1944.

Continuing Appropriations and Imposing Conditions on Availability—Amendment To Change Law Governing Eligibility

§ 35.43 To a proposal continuing the availability of appropriated funds and also imposing diverse legislative conditions upon the availability of appropriations, an amendment directly and permanently changing existing law as to the eligibility of certain recipients was conceded to go beyond the scope of the categories of legislative changes contained therein and to be nongermane.

The proceedings of Dec. 10, 1981, relating to House Joint Resolution 370, continuing appropriations for fiscal 1982, are discussed in § 23.4, supra.

Bill Relating to Exchange Value and Gold Content of Dollar—Amendment Affecting Purchase of Foreign Gold

§ 35.44 To a bill amending the Gold Reserve Act to extend certain powers of the President with respect to use of the stabilization fund for purposes of stabilizing the exchange value of the dollar, and with respect to altering the gold content of the dollar, an amendment was held to be not germane which referred to another part of the act and related to terms upon which foreign gold could be purchased by the Secretary of the Treasury.

In the 76th Congress, during consideration of a bill[7] as described above, the following amendment was offered:[8]

> Amendment offered by Mr. August H. Andresen [of Minnesota]: On page 2, at the end of section 3, add a new section, as follows:
>
> Sec. 4. That section 3700 of the Revised Statutes (U.S.C., title 31, sec. 734, as amended by section 8 of the Gold Reserve Act of 1934 (73d Cong., H.R. 6976), is further amended to read as follows:
>
> "Sec. 3700. With the approval of the President, the Secretary of the Treasury may purchase gold . . . at home or abroad . . . upon such terms . . . as he may deem most advantageous to the public interest: *Provided*, That no payments for gold so purchased shall be made . . . to any foreign vendor (including foreign governments) . . . unless and until such vendor . . . shall guarantee to the Secretary of the Treasury as a condition precedent to receiving such payment: (1) That [a specified amount] shall be used exclusively for the purchase of commodities or articles produced, grown, or manufactured in the United States. . . ."

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7. H.R. 3325 (Committee on Coinage, Weights, and Measures).

8. 84 CONG. REC. 4628, 76th Cong. 1st Sess., Apr. 21, 1939.

Mr. Howard W. Smith, of Virginia, made the point of order that the amendment was not germane to the bill. He argued that, where only one amendment to existing law is contained in the bill, no other amendments to the law can be proposed by way of amendment of the bill; and that, where more than one amendment is proposed in the bill, the question for the Chair is whether the bill is a general amendatory bill and thus open to amendments further modifying the law. The Chairman,[9] in ruling on the point of order, stated:[10]

> The bill picks out two powers granted in the Gold Reserve Act of 1934, from a number of other powers in that act, and it extends the date of expiration of those powers vested in the President and also in the Secretary of the Treasury, and continues those powers for an additional period.

Chairman McCormack then cited prior instances in which, "to a bill amending the Federal Reserve Act in a number of particulars an amendment relating to the Federal Reserve Act, but to no portion provided for in the pending bill, was held not to be germane"; and in which it was held that, "to a bill amendatory of an act in several particulars an amendment proposing to modify the act but not related to the bill" was not germane.

A further ruling of the Speaker in a prior situation was quoted, as follows:[11]

> It does not seem to the Chair that this bill brings the whole National Defense Act before the House. It only brings before the House a very limited portion of it, and not the portion affected by the amendment offered by the gentleman from South Carolina. The Chair is disposed to sustain the point of order. The point of order is sustained.

The Chair sustained the point of order.

Penalties Under Export Administration Act—Amendment Relating to Different Class of Penalties

§ 35.45 To a bill relating to the imposition of penalties of a certain class, all falling within the jurisdiction of one committee, an amendment relating to another class of penalties falling within the jurisdiction of another committee is not germane; thus, to a title of a bill reported from the Committee on Foreign Affairs comprehensively amending the Export Administration Act, and addressing

9. John W. McCormack (Mass.).

10. 84 Cong. Rec. 4629, 76th Cong. 1st Sess., Apr. 21, 1939.

11. *Id.* at p. 4630.

penalties for violating export controls within that committee's jurisdiction, such as revocation of export licenses and forfeiture of property interests and proceeds related to exports, an amendment authorizing the President to control imports by persons violating export controls was held to be not germane because it was a penalty not within the class covered by the title and by the Export Administration Act, and was a matter within the jurisdiction of another committee (Ways and Means).

The proceedings of Sept. 29, 1983, relating to H.R. 3231, the Export Administration Amendments Act of 1983, are discussed in § 4.55, supra.

Bill Affecting Gold Reserve Requirements—Amendment Relating to France's War Debt to United States

§ 35.46 To a bill eliminating the gold reserve requirements for certain United States currencies, an amendment providing that no redemption in gold be made to France until agreement is reached respecting payment of France's World War I debt to the United States was held to be not germane.

The following ruling[12] of the Chair was made with respect to the germaneness of an amendment offered by Mr. Lester L. Wolff, of New York, to a bill[13] eliminating certain gold reserve requirements:

> THE CHAIRMAN:[14] . . . The bill before the House, H.R. 14743, deals only with the question of eliminating reserve requirements for Federal Reserve notes and for U.S. notes and Treasury notes of 1890. The amendment offered by the gentleman from New York, while put in the form of an amendment to the same section of the Gold Reserve Act amended by section 8 of the bill before the Committee, has to do with war debts, a matter within the jurisdiction of the Committee on Ways and Means and a matter not involved in the subject before the Committee of the Whole.
>
> The Chair, therefore, sustains the point of order.

Contributions to International Financial Organization—Restriction on Uses of Funds

§ 35.47 To a bill continuing authority under existing law to make contributions to an international financial orga-

12. See 114 CONG. REC. 3687, 90th Cong. 2d Sess., Feb. 21, 1968.
13. H.R. 14743 (Committee on Banking and Currency).
14. James G. O'Hara (Mich.).

nization and authorizing appropriations for those contributions, an amendment adding a further restriction on the use of United States contributions to those already contained in that law is germane.

On July 2, 1974,[15] during consideration of a bill continuing United States participation under the International Development Association Act (H.R. 15465), an amendment prohibiting the use of United States contributions as loans for the purchase of nuclear weapons or materials was held germane as a restriction on the use of loans by recipient nations which added to several restrictions already contained in the Act:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

Sec. 14. (a) The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association four annual installments of $375,000,000 each as the United States contribution to the Fourth Replenishment of the Resources of the Association.

"(b) In order to pay for the United States contribution, there is hereby authorized to be appropriated without fiscal year limitation four annual installments of $375,000,000 each for payment by the Secretary of the Treasury.".

THE CHAIRMAN:[16] Are there any amendments to this section? There being no amendments the Clerk will read.

The Clerk read as follows:

Sec. 2. Subsections 3 (b) and (c) of Public Law 93–110 (87 Stat. 352) are repealed and in lieu thereof add the following:

"(b) No rule, regulation, or order in effect on the date subsections (a) and (b) become effective may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold in the United States or abroad. . . .

MR. [MARIO] BIAGGI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Biaggi: Page 2, immediately after line 9, insert the following new section:

Sec. 2. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"Sec. 15. No moneys contributed by the United States to the Association may be loaned to, or utilized by, any country for the purpose of purchasing nuclear materials, or nuclear energy technology or for the purpose of developing nuclear explosive devices or nuclear weapons.". . .

MR. [HENRY S.] REUSS [of Wisconsin]: Mr. Chairman, I make the point of order against the amendment that it is not germane. It purports to amend subsections 3 (b) and (c) of Pub-

15. 120 CONG. REC. 22026, 22028, 93d Cong. 2d Sess.

16. John Brademas (Ind.).

lic Law 93–110 (87 Stat. 352). Public Law 93–110 is the Par Value Act which affected the gold value of the dollar. The amendment offered by the gentleman from New York (Mr. Biaggi) attempts to amend the International Development Association Act, this has to do with nuclear materials, it is, therefore, entirely nongermane to the act which it seeks to amend. . . .

MR. BIAGGI: . . . Mr. Chairman, my amendment simply seeks to add a new section to this bill, section 15. This section would condition any of the moneys to be spent in the event IDA is successful this afternoon, or any of the moneys to be loaned, and I use that as a euphemism because, in fact, it is an outright grant in its nature, and we have recognized it as such, and I do not think anyone thinks that we will ever have the money returned, but it represents a condition under which the money can be loaned.

The fact of the matter is, the money, if it is to be loaned, cannot be used to provide nuclear technology or nuclear material in any of the proposed countries, and it is my judgment that the appropriate manner in which to do that is to add an additional section, and we do that in my amendment by creating section 15.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Wisconsin (Mr. Reuss).

The bill is drafted as a continuation of the U.S. Governor's authority to agree to make U.S. money available to IDA under terms of the International Development Association Act. That statute already contains several restrictions on the Governor's authority to cast dissenting votes for loans to nations lacking certain qualifications. Therefore an amendment to further restrict the use of funds for loans under IDA, part of which are authorized by the bill, would be germane, and the point of order is overruled.[17]

Extending Authorization for Contributions to International Monetary Fund—Amendment Restricting Total Budget Outlays of Government

§ 35.48 An amendment must be germane to the pending bill, and where the bill amends one portion of an existing law, an amendment that affects another provision of that law, not related to the subject of the bill, is not germane; thus, to a title of a bill amending that portion of an existing law to extend the authorization for United States contributions to the International Monetary Fund, amendments affecting another section of that law by mandating, or affirming congressional commitment to mandate, that the total budget outlays of the federal gov-

17. In response to a further point of order, the Chair ruled that the Biaggi amendment came too late, because section 2 of the bill had already been read.

ernment shall not exceed its receipts were held not germane, as addressing issues of federal spending and revenue beyond the scope of the title and amending or referencing a section originally added to the law as a nongermane Senate amendment.

During consideration of H.R. 2957 [18] in the Committee of the Whole on Aug. 3, 1983,[19] the Chair sustained points of order in the circumstances described above. The proceedings were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 28, after line 8, add the following:

Sec. 308. Consistent with the objective of sustaining worldwide economic growth and recovery set forth in this title, section 3 of Public Law 96–389, the Bretton Woods Agreements Act Amendments of 1980, is amended by striking it in its entirety and inserting in lieu thereof the following: Beginning in fiscal year 1985, the total budget outlays of the Federal Government shall not exceed its receipts. . . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: Mr. Chairman, I make a point of order against the amendment. . . .

[M]y point of order is that it relates to a balanced budget for the United States and is therefore not germane to that part of the legislation before us.

Title III of the legislation provides for U.S. contributions to the IMF, as well as certain conditions and restrictions of those contributions and on lending by U.S. banks. The title does not address the far broader issues of overall Federal Government spending and taxing raised by this amendment.

The amendment also has a different fundamental purpose from title III, in that it seeks to impose limitations on aggregate receipts and expenditures of the Federal Government, which has nothing to do with the purposes of the IMF legislation.

The mere fact that previous nongermane amendments dealing with budget outlays and receipts have been attached to IMF legislation in past Congresses does not make the amendment germane. The amendment must be germane to the bill, not to the underlying law being amended in the bill.

Deschler's Procedure, chapter 28, section 27.

I ask the Chair to rule the amendment out of order. . . .

MR. WALKER: Mr. Chairman, the amendment that I have placed before the House relates precisely to the law to which this particular piece of legislation speaks. And let me also cite Deschler's Procedure. Deschler's Procedure, 28.55, says that a bill amending several sections of an existing law may be sufficiently comprehensive to permit amendments which are germane to other sections of that law.

That is precisely what I am doing here. The language of this amendment

18. International Recovery and Financial Stability Act.

19. 129 CONG. REC. 22678, 22679, 98th Cong. 1st Sess.

relates to balanced budget language that is in the present law. This bill amends several sections of that law. So, therefore, this particular amendment is entirely germane to that which is before us.

Deschler's Procedure also says, in section 28.57, to a bill amending a law dealing with several subjects within a definable class, an amendment further amending that law to add another subject within the same class is germane.

This again is the same subject area. We have balanced budget language which exists in the present law. This is in the same class. So, therefore, it seems to me that under precedents of the House it is entirely germane to the bill that we are considering.

THE CHAIRMAN:[20] The Chair is prepared to rule on the point of order.

Although the balanced budget provision of law which would be amended by this amendment was originally added to the Bretton Woods Agreement Act as a nongermane Senate amendment in the 95th Congress and was subsequently amended in a similar bill in the 96th Congress, the pending bill does not relate to the entire Federal budget.

The Chair rules that the amendment must be germane to the pending bill, it not being sufficient that the amendment relate to a nongermane provision of a law being amended by the pending bill.

Therefore, the Chair sustains the point of order.

Mr. Walker then offered a further amendment:

MR. WALKER: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Walker: On page 28, after line 8, add the following:

Sec. 308. Consistent with the objective of sustaining worldwide economic growth and recovery set forth in this title, Congress reaffirms its commitment to the mandates required under section 7 of Public Law 95–435, the Bretton Woods Agreements Act Amendments of 1978. . . .

MR. ST GERMAIN: Mr. Chairman, I raise a point of order against the amendment. . . .

[T]he amendment relates to a balanced budget for the United States and is therefore not germane to that part of the legislation before us. Title III of the legislation provides for U.S. contributions to the IMF, as well as certain conditions and restrictions on those contributions and on lending by U.S. banks. The title does not address the far broader issues of overall Federal Government spending and taxing raised by this amendment.

The amendment also has a different fundamental purpose from title III, in that it seeks to impose limitations on aggregate receipts and expenditures of the Federal Government, which has nothing to do with the purposes of the IMF legislation.

The mere fact that previous nongermane amendments dealing with budget outlays and receipts have been attached to IMF legislation in past Congresses does not make this amendment germane. The amendment must be germane to the bill, not to the underlying law being amended in the bill.

Deschler's, chapter 28, section 27.

I ask the Chair to rule the amendment out of order. . . .

20. Donald J. Pease (Ohio).

MR. WALKER: Mr. Chairman, in the case of this amendment, it does two things. No. 1, it speaks to exactly the same kinds of issues that were involved in amendment language that was added in the committee to the bill dealing with apartheid. This particular language simply says that consistent with the objectives sustaining worldwide economic growth and recovery set forth in the title—so it relates directly to the title of the bill under consideration. We are reaffirming the process of the law that was previously decided by this Congress. This simply reaffirms section 7 of Public Law 95-435 which already exists. This is a different amendment from the previous one. The precedent cited by the gentleman—I could agree with the Chair—applied to the previous amendment. In this case, though, the amendment language is specifically consistent with the title under consideration, and I think that the amendment is entirely germane to the bill that we are considering.

THE CHAIRMAN: The Chair rules that the issues raised with this amendment are fundamentally the same as those raised by the previous amendment. The issues are not germane to the bill at hand, and the point of order is sustained.

Bill and Amendment Affecting Definitions of Terms in Bank Holding Company Act

§ 35.49 To a bill amending two sections of the Bank Holding Company Act to, first, redefine "bank holding company" to include companies having actual control of any bank and, second, exempt from the definition of such term certain institutions controlling banks engaged primarily in foreign business, an amendment to a third section of the act to change the definition of the word "company" to include partnerships was held to be germane.

In the 91st Congress, a bill[1] was under consideration amending the Bank Holding Company Act of 1956. During consideration of the bill, an amendment had been offered as follows,[2] and subsequently adopted: G5(3)

Amendment offered by Mr. [Thomas L.] Ashley [of Ohio]: Page 12, strike lines 18 through 21 and insert in lieu thereof the following:

(b) Section 2(a) of the Bank Holding Company Act of 1956 is amended to read as follows:

"Sec. 2. (a)(1) Except as provided in paragraph (5) of this subsection, 'bank holding company' means any company that has control over any bank or over any company that is or becomes a bank holding company by virtue of this Act.

"(2) Any given person has control.

"(A) over any company which is a corporation if the person . . . has power to vote 25 percent or more of any class of voting securities of that corporation.

1. H.R. 6778 (Committee on Banking and Currency).
2. 115 CONG. REC. 33141, 91st Cong. 1st Sess., Nov. 5, 1969.
3. *Id.* at p. 33142.

"(B) over any company which is a corporation or trust if the person controls in any manner the election of a majority of its directors or trustees. . . ."

(c) Section 4(c) of the Bank Holding Company Act of 1956 is amended by adding at the end thereof the following new paragraph:

"(12) . . . activities conducted by any company organized under the laws of a foreign country the greater part of whose business is conducted outside the United States, if the Board . . . determines that . . . the exemption would not be substantially at variance with the purposes of this Act. . . ."

In explaining the amendment, the proponent had stated:[4]

Mr. Chairman, this amendment is concerned with the criteria for determining whether or not a company is a bank holding company for purposes of the 1956 act, as amended. The bill before us, H.R. 6778, defines a bank holding company as any company that directly or indirectly owns or controls 25 percent or more of the voting shares of any bank. . . .

Testimony before our committee indicated that in some instances companies might seek to avoid coverage of the act by keeping their stock ownership at less than 25 percent. My amendment simply modifies H.R. 6778 by providing that actual control of any bank, even at less than 25 percent, is sufficient to require the controlling company to register as a bank holding company. . . .

Second, Mr. Chairman, my amendment makes it clear, subject to action by the Federal Reserve Board, that no foreign institution will be a bank holding company by virtue of its ownership or control of any bank the greater part of whose business is conducted outside the United States. . . .

After adoption of the Ashley amendment, the following amendment was offered to the bill:[5]

Amendment offered by Mr. [Chalmers P.] Wylie [of Ohio]: Page 12, immediately after line 21, insert the following:

(c) Section 2(b) of the Bank Holding Company Act of 1956 is amended (A) by inserting "partnership," immediately after "corporation,", (B) by striking "(1)", and (C) by striking ", or (2) any partnership". . . .

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

MR. [THOMAS M.] REES [of California]: Mr. Chairman, the amendment is out of order as it is not germane to the bill now before us. The bill before us is in the form of one committee amendment. The committee amendment deals with section 2(a) of the Bank Holding Company Act. It then on line 22 proceeds to jump to section 4(c) of the Bank Holding Act. The amendment offered by the gentleman from Ohio goes to 2(b) and there is no mention in the bill before us of section 2(b) of the Bank Holding Company Act.

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

MR. WYLIE: Mr. Chairman, the principle is well established that in passing on the germaneness of an amendment,

4. *Id.* at p. 33141.

5. *Id.* at p. 33142.

the Chair considers the relationship of the amendment to the bill as modified by the Committee of the Whole at the time the amendment is offered, and not as originally referred to the committee—Cannon's Procedure, page 200.

Mr. Chairman, in the light of this principle, the attention of the Chair is respectfully directed to the present status of the committee amendment, which under the rule is considered as an original bill for the purpose of amendment. The Committee of the Whole has adopted, among others, the Ashley amendment, which completely rewrites the definition of "bank holding company" in the Bank Holding Company Act.

It is obvious that the legal significance of the definition of "bank holding company" depends in turn on the definition of "company." It is equally obvious that a change in the definition of "company" will, to that extent, modify the definition of "bank holding company."

My amendment, Mr. Chairman, amends the definition of "company" so as to include partnerships. I think it is clear, Mr. Chairman, that my amendment thereby modifies the definition of "bank holding company"—indeed, Mr. Chairman, this is its principal purpose. By adopting the Ashley amendment, the Committee of the Whole necessarily made in order any amendment proposing a germane modification of the bill as so amended, in accord with the principle which I stated at the beginning of my remarks. . . .

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

. . . The fact that there was no point of order raised to the Ashley amendment allowed the Ashley amendment to be considered and adopted by the committee and that changed the tenor of the bill to the extent that the language therein be changed, and the committee amendment now under consideration amends sections 2(a) and 4(c) of the act. These two sections, and the amendment proposed to them, are unrelated. The committee report on the pending bill discloses that the committee amendment does two things: Subjects single bank holding companies to the 1956 act and changes the existing law with respect to what particular nonbanking activities are prohibited to them.

It is a well-established principle of the germaneness rule that where a bill amends existing law in two or more unrelated respects, other amendments to that law may be germane. . . .

Section 2(b) of existing law . . . defines the word "company" as it is used in the term "bank holding company" and elsewhere in the act. . . .

Since the committee amendment amends two provisions of existing law and opened up for consideration the meaning of the term "bank holding company," . . . words within or dependent upon that term, even if defined elsewhere in the act, are also subject to interpretation and definition.

The Chair holds the amendment germane and overrules the point of order.

Bill Amending Federal Reserve Act—Amendment To Permit National Banks To Purchase Certain Banks Under Another Law

§ 35.50 To a bill amending an existing law to accomplish a

6. Chet Holifield (Calif.).

particular purpose, an amendment to another law not related to the same subject is not germane; thus, to a bill amending several sections of the Federal Reserve Act to expand the authority of the Federal Reserve Board to manage the national monetary supply by providing mandatory reserve requirements and by imposing other requirements on member banks, an amendment to another law to permit national banks to purchase small banker-owned banks was conceded to be nongermane since unrelated to the Federal Reserve Act.

During consideration of H.R. 7[7] in the Committee of the Whole on July 20, 1979,[8] a point of order was conceded and sustained against the amendment described above. The proceedings were as follows:

> Sec. 3. (a) Section 19(a) of the Federal Reserve Act (12 U.S.C. 461) is amended (1) by changing "member bank" to read "depository institution" each place it appears therein, and (2) by adding at the end thereof the following: "The Board shall exercise its authority to define the term 'deposit' when applicable to reserve requirements of nonmember depository institutions after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.". . .

MR. [JAMES A.] MATTOX [of Texas]: Mr. Chairman, I offer an amendment.

> The Clerk read as follows:
>
> Amendment offered by Mr. Mattox: Add a new section:
>
> Sec. 8. Section 5136 of the Revised Statutes (12 U.S.C. 24(7)) is amended by inserting before the period at the end thereof the following: ": *Provided further,* That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank". . . .

MR. [CHALMERS P.] WYLIE [of Ohio]: . . . The amendment is clearly not germane to this bill. I might say I have some sympathy with the gentleman's amendment, but it is a rather complicated amendment which ought to be debated more fully than we have time here today to do, in my judgment. This bill we have before us today is a bill to facilitate the implementation of monetary policy and to promote competitive equality among depository institutions.

The gentleman's amendment would establish a new bank. It would estab-

7. The Monetary Control Act of 1979.

8. 125 CONG. REC. 19673, 19674, 19688–90, 96th Cong. 1st Sess.

lish a whole new concept and it is obviously not within the purview of the bill before us today.

THE CHAIRMAN:[9] Does the gentleman wish to be heard against the point of order?

MR. MATTOX: Mr. Chairman, I concede the point of order.

THE CHAIRMAN: The gentleman concedes the point of order.

The point of order is sustained.

Deposit Insurance Coverage—Amendment Imposing Maximum Interest and Dividend Rates Payable

§ 35.51 To a proposition to amend existing law in one particular, an amendment to further change that law in another respect not covered by the bill is not germane; thus, to a bill limited in scope to the amount and extent of deposit insurance coverage in various savings institutions, an amendment imposing uniform maximum interest or dividend rates which may be paid by those savings institutions was held not germane.

On Feb. 5, 1974,[10] during consideration of H.R. 11221 (amending the Federal Deposit Insurance Act) in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [ALBERT W.] JOHNSON of Pennsylvania: Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Johnson of Pennsylvania: On page 3, strike the quotation mark at the end of line 17, and insert the following after line 17:

"(C) In order to provide for the equality of interest or dividend rates, terms and conditions on deposits or investments in insured banks or insured institutions made by any depositor referred to in subparagraph (A) of this paragraph, the Corporation, the Board of Governors of the Federal Reserve System, and the Federal Home Loan Bank Board, shall, in the event that limitations on interest or dividend rates are imposed on such deposits or investments, issue uniform regulations specifying maximum interest or dividend rates which may be paid on such deposits or investments made under the same terms and conditions.". . .

MR. [FERNAND J.] ST GERMAIN [of Rhode Island]: . . . Mr. Chairman, I make a point of order against the so-called Johnson amendment to H.R. 11221.

This section merely provides full Federal insurance on such funds placed in financial institutions, and restricts itself to that.

The amendment before us speaks to the question of what interest rates may be offered to such funds and, therefore, is not germane since it is beyond the scope of the legislation contained in H.R. 11221, as well as this particular section.

9. John P. Murtha (Pa.).

10. 120 CONG. REC. 2064–66, 93d Cong. 2d Sess.

MR. JOHNSON of Pennsylvania: . . . Mr. Chairman, I rise to defend the amendment against the point of order raised by the gentleman from Rhode Island. The amendment is indeed germane to the fundamental purpose of the bill before us today. On its face, the bill provides full insurance of the deposits of public units in all insured banks and institutions. As such, it is designed and intended to make a basic change in the relationships between the financial institutions which are regulated by the Federal Reserve, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board—the intention is to redistribute the deposits among these institutions.

In the bill, the primary method for achieving this redistribution is through the provision of insurance. Whereas, public deposits are presently limited for all practical purposes to commercial banks, which can supplement their account insurance with the protection afforded by the pledging of collateral to secure these public deposits—and this pledging is required in most instances by State law—the thrust of the pending legislation is to enable thrift institutions, savings and loan associations, and mutual savings banks in particular, to accept these public deposits.

My amendment would only serve to modify these terms and conditions under which the deposits of public funds would be accepted by the financial institutions involved. The same fundamental purpose would be sought by amendment as by the bill itself, that of regulating the flow of public funds between these institutions. . . .

It is claimed that the difference in terms on its face makes my amendment nongermane, since the bill deals with insurance of deposits, and my amendment deals with the interest or dividends payable on those deposits. However, I must insist that the purpose and thrust be examined, rather than just the language.

The reason for extending full insurance of these deposits is to influence the custodians of these public funds in their decisions as to where they will be deposited—that is the stated purpose of this bill, as reported by the Banking and Currency Committee and as discussed here on the House floor today.

In no way does my amendment depart from this same fundamental purpose—it seeks to use the powers of the same regulatory agencies to influence the same deposits of the same public depositors in the same institutions. . . .

THE CHAIRMAN:[11] The Chair is prepared to rule.

The gentleman from Rhode Island (Mr. St Germain) makes the point of order that the amendment offered by the gentleman from Pennsylvania (Mr. Johnson) is not germane to the bill H.R. 11221. . . .

The pending bill provides for full deposit insurance coverage for deposits of public funds in various types of savings institutions without regard to the existing $20,000 ceiling, and provides for an increase in the present $20,000 ceiling on deposit insurance for individual accounts to $50,000. The bill is thus limited in scope to the question of amount and extent of deposit insurance.

The proposed amendment provides that in order to assure equality of in-

11. Spark Matsunaga (Hi.).

terest or dividend rates, terms and conditions in the savings institutions covered by the bill, the regulatory authorities of those institutions must issue uniform regulations, specifying maximum interest or dividend rates which may be paid on deposits or investments made under the same terms and conditions.

On September 8, 1966, Chairman Boland, the gentleman from Massachusetts, held that to a substitute amendment amending several banking acts relating to interest rates, and amending one subsection of the Federal Deposit Insurance Act, an amendment proposing further modifications to the latter act to increase the insurance coverage on deposits was not germane. In that case, the Chair, citing "Cannon's Precedents" (VIII, 2937), stated that where it is proposed to amend existing law in one particular, an amendment to amend the law in another respect not covered by the bill is not germane.

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

Bill Amending Internal Revenue Code To Provide Tax Credits—Senate Amendment Authorizing Payments to Social Security Recipients

§ 35.52 To a House bill containing several diverse amendments to the Internal Revenue Code to provide individual and business tax credits, that part of a Senate amendment in the nature of a substitute contained in a conference report which authorized appropriations for special payments to social security recipients was deemed not to be related to tax benefit provisions in the Internal Revenue Code and was held to be not germane.

On Mar. 26, 1975,[12] during consideration of the conference report on H.R. 2166,[13] it was held that to a proposition seeking to reduce tax liabilities of individuals and businesses by providing diverse tax credits within the Internal Revenue Code, an amendment to provide rebates to recipients under retirement and survivor benefit programs was not germane. The proceedings were as follows:

SEC. 702. SPECIAL PAYMENT TO RECIPIENTS OF BENEFITS UNDER CERTAIN RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) PAYMENT.—The Secretary of the Treasury shall, at the earliest practicable date after the enactment of this Act, make a $50 payment to each individual, who for the month of March, 1975, was entitled . . . to—

(1) a monthly insurance benefit payable under title II of the Social Security Act,

(2) a monthly annuity or pension payment under the Railroad Retire-

12. 121 CONG. REC. 8911, 8912, 8931, 94th Cong. 1st Sess.

13. The Tax Reduction Act of 1975.

ment Act of 1935, the Railroad Retirement Act of 1937, or the Railroad Retirement Act of 1974, or

(3) a benefit under the supplemental security income benefits program established by title XVI of the Social Security Act; . . .

(c) COORDINATION WITH OTHER FEDERAL PROGRAMS.—Any payment made by the Secretary of the Treasury under this section to any individual shall not be regarded as income (or, in the calendar year 1975, as a resource) of such individual (or of the family of which he is a member) for purposes of any Federal or State program which undertakes to furnish aid or assistance to individuals or families, where eligibility to receive such aid or assistance (or the amount of such aid or assistance) under such program is based on the need therefor of the individual or family involved. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: I make a point of order against the conference report on the ground that it contains matter which is in violation of clause 7, rule XVI.

The nongermane matter I am specifically referring to is that section of the report dealing with a rebate to social security recipients. This section appears as section 702 of the conference report on page 55. . . .

There is clearly nothing in the House bill dealing with social security matters. There is nothing relating to a trust fund or the relationship of trust fund and general fund.

For that reason, Mr. Speaker, it seems to me that this . . . is clearly outside the scope of the House bill. . . .

MR. [AL] ULLMAN [of Oregon]: . . . In the House-passed bill there was a provision very specifically rebating funds to individuals under title I. The measure included in this conference report does not affect the trust fund in any way. It does not in any way amend the Social Security Code.

In the statement of the managers we say the following:

> The conferees emphasize that these payments are not Social Security benefits in any sense, but are intended to provide to the aged, blind, and disabled a payment comparable in nature to the tax rebate which the bill provides to those who are working.

Therefore, in a broadly based bill such as this kind, where various kinds of rebates are passed along to different segments of the public, it seems to me that this is perfectly within the scope of the bill and should be determined germane to the bill. . . .

THE SPEAKER:[14] The Chair is prepared to rule.

Title V of the Senate amendment in the nature of a substitute "Miscellaneous Provisions" contained sections which did not amend the Internal Revenue Code and which could not be considered germane to any portion of the House-passed bill or the bill as a whole. Specifically, section 501 of the Senate amendment providing a special payment to recipients of benefits under certain retirement and survivor benefit programs, a modification of which was incorporated into section 702 of the conference report, is not germane to the House-passed bill. That provision is not related to the Internal Revenue Code and would provide an authorization of appropriations from the Treasury.

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14. Carl Albert (Okla.).

For this reason, the Chair holds that the section 702 of the conference report is not germane to the House bill and sustains the point of order.

MR. CONABLE: Mr. Speaker, I move the House reject the nongermane amendment covered by my point of order.

THE SPEAKER: The gentleman from New York is recognized for 20 minutes in support of his motion.

—Senate Amendment Providing Unemployment Compensation Benefits

§ 35.53 To a House bill amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a portion of a Senate amendment in the nature of a substitute contained in a conference report providing certain unemployment compensation benefits—a matter not within the class of tax benefits contained in the House bill—was conceded to be not germane.

On Mar. 26, 1975,[15] during consideration of the conference report on H.R. 2166,[16] a point of order against a Senate matter in the report was conceded and held to be not germane. The proceedings were as indicated below:

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain Unemployment Compensation.

(a) AMENDMENT OF EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1974.—Section 102(e) of the Emergency Unemployment Compensation Act of 1974 is amended—

(1) in paragraph (2) thereof, by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (3), the amount"; and

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

"(3) Effective only with respect to benefits for weeks of unemployment ending before July 1, 1975, the amount established in such account for any individual shall be equal to the lesser of—

"(A) 100 per centum of the total amount of regular compensation (including the dependents" allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

"(B) twenty-six times his average weekly benefit amount (as determined for purposes of section 202(b)(i)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year."

(b) MODIFICATION OF AGREEMENTS.—The Secretary of Labor shall, at the earliest practicable date after the enactment of this Act, propose to each State with which he has in effect an agreement entered into pursuant to

15. 121 CONG. REC. 8911, 8933, 94th Cong. 1st Sess.

16. The Tax Reduction Act of 1975.

section 102 of the Emergency Unemployment Compensation Act of 1974 a modification of such agreement designed to cause payments of emergency compensation thereunder to be made in the manner prescribed by such Act, as amended by subsection (a) of this section. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with section 701, providing certain unemployment compensation benefits. . . .

I have looked over the House bill, and I can find no reference therein to unemployment compensation benefits. As nearly as I can figure it, this particular section came from a Senate nongermane amendment and has no relation whatsoever to anything that was contained in the House bill.

I, therefore, say the point of order should be sustained.

THE SPEAKER:[17] Does the gentleman from Oregon desire to be heard upon the point of order?

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I concede the point of order.

THE SPEAKER: The gentleman from Oregon concedes the point of order, and the point of order is sustained.

—*Senate Amendment Limiting Use of Foreign Tax Credits*

§ 35.54 Where a bill amends existing law relating to a certain subject in several diverse respects, additional amendments germane to that subject may be germane to the bill.

To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report, which added a new section to the House bill and which dealt with earnings and profits of controlled foreign corporations and included limitations on the use of foreign tax credits from foreign oil-related income was held germane. The proceedings of Mar. 26, 1975,[18] were as follows:

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

(a) REPEAL OF MINIMUM DISTRIBUTION EXCEPTION TO REQUIREMENT OF CURRENT TAXATION OF SUBPART F INCOME.—

(1) REPEAL OF MINIMUM DISTRIBUTION PROVISIONS.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

17. Carl Albert (Okla.).

18. 121 CONG. REC. 8909, 8915, 8933, 8934, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166.

(2) CERTAIN DISTRIBUTIONS BY CONTROLLED FOREIGN CORPORATIONS TO REGULATED INVESTMENT COMPANIES TREATED AS DIVIDENDS.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

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

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

House bill.—No provision.

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

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

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

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

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

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

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

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

THE SPEAKER:[19] The Chair is prepared to rule.

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

Qualifications for Entering Armed Forces—Amendment To Allow Noncitizens To Volunteer

§ 35.55 To a proposition that within certain limits persons of prescribed ages be given an opportunity to enter the armed forces, an amendment providing that within certain limits any person, whether a citizen of the United States or of any friendly nation, be given an opportunity to enter the armed forces was held to be germane.

In the 82d Congress, a bill[20] was under consideration comprising amendments to the Universal Military Training and Service Act. The following amendment was offered to the bill:[1]

> Amendment offered by Mr. Poage: Page 30, strike out all of line 10 through 17, inclusive, and insert in lieu thereof the following:
>
> (2) Within the limits of the overall military manpower needs of the United States and notwithstanding any other provision of law any person whether a citizen of the United States or of any friendly nation and any national of Western Germany or Japan who meets all the other qualifications for service in the Armed Forces of the United States . . . shall be afforded an opportunity to volunteer for induction for service in the Armed Forces of the United States. . . .

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

> MR. [W. STERLING] COLE [of New York]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Texas upon the ground that it indirectly affects the naturalization laws of the country which are not a part of the pending measure.

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

> MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, this amendment simply changes the provisions under which persons may be taken into the armed services of the United States. The bill now provides that within certain limits persons of prescribed ages shall be given an opportunity to come into the service of the United States. We change those conditions and one of the limitations we impose is to say that no one shall become a citizen of the United States simply by virtue of this act. That in no wise changes or any manner affects the present immigration laws of the United States because there is no immigration law of the

19. Carl Albert (Okla.).

20. S. 1–1951 (Committee on Armed Services).

1. 97 CONG. REC. 3889, 82d Cong. 1st Sess., Apr. 13, 1951.

United States that says that anyone who serves under the terms of this bill shall or shall not become a citizen of the United States. . .

The Chairman[2] ruled:[3]

The Chair is inclined to think that on the face of the amendment, as it appears, it would be germane to the pending bill, and overrules the point of order.

Bill To Amend Selective Service Act To Provide for Induction of Medical Specialists—Amendment Relating to Induction of Aliens

§ 35.56 To a bill to amend the Selective Service Act of 1948 to provide for special registration, classification, and induction of certain medical and dental and "allied specialists," an amendment relating to induction of aliens was held to be not germane.

In the 81st Congress, during consideration of a bill[4] to amend the Selective Service Act of 1948, the following amendment was offered:[5]

Amendment offered by Mr. [Mike] Mansfield [of Montana]: Page 8, line 22, insert a new section 7 as follows:

That the second sentence of section 4 (a) of the Selective Service Act of 1948, as amended, is hereby amended to read as follows:

Any citizen of a foreign country, who is not . . . exempt from . . . service under the provisions of this title . . . shall be relieved from liability for . . . service . . . if . . . he has made application to be relieved from such liability in the manner prescribed by . . . rules and regulations prescribed by the President; but any person who makes such application shall thereafter be debarred from becoming a citizen of the United States. . . .

A point of order against the amendment was reserved, as follows:[6]

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I reserve a point of order on the amendment on the ground that the amendment is not germane to the bill which is to provide for special registration of certain medical, dental, and allied specialist categories and does not embrace the subject matter which the gentleman is seeking to add to the bill by his amendment.

The Chairman[7] sustained the point of order. He stated:[8]

It is true that the bill mentions the Selective Service Act of 1948; however, it amends it in a certain specific manner and in certain specific categories.

The Chair is inclined to believe that the amendment offered by the gen-

2. Jere Cooper (Tenn.).
3. 97 CONG. REC. 3890, 82d Cong. 1st Sess., Apr. 13, 1951.
4. H.R. 9554 (Committee on Armed Services).
5. 96 CONG. REC. 13866, 13867, 81st Cong. 2d Sess., Aug. 30, 1950.
6. *Id.* at p. 13867.
7. Porter Hardy, Jr. (Va.).
8. 96 CONG. REC. 13867, 13868, 81st Cong. 2d Sess., Aug. 30, 1950.

tleman from Montana goes far beyond the scope of the bill now before us and therefore sustains the point of order.

Bill Amending Various Education Acts—Amendment Making Principles of Civil Rights Act Applicable in Administration of Programs

§ 35.57 To a bill amending various education acts and providing new authorizations for education grants to states, an amendment designed to insure that administration of programs authorized by the bill or amended acts conform to principles established by the Civil Rights Act of 1964 was held to be germane.

In the 90th Congress, during consideration of the Elementary and Secondary Education Act Amendments of 1967,[9] the following amendment was offered:[10]

> Amendment offered by Mrs. [Edith S.] Green of Oregon: On page 44, after line 8, insert the following:
>
> ADMINISTRATION
>
> Sec. 2. Rules . . . guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the United States Office of Education . . . affecting . . . administration of programs authorized by this Act or by any Act amended by this Act shall contain immediately following each substantive provision of such rules . . . citations to the . . . statutory law upon which such provision is based. All such rules . . . guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

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

> MR. [BYRON G.] ROGERS [of Colorado]: Mr. Chairman, I make a point of order against the amendment which has been offered by the gentlewoman from Oregon [Mrs. Green], based upon the proposition that the gentlewoman makes references to rules and regulations promulgated pursuant to titles IV and VI of the Civil Rights Act.
>
> And then she goes into a question of guidelines. . . . [T]he reference to guidelines is not an amendment to any piece of legislation that is being considered by us at this time, and therefore is out of order and not germane.

The Chairman,[11] in ruling on the point of order, stated:

> The Chair would like to point out that this amendment is specifically, by the language contained therein, directed toward the administration of programs authorized by this act, or by any act amended by this act. The Chair therefore overrules the point of order.

9. H.R. 7819 (Committee on Education and Labor).

10. 113 CONG. REC. 13582, 90th Cong. 1st Sess., May 23, 1967.

11. Charles M. Price (Ill.).

Bill Amending Higher Education Laws—Amendment To Prohibit Student Admission Quotas in All Schools

§ 35.58 To a bill amending the General Education Provisions Act in one narrow respect relating to higher education, an amendment to that Act prohibiting the imposition of student admission quotas not only in institutions of higher education but also in public preschool, elementary and secondary programs was held more general in scope and not germane.

On May 12, 1976,[12] during consideration of H.R. 12851[13] in the Committee of the Whole, the Chair, in sustaining a point of order against an amendment, held that to a bill amending and extending various laws relating to higher education, an amendment imposing restrictions on preschool, elementary and secondary education policy broadened the scope of the bill and was not germane.

Amendment offered by Mr. Eshleman: On page 86, line 25, insert "(a)" immediately after "Sec. 202".

On page 87, immediately after line 7, insert the following new subsection:

(b) Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) It shall be unlawful for the Secretary to require the imposition of quotas, goals, or any other numerical requirements on the student admission practice of a State or local educational agency or institution of higher education, community college school, agency offering a pre-school program, or other educational institution receiving Federal funds, whether directly or indirectly, under any provision of law, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements." . . .

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make the point of order—I respectfully regret that I must do so, I will say to my friend from Pennsylvania—that the amendment is nongermane.

Mr. Chairman, this is a higher education bill. While a very few of these provisions may have an impact on secondary schools, it is entirely indirect. The great majority of the bill, more than 90 percent, is in higher education. As a matter of fact, 100 percent of it is. This can only be characterized as a higher education bill.

The gentleman's amendment deals with the admissions practices of elementary and secondary schools, and even preschools. That subject matter is completely foreign to the subject matter of the bill. I repeat, it is a higher education bill.

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12. 122 CONG. REC. 13529, 13530, 94th Cong. 2d Sess.

13. A bill to amend the Higher Education Act of 1965.

The gentleman's amendment, by reaching out to admissions policies of preschool, elementary and secondary schools, goes too far and is, therefore, not germane. There is one amendment in the bill, Mr. Chairman, of the General Education Provision Act which the gentleman's amendment attempts to amend. Here too, however, the committee bill is exclusively a higher education bill.

The committee amendment to the General Education Provisions Act proposes a 1-year extension of the "fund for the improvement of postsecondary education." This is the only way the committee bill amends the general education provisions at all.

Further, Mr. Chairman, the amendment deals with the institution for receiving Federal funds directly or indirectly under any provision of law. Mr. Chairman, I repeat that under any provision of law, this is beyond the limited scope of the bill. . . .

MR. [EDWIN D.] ESHLEMAN [of Pennsylvania]: Mr. Chairman, I would just point out to the Chair that I submitted this amendment under section 202, which is opening section 404 of the General Education Provisions Act, which I think we have amended on occasion before in this House, because we are under the provision of general education. . . .

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

The committee amendment clearly refers to higher education and, with only extremely narrow exceptions, contains no matter that would substantially relate to other programs.

On the other hand, the amendment offered by the gentleman from Pennsylvania (Mr. Eshleman) contains a prohibition against certain requirements with respect to admission policies by the language of the amendment, ". . . a State or local educational agency," or further by the language of the amendment, ". . . agency offering a pre-school program," or, in even broader language contained in the amendment, ". . . other educational institution receiving Federal funds—under any provision of law."

Under the circumstances, the Chair is persuaded that the amendment as drafted is not germane to the bill before the committee and, therefore, the Chair sustains the point of order.

—*Amendment To Prohibit Student Admission Quotas in Higher Education Programs*

§ 35.59 To a bill amending and extending various laws relating to higher education, a further amendment to one of those laws prohibiting the imposition of student admission quotas in applicable higher education programs was held germane as within the category of laws being amended by the bill.

During consideration of H.R. 12851[15] in the Committee of the Whole on May 12, 1976,[16] the Chair, in overruling a point of

14. James C. Wright, Jr. (Tex.).

15. A bill to amend the Higher Education Act of 1965.

16. 122 CONG. REC. 13530, 94th Cong. 2d Sess.

order against an amendment to that bill, demonstrated that, to a bill comprehensively amending several laws within the same class, an amendment further amending one of those laws on a subject within that same class is germane.

MR. [EDWIN D.] ESHLEMAN [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Eshleman: On page 86, line 25, insert "(a)" immediately after "Sec. 202".

On page 87, immediately after line 7, insert the following new subsection:

(b) Section 440 of the General Education Provisions Act is amended by inserting "(a)" immediately after "Sec. 440" and adding at the end thereof the following new subsection:

"(b) It shall be unlawful for the Secretary to require the imposition of quotas, goals, or any other numerical requirements on the student admission practice of an institution of higher education, community college receiving Federal funds, whether directly or indirectly, under any applicable programs, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements."

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the fact is that there remains language in the gentleman's amendment which says, ". . . under any provisions of law, and funds shall not be deferred or limited on the basis of failure to comply with such numerical requirements."

The fact that the entire scope of the act is quoted, and ". . . any provision of law" still remains in, I would insist, Mr. Chairman, makes it not germane to the legislation to which it is addressed. . . .

MR. ESHLEMAN: Mr. Chairman, I would first point out, respectfully, that the gentleman from New Jersey (Mr. Thompson) is incorrect. I did not leave in "under any provision of law." I changed it to "under any applicable programs." And that original terminology is not in there, as the gentleman stated. I have attempted—maybe, let me say, in Pennsylvania Dutch—to limit this to institutions of higher education. . . .

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

The Chair has very carefully reviewed the changes made by the gentleman from Pennsylvania (Mr. Eshleman) in the language contained in the amendment as originally offered. The Chair observes that the amendment presently before the Committee is limited in its scope to institutions of higher education or community colleges, and that it applies only to those institutions of higher education and community colleges which receive Federal funds under any applicable program.

The Chair believes that the amendment as presently drafted before the Committee is germane to the bill, and the point of order is overruled.

The Chair recognizes the gentleman from Pennsylvania (Mr. Eshleman) in support of his amendment.

17. James C. Wright, Jr. (Tex.).

Administration of Federally Funded Educational Programs—Remedies for Denial of Equal Educational Opportunity

§ 35.60 To an Education and Labor Committee amendment in the nature of a substitute extending and amending several laws relating to federal assistance to state and local educational agencies and prescribing standards to be followed by educational agencies in the administration of federally funded educational programs, an amendment proscribing educational agencies from denying equal educational opportunity to public school students and providing judicial and administrative remedies for denials of equal educational opportunity and of equal protection of the laws was held germane.

The proceedings of Mar. 26, 1974, during consideration of H.R. 69, to amend and extend the Elementary and Secondary Education Act, are discussed in Sec. 3, supra.

Amendments to Diverse Educational Assistance Laws—Amendment Affecting Type of Assistance Covered in Another Title .

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

On Mar. 27, 1974,[18] during consideration of H.R. 69[19] in the Committee of the Whole, the proceedings were as follows:

THE CHAIRMAN:[20] The Clerk will read.

The Clerk read as follows:

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18. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess.

19. A bill to amend and extend the Elementary and Secondary Education Act.

20. Charles M. Price (Ill.).

TITLE X—MISCELLANEOUS AMENDMENTS

AMENDMENT OF EMERGENCY SCHOOL AID ACT

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

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

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

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

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

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

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

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

The Clerk read as follows:

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

AMENDMENT TO PUBLIC LAW 874

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

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

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

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

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

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

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

THE CHAIRMAN: The Chair is ready to rule.

The Chair holds that while an examination of the amendment shows it

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

Amendment Not Confined to Law Under Consideration; Restrictions Imposed Under "This or Any Other Act"

§ 35.62 To a bill amending an existing law, an amendment prohibiting assistance under that Act or under any other Act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was ruled out as not germane.

On May 11, 1976,[1] during consideration of H.R. 12835[2] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Conlan: On page 190, between lines 3 and 4, add the following new subsection:

"Sec. 302. (g) The General Education Provisions Act is amended by adding the following new section:

"'Sec. ( ). No grants, contracts, or support are authorized under this or any other Act for any purpose in connection with the *Man: A Course of Study* (MACOS) curriculum program or materials, or in connection with the high school sequel to MACOS, *Exploring Human Nature*.'". . . .

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, I make a point of order against the amendment because it is not germane.

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

MR. PERKINS: It is funded by the National Science Foundation, Mr. Chairman. It affects the National Science Foundation; therefore, it is not germane. . . .

MR. [JOHN B.] CONLAN [of Arizona]: . . . Mr. Chairman, the National Institute for Education, which is a part of this bill, has the educational resource information clearing houses—18 of them—across the Nation, including the one at the University of Indiana, which is totally computerized and which disseminates information in this area. So I do think the matter is germane.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Kentucky makes a point of order against the amendment offered by the gentleman from Arizona on the basis of germaneness. The Chair in a quick examination of the amendment notes that the amendment reads:

No grants, contracts, or support are authorized under this or any other Act. . . .

1. 122 CONG. REC. 13419, 13427, 94th Cong. 2d Sess.
2. The Vocational Education Act amendments.
3. B.F. Sisk (Calif.).

And on that basis the Chair is going to sustain the point of order because of the fact that the amendment goes beyond the scope of this pending bill.

The Chair sustains the point of order.

§ 35.63 To a title of a bill primarily amending the Foreign Assistance Act reported from the Committee on Foreign Affairs to authorize assistance for Africa (containing one reference to another law, the Export-Import Bank Act, not directly amended and also within the jurisdiction of another committee), an amendment restricting the availability of funds in that bill "or any other Act" to support the activities of the African National Congress was held to be not germane.

During consideration of H.R. 3100[4] in the Committee of the Whole on Dec. 9 and 10, 1987,[5] it was held that to a bill amending an existing law to authorize a program, an amendment restricting authorizations under that or any other Act is not germane. The proceedings were as follows:

TITLE VIII—AFRICA

PART A—AFRICA FAMINE RECOVERY AND DEVELOPMENT

SEC. 801. SHORT TITLE.

This part may be cited as the "Africa Famine Recovery and Development Act". . . .

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—AFRICA FAMINE RECOVERY AND DEVELOPMENT

"SEC. 476. OTHER ASSISTANCE PROGRAMS.

"To the maximum extent practicable, resources allocated for sub-Saharan Africa under chapter 4 of part II (relating to the Economic Support Fund), title IV of chapter 2 of this part (relating to the Overseas Private Investment Corporation), the Export-Import Bank Act of 1945, the Peace Corps Act, and the African Development Foundation Act shall be used to provide assistance which meets the criteria specified in section 472(b). To the maximum extent practicable, the agency primarily responsible for administering this part should use resources and authorities available under the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, and the Food for Progress Act of 1985 to complement the assistance provided under section 472. . . .

MR. [DAN] BURTON of Indiana: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana: Page 201, after line 5, insert the following:

SEC. 830. PROHIBITION ON ASSISTANCE TO THE AFRICAN NATIONAL CONGRESS.

4. International Security and Development Cooperation Act of 1987.

5. 133 CONG. REC. 34592, 34595, 34675, 34676, 100th Cong. 1st Sess.

(a) Prohibition.—None of the funds authorized to be appropriated by this or any other Act may be used to support, directly or indirectly, activities of the African National Congress.

(b) Waiver.—Subsection (a) may be waived by the President if he certifies to the Congress that—

(1) the National Executive Committee of the African National Congress has taken a stand publicly and officially opposing the practice of "necklacing", the practice of execution by fire, used against South African blacks. . . .

(3) the African National Congress no longer receives its primary financial, military, and training support from the Soviet Union or other Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961. . . .

MR. [MICKEY] LELAND [of Texas]: Mr. Chairman, I raise a point of order against the amendment. . . .

The point of order has to do with germaneness, Mr. Chairman. The gentleman's amendment goes a lot farther beyond the purview of the responsibility of the Foreign Affairs Committee, and thus also the parameters of the bill itself that we are debating here. It reaches the interest of other agencies that are not within the jurisdiction of the consideration of this legislation at this time, and therefore it is nongermane to the arguments that we pursue here today.

Also, Mr. Chairman, the amendment that the gentleman has offered goes a lot farther than any other amendment that has been offered here today. It is much broader, the scope of which is too far reaching to be relevant to the discussions we have here today under the foreign aid bill. . . .

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

The Chair would state that according to the Procedures of the House, and quoting from section 8, chapter 28, the following:

> . . . a bill authorizing appropriations for a particular program for 10 fiscal years, an amendment restricting authorizations under any act of Congress for any fiscal year contingent upon implementation of a plan to reduce spending under the bill was held not germane as not confined to the bill under consideration.

The Chair would note in reading that amendment of the gentleman from Indiana that the gentleman provides a prohibition on funds appropriated by this or any other act, and the Chair can find in no other instance in title VIII as amended where there is any similar prohibition.

For that reason, the Chair would rule that the gentleman's amendment goes beyond the scope of title VIII and is not germane. Therefore, the point of order is sustained.

Entities Subject to Penalties of Antidiscrimination Laws—Amendment To Redefine Nature of Sex Discrimination

§ 35.64 To a bill amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the single subject of the bill is not germane; thus, to a bill narrowly amending an anti-discrimination provision in the Education

6. Les AuCoin (Ore.).

Amendments of 1972 only to clarify the definition of a discriminating entity subject to the statutory penalties, an amendment redefining one class of discrimination (sex discrimination) was ruled non-germane as beyond the scope of the bill.

On June 26, 1984,[7] during consideration of H.R. 5490 (the Civil Rights Act of 1984), the Chair sustained a point of order against an amendment as described above:

The Clerk read as follows:

Sec. 2. (a) The matter preceding clause (1) of section 901(a) of the Education Amendments of 1972 (hereafter in this section referred to as the "Act") is amended—

(1) by striking out "in" the second time it appears;

(2) by striking out "the benefits of" and inserting in lieu thereof "benefits"; and

(3) by striking out "under any education program or activity receiving" and inserting in lieu thereof "by any education recipient of".

(b) Section 901(c) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) For the purpose of this title, the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.". . . .

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: On page 3, line 10, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 3, line 25, strike out the close quotation marks and the period at the end thereof.

On page 3, after line 25, insert the following:

"(3) For the purpose of this title, the term 'sex' does not include sexual preference or orientation.".

MR. [PAUL] SIMON [of Illinois]: . . . The point of order is that this is not germane to this bill. The classifications that historically have been considered and have been considered under this bill are race, national origin, sex, handicapped, and aged.

The gentleman from California is attempting to add a new clarification here that is not germane to the legislation pending before this body. . . .

MR. DANNEMEYER: . . . I am not seeking to add a new term. The term "sex" is in the law.

All I am seeking to do by this amendment is to make clear that we

7. 130 CONG. REC. 18842, 18846, 18847, 98th Cong. 2d Sess.

do not, as the policymaking body of this country, in terms of law, choose to take our society down the road where someone sooner or later is going to argue that the term "sex" in the law includes sexual preference or orientation. I am not adding anything. I am just clarifying what that term means today as it is used in the law.

THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order.

The Committee's report indicates that the purpose of this legislation is to reaffirm the scope and the application of four civil rights laws to an interpretation which was generally accepted before the Grove City College decision. It does not seek to define what is a discriminatory act.

In other words, the bill deals with the definition of "potential discriminators," in this instance, recipients of Federal financial assistance. It does not deal with the definition of "discrimination."

Because the gentleman's amendment would address the definition of what constitutes discrimination, his amendment would not be in order.

The Chair would cite Deschler's Procedure, 28.2:

> To the proposition amending existing law in several particulars but relating to a single subject affected thereby, an amendment proposing to modify the law but not related to the subject of the pending proposition is not germane.

And in 28.4, Deschler continues:

> Similarly, if a bill seeks only to modify the penalty provisions of a law prescribing specific conduct, an amendment is not germane if it seeks to broaden the scope or alter the applicability of such law.

Therefore, the Chair finds the gentleman's amendment not in order.

—Amendment To Expand Definition of Persons Who Are Subjects of Discrimination

§ 35.65 To a bill amending a general law but only with respect to a specific issue, an amendment relating to terms of the law not amended by the bill, rather than to the issues contained in the bill, is not germane; thus, to a section of a bill amending the Age Discrimination Act only to clarify the definition of a discriminating entity subject to the penalties under that statute, an amendment to expand the definition of persons who are the subject of discrimination (to include the unborn) was ruled nongermane as beyond the scope of the bill.

During consideration of the Civil Rights Act of 1984 (H.R. 5490) in the Committee of the Whole on June 26, 1984,[9] the Chair sustained a point of order against the amendment described

8. Al Swift (Wash.).

9. 130 CONG. REC. 18856, 18857, 98th Cong. 2d Sess.

above. The proceedings were as follows:

The Clerk read as follows: . . .

(e) Section 309 of the Act is amended by— . . .

(3) by adding at the end thereof the following new clause:

"(4) the term 'recipient' means—

"(A) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(B) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.". . . .

MR. [MARK] SILJANDER [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander: Page 6, after line 18, insert the following:

(1) by inserting after "person", "(including unborn children, from the moment of conception)". . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I make a point of order against the amendment.

Again it is the same point of order that I made earlier. It is an attempt to add a totally new definition. Again we are dealing with the traditional definitions of race, national origin, sex, handicapped, and aged.

This is a very legitimate issue to be brought before this body, but this is not the vehicle by which to do it. This is not the intent of it, and it does not fall within the germaneness of this particular bill. . . .

MR. SILJANDER: Mr. Chairman, one of the differences is that the word, "person," is mentioned in the bill several times, whereas in the other point of order the word, "sex," was not at all mentioned in the specific bill.

THE CHAIRMAN:[10] The Chair is prepared to rule on the point of order.

This amendment amends a part of the Age Discrimination Act of 1975 that is not before the committee. The bill has a very narrow purpose, and the gentleman's amendment does not fall within that purpose.

The Chair would refer the gentleman to clause 7, rule XVI, the annotation of which reads:

> To a bill amending a general law on a specific point an amendment relating to the terms of the law rather than to those of the bill was ruled not to be germane; thus a bill amending several sections of one title of the United States Code does not necessarily bring the entire title under consideration so as to permit an amendment to any portion thereof, and where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane. Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends on its relationship to the subject of the bill and not to the entire law being amended.

The Chair finds the amendment not germane and, therefore, not in order.

10. Al Swift (Wash.).

—Amendment To Extend Coverage of Laws to Members of Congress

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

On June 26, 1984,[11] the Chairman of the Committee of the Whole, in holding the amendment described above as not being germane demonstrated that, to a bill having as its fundamental purpose the clarification of eligibility of existing recipients for federal financial assistance under several statutes, an amendment deeming a specified entity to be a recipient of federal financial assistance for the purposes of those laws was not germane since it expanded the scope of the coverage of the laws being amended to a class not necessarily covered by the class of recipients in the bill.

The Clerk read as follows:

Sec. 5. (a) Section 601 of the Civil Rights Act of 1964 (hereafter in this section referred to as the "Act") is amended— . . .

(3) by striking out "under any program or activity receiving" and inserting in lieu thereof "by any recipient of". . . .

(c) Title VI of the Act is amended by adding at the end thereof the following new section: . . .

"Sec. 606. For the purpose of this title, the term 'recipient' means—

"(1) any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, or any public or private agency, institution, or organization, or other entity (including any subunit of any such State, subdivision, instrumentality, agency, institution, organization, or entity), and

"(2) any successor, assignee, or transferee of any such State, subdivision, instrumentality, agency, institution, organization, or entity or of any such subunit,

to which Federal financial assistance is extended (directly or through another entity or a person), or which receives support from the extension of Federal financial assistance to any of its subunits.". . . .

11. 130 CONG. REC. 18857–62, 18864, 98th Cong. 2d Sess.

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

The Clerk read as follows:

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

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

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

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

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

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

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

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

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

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

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

MR. [JOHN] CONYERS [Jr., of Michigan]: . . . The amendment is not germane. The separation of powers doctrine, if we do not recognize it even here in this sensitive area, we would be inviting the Department of Justice to come in to enforce the civil rights laws. We tried many times to deal with

this problem in other ways. For example, the House fair employment practices agreement is one way of creating the mechanism. . . .

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

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

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

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

Parliamentarian's Note: On a roll call vote of 277 yeas to 125 nays, the Committee of the Whole sustained on appeal the ruling of the Chair on the question of germaneness of the amendment.

—Amendment To Define "Person" as Used in Bill To Include Unborn

§ 35.67 An amendment defining a term in a bill may be germane so long as it relates to the bill and not to portions of laws being amended which are not the subject of the bill; thus, to a bill clarifying the definition of persons or institutions which may have federal financial assistance terminated under several civil rights statutes because of discrimination, an amendment providing that the term "person" for the purpose of the bill shall include unborn children was held germane.

On June 26, 1984,[13] the Committee of the Whole had under consideration H.R. 5490, the Civil Rights Act of 1984. The bill amended several laws for purposes of clarifying the definition of recipients of federal financial assistance (including persons) who engage in discrimination so as to become subject to the penalties of those laws. The amendment expanded the definition of recipient persons to include unborn children from the moment of conception, but did not effectively expand the definition of persons who are the objects of discrimination, whatever its intent may have been, a point which was noted in the remarks of Mr. Williams of Montana, below. Had the amend-

12. Al Swift (Wash.).

13. 130 CONG. REC. 18865, 18866, 98th Cong. 2d Sess.

ment effectively defined the unborn as possible objects of discrimination and thus changed existing laws in a manner not contemplated by the bill, the amendment would not have been germane.

MR. [MARK] SILJANDER [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Siljander: Page 10, after line 22, insert the following:

Sec. 6. For the purposes of this act, the term "person" shall include unborn children from the moment of conception.

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I make a point of order against the amendment. . . .

It is an attempt to expand with a new definition beyond the scope of this act. It is not germane as the previous amendment was not germane. . . .

MR. SILJANDER: Chapter 28 of the procedures of the House, section 9.12, says ". . . to a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane.

On page 3, on page 6 and page 8 and page 10 the word "person" is used, which is substantially different from the former amendment.

I yield to the chairman.

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

On page 8, line 24, the bill uses the term "person."

In the gentleman's amendment he says for the purposes of this bill the term "person" shall, and defines the term "person" and, therefore, the amendment is germane. . . .

MR. [PAT] WILLIAMS of Montana: Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Thank you, Mr. Chairman. If my information is correct, the term "person" appears four times in this act and each time it appears, it refers to a person receiving or distributing Federal funds.

Now, if I understand the gentleman's amendment, he is including children at the moment of conception as those receiving or distributing Federal funds. What is the purpose of the amendment? The amendment is moot. Unborn children do not receive or distribute Federal funds. The amendment has no meaning.

Bill Authorizing Programs To Increase Understanding of Foreign Languages and Cultures—Amendment To Prohibit Programs Promoting Secular Humanism

§ 35.68 To a bill narrowly amending the National Defense Education Act of 1958 to authorize programs to increase understanding of foreign languages and cultures, an amendment prohibiting any assistance under that Act to any education program offering the "religion of secular humanism" was con-

14. Al Swift (Wash.).

strued as a restriction on other programs under that Act not amended by the pending bill and was held to be not germane.

On May 12, 1976,[15] during consideration of H.R. 12851[16] in the Committee of the Whole, the Chair sustained a point of order against an amendment holding that to a bill amending various laws relating primarily to higher education, an amendment to a law being amended by the bill, but affecting programs under that law dealing with other levels of education was beyond the scope of the pending bill and in violation of Rule XVI clause 7.

MR. [JOHN B.] CONLAN [of Arizona]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Conlan: On page 86, between lines 6 and 7, add the following new subsection:

"(d) No grant, contract, or support is authorized under this Act for any educational program, curriculum research and development, administrator-teacher orientation, or any project involving one or more students or teacher-administrator involving any aspect of the religion of secular humanism. . . .

MR. [JAMES G.] O'HARA [of Michigan]: . . . The amendment as offered says, "grant, contract, or support is authorized under this act," and in the context in which it is offered the gentleman from Arizona would apply it to all of the parts of the National Defense Education Act because he inserts it on page 86 between lines 6 and 7, which is all of it, as an amendment of section 603 of the National Defense Education Act. So he goes very considerably beyond the scope of the provisions of the section he offers to amend or, for that matter, he goes beyond the scope of the higher education laws that are amended by this particular bill. Therefore, his amendment is not germane. . . .

MR. CONLAN: . . . I think the gentleman is construing it in a very unnecessary and narrow area, Mr. Chairman. We are dealing here with the National Defense Education Act. We are dealing with an enlargement of it. We are dealing with a whole broadened area of financing as part of that whole act. I think the amendment is quite germane, and legal counsel has advised us that it is.

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

The amendment offered by the gentleman from Arizona appears in section 201, all of which consists of an amendment to the National Defense Education Act of 1958. The material contained in the bill amends that act very narrowly only to the extent of providing for specialists and persons trained in languages and foreign cultures. By contrast, the amendment offered by the gentleman from Arizona would appear to amend the totality of the National Defense Education Act of 1958 and impose its restrictions upon

15. 122 CONG. REC. 13531, 13532, 94th Cong. 2d Sess.

16. A bill to amend the Higher Education Act of 1965.

17. James C. Wright, Jr. (Tex.).

any grant or contract or funds under that act which under other titles of that law could go to schools of secondary and other levels of education.

For this reason the Chair believes that the amendment as drafted and offered by the gentleman from Arizona (Mr. Conlan) expressly making reference to "no grant, contract, or support as authorized under this act", thereby referring to the National Defense Education Act of 1958 and not to the pending bill, is beyond the scope of the bill and, therefore, not germane to the language of the bill.

Fair Prices for Housing—Amendment To Prohibit Discrimination

§ 35.69 To a bill adding a new title to the National Housing Act to insure availability of housing at fair prices, amendments to add a section to the act to prohibit, in the administration of the act, any discrimination on account of race, creed, or the like were held not germane.

In the 79th Congress, during consideration of a bill[18] relating to housing stabilization, the following amendment was offered:[19]

Amendment offered by Mr. Dirksen: On page 17, after line 6, insert a new section, as follows:

Sec. 711. In the administration of the National Housing Act as amended and the United States Housing Act of 1937 as amended and in making available the benefits of said acts as amended, there shall be no discrimination on account of race, creed, color, or national origin, and in addition thereto maximum preferences and priorities shall be secured to veterans of World War II and their immediate families.

Mr. Brent Spence, of Kentucky, made the point of order that the amendment was not germane to the bill. The Chairman,[20] in ruling on the point of order, stated:

. . . Obviously, the gentleman's amendment is much too broad to come within the purview of the pending bill. The amendment relates to the National Housing Act as amended, the United States Housing Act of 1937, as amended. The point of order is sustained.

Mr. Everett M. Dirksen, of Illinois, then offered the amendment, deleting the reference to the United States Housing Act of 1937.[1] Mr. Spence again raised a point of order. In defense of the amendment, Mr. Dirksen stated:

Clearly, Mr. Chairman, the bill before us is nothing more than an additional developing of the National Housing Act, it amends the entire act in many particulars. So the amendment before us now relates only to the Housing Act which is presently covered by

18. H.R. 4761 (Committee on Banking and Currency).

19. 92 CONG. REC. 1990, 79th Cong. 2d Sess., Mar. 6, 1946.

20. Jere Cooper (Tenn.).

1. 92 CONG. REC. 1991, 79th Cong. 2d Sess., Mar. 6, 1946.

the bill and is very definitely before the Committee of the Whole.

The Chairman then stated:

The gentleman's amendment would take in entirely different provisions of the Housing Act than that contained in the pending bill.

The point of order is sustained.

Amendment and Amendment Thereto Modifying Same Section of Law

§ 35.70 Where an amendment to a bill proposes modification of a section of existing law in some respects, an amendment to the amendment may properly propose modification of the same section of the law in similar respects.

In the 85th Congress, during consideration of a bill[2] to extend and amend laws relating to improvement of housing, an amendment was offered[3] which in part related to authorization of payments to parties in lieu of those moving expenses occasioned by certain urban projects. The amendment stated in part:[4]

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Such rules and regulations may include provisions authorizing payment to individuals and families of fixed amounts (not to exceed $100 in any case) in lieu of their respective reasonable and necessary moving expenses."

An amendment offered to such amendment stated as follows:[5]

Amendment offered by Mr. [Barratt] O'Hara of Illinois to the amendment offered by Mr. Talle: Amend section 302 to read as follows:

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended (1) by striking out $2,000 and inserting in lieu thereof $3,000; and (2) by adding at the end thereof the following sentence: Such rules and regulations may include provisions authorizing the payment to individuals, families, and business concerns of fixed amounts not to exceed $100 in the case of an individual or family, or $3,000 in the case of any business concern in lieu of the respective reasonable and necessary moving expenses.

The purpose of the amendment was explained as follows:

MR. O'HARA [of Illinois]: . . . It happens that in the district that I represent we have in the operation of the urban-renewal program the displacement of many long-established merchants. . . . It is not right that these small-business tenants should be forced to assume this burden when their moving is not for their own profit or convenience, but to the contrary. . . . The present law calls for moving expenses up to $2,000. In some cases

2. H.R. 6659 (Committee on Banking and Currency).

3. See the Talle amendment at 103 CONG. REC. 6621–23, 85th Cong. 1st Sess., May 8, 1957.

4. *Id.* at p. 6622.

5. *Id.* at p. 6629.

that is ruinously inadequate. We are asking that the amount be increased to $3,000 to be paid only in cases where the circumstances warrant. . . .

The following point of order was raised by Mr. Henry O. Talle, of Iowa, against the amendment:

Mr. Chairman, the amendment of the gentleman from Illinois [Mr. O'Hara] is not germane to my amendment. As I understand his amendment . . . it refers to basic law. His amendment, in order to be germane, would have to be germane to my amendment which is under consideration.

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

Section 302 is an amendment of existing law contained in section 106(f)(2) of the Housing Act of 1949. That language presumably is germane to section 106(f)(2). That being the case, the amendment opens the entire section of the basic law, section 106(f)(2), to amendment, which is the purpose, in part, of the amendment offered by the gentleman from Illinois [Mr. O'Hara].

Therefore, it is the opinion of the Chair that the amendment offered by the gentleman from Illinois is germane. The Chair overrules the point of order.[7]

§ 35.71 To an amendment in the nature of a substitute, proposing, in part, modification of a section of the Housing Act of 1949 relating to payments for certain expenses occasioned by urban renewal projects, a proposition to further amend such section by limiting specified construction to that needed for relocation of families displaced by urban renewal projects was held to be germane.

In the 85th Congress, during proceedings relating to a bill[8] to extend and amend laws concerned with the improvement of housing, an amendment in the nature of a substitute was under consideration which contained the following provision:[9]

Sec. 302. Section 106(f)(2) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Such rules and regulations may include provisions authorizing payment to individuals and families of fixed amounts (not to exceed $100 in any case) in lieu of their respective reasonable and necessary moving expenses."

The following amendment was offered to such amendment:[10]

Amendment offered by Mr. [O. Clark] Fisher [of Texas] to the substitute offered by Mr. [Edmond A.]

6. Wilbur D. Mills (Ark.).
7. For a similar ruling during proceedings relating to H.R. 6659, see Sec. 35.71, infra.
8. H.R. 6659 (Committee on Banking and Currency).
9. 103 CONG. REC. 6703, 85th Cong. 1st Sess., May 9, 1957.
10. *Id.* at p. 6706.

Edmondson [of Oklahoma]: Page 11, in line 12 insert "(a)" after "sec. 302." and after line 18 insert the following:

(b) Section 106 of such act is further amended by adding at the end thereof the following new subsection:

"(g) No new contract . . . or other arrangement regarding low-rent housing provided for under section 305 of the Housing Act of 1949 shall be entered into . . . except with respect to low-rent housing projects to be undertaken in a community in which the local governing body certifies that such low-rent housing project is needed for the relocation of families to be displaced as a result of Federal, State, or local governmental action in such community: *And provided further*, That no such new contracts . . . or other arrangements shall be entered into . . . for additional dwelling units in excess of the total number of such units which the Housing and Home Finance Administrator determines to be needed for the relocation of families to be displaced as a result of Federal, State, or local governmental action in the communities where such units are to be located."

A point of order was raised against the Fisher amendment, as follows:[11]

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I make a point of order against the amendment, that it is not germane to the amendment before the House or the bill before the House or any part of the bill or the pending amendment. . . .

The amendment deals with public housing. There is no public housing in any part of this bill or in any part of the amendment to the bill.

The Chairman[12] overruled the point of order, citing the principle that, "an amendment to a particular section may perhaps make in order another amendment to the section."[13]

Committee Jurisdiction as Test Where Amendments to Law Are Within Jurisdiction of Different Committees

§ 35.72 Committee jurisdiction is a relevant test of germaneness where the pending portion of the bill amends a law entirely within one committee's jurisdiction and the proposed amendment amends a law within another committee's jurisdiction; thus, to a title of an omnibus housing bill amending a law within the jurisdiction of the Committee on Banking, Finance and Urban Affairs to reauthorize rural housing loan and grant programs, an amendment to another law within the jurisdiction of the

11. *Id.* at pp. 6706, 6707.

12. Wilbur D. Mills (Ark.).

13. 103 CONG. REC. 6707, 85th Cong. 1st Sess., May 9, 1957. For a similar ruling during proceedings relating to H.R. 6659, see §35.70, supra. It should be noted that in both rulings the text being amended was a comprehensive amendment of one or more sections of existing law.

Committee on Agriculture authorizing the pooling of federally guaranteed rural housing loans was held not germane as amending a law not amended by the pending title and within the jurisdiction of another committee.

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

Amendment Modifying Same Section of National Housing Act in Unrelated Respects

§ 35.73 To that part of a bill amending a section of the National Housing Act by adding a paragraph relating to the power of the administrator to dispose of securities held by him, an amendment proposing to modify such section of the act in other respects was held not germane.

In the 74th Congress, a bill (14) was under consideration to amend a title of the National Housing Act. The bill stated in part: (15)

> Be it enacted, etc., That title I of the National Housing Act, as amended, be further amended as follows:
>
> Section 1 of title I is amended by adding at the end of said section the following paragraph:
>
> "Notwithstanding any other provision of law, the Administrator shall have the power, under and subject to regulations prescribed by him and approved by the Secretary of the Treasury, to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract claim, property, or security assigned to or held by him, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of insurance under section 2 of this title, until such time as such obligations may be referred to the Attorney General for suit or collection."

The following amendment was offered: (16)

> Amendment offered by Mr. [Carl E.] Mapes [of Michigan]: Page 1, after line 4, strike out after the word "compensation", in the second sentence of section 1 of title I, the rest of the sentence and insert in lieu thereof the following: "said officers and employees to be appointed in accordance with the civil-service laws and rules thereunder and their compensation fixed as provided in the Classification Act of 1923, as amended". . . .

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

> MR. [T. ALAN] GOLDSBOROUGH [of Maryland]: Mr. Chairman, I make a point of order against the amendment that it is not germane. . . .
>
> Mr. Chairman, the matter desired to be inserted by the gentleman from

14. H.R. 11689 (Committee on Banking and Currency).

15. See 80 CONG. REC. 4439, 74th Cong. 2d Sess., Mar. 26, 1936.

16. *Id.* at p. 4444.

Michigan does not refer in any way to the subject matter of the legislation. It has no possible reference to the subject matter of the legislation.

The Chairman[17] stated, "section 1 of this bill deals with the sale and handling of securities." Mr. Mapes responded that, "[S]ection 1 of the law relates to appointment of employees and the fixing of their compensation, which is the section I am trying to amend." The Chairman then cited a prior ruling by Speaker Frederick H. Gillett, of Massachusetts, that, "to a bill amendatory of an act in several particulars an amendment proposing to modify the act, but not relating to the bill (is not) germane," and held as follows:

> It seems very clear to the Chair that the amendment offered by the gentleman from Michigan does attempt to modify a section of the existing law, but it is not germane to this particular section of the bill. The point of order, therefore, is sustained.

Bill Amending National Foundation for the Arts and Humanities Act—Amendment To Establish Office of Poet Laureate

§ 35.74 To a bill amending several sections of the National Foundation for the Arts and Humanities Act to extend the authorization for appropriations and redefine certain powers of the Foundation, an amendment proposing to further amend the act to establish an office of Poet Laureate of the United States was held to be not germane.

In the 90th Congress, during consideration of a bill[18] amending the National Foundation for the Arts and Humanities Act of 1965, the following amendment was offered:[19]

> Amendment offered by Mr. [Spark M.] Matsunaga [of Hawaii]: . . .
>
> Sec. 7. The National Foundation on the Arts and the Humanities Act of 1965 is amended by adding at the end thereof the following new section:
>
> POET LAUREATE OF THE UNITED STATES
>
> Sec. 15. (a) There is hereby established the Office of Poet Laureate of the United States. . . .
>
> (b) The Poet Laureate . . . who shall be appointed by the President after consideration of the recommendations of the National Council on the Arts, shall be a poet whose works reflect those qualities . . . associated with the historical heritage, present achievement, and future potential of these United States.

Mr. Frank Thompson, Jr., of New Jersey, made the point of

17. Emmet O'Neal (Ky.).

18. H.R. 11308 (Committee on Education and Labor).

19. 114 CONG. REC. 4348, 90th Cong. 2d Sess., Feb. 27, 1968.

order that the amendment was not germane to the bill. The Chairman,[20] without elaboration, sustained the point of order.[1]

Bill To Amend Federal Aid Road Act—Amendment To Create Corporation With Authority Affecting Road Construction

§ 35.75 To a bill to amend and supplement the Federal Aid Road Act, an amendment proposing the creation of a corporation with authority to issue bonds to finance road construction was held not germane.

In the 84th Congress, during consideration of a bill[2] to amend and supplement the Federal Aid Road Act, the following amendment was offered:[3]

> Amendment offered by Mr. [Charles A.] Halleck [of Indiana]: Page 8, after line 6 insert:
>
> Sec. 2 (G) (a) There is hereby created, subject to the direction and supervision of the President, a body corporate to be known as the Interstate and Defense Highway Finance Corporation. . . .
>
> (c) It shall be the duty of the Corporation (a) to receive and borrow funds, (b) to provide and make available to the Secretary such sums as are necessary to permit him to make the payments or advances to the States, through the established channels of the Bureau of Public Roads of the Federal share of the cost of construction of projects on the Interstate System, and such other costs or expenses as are permitted or required to be paid or advanced by him in connection with the Interstate System under the terms of this act, and (c) to perform such other duties as may be required in the performance of its functions and the exercise of its powers under this act. . . .

Mr. Robert E. Jones, Jr., of Alabama, made the point of order against the amendment that it was not germane to the bill. The Chairman,[4] in ruling on the point of order, stated:[5]

> It is . . . the opinion of the Chair that the amendment offered by the gentleman from Indiana, seeking as it does to create an entirely different body, a body corporate, is not germane to the provisions of the pending bill.

—Amendment To Prohibit Funds for States Where Segregation is Practiced

§ 35.76 To a bill to amend and supplement the Federal Aid Road Act, an amendment providing that no funds col-

20. John A. Young (Tex.).
1. 114 CONG. REC. 4349, 90th Cong. 2d Sess., Feb. 27, 1968.
2. H.R. 7474 (Committee on Public Works).
3. 101 CONG. REC. 11709, 84th Cong. 1st Sess., July 27, 1955.
4. Eugene J. Keogh (N.Y.).
5. 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955.

lected under the act may be available to any state or locality in which segregation is practiced in restaurants, restrooms, or in road construction was held to be germane.

In the 84th Congress, during consideration of a bill[6] to amend and supplement the Federal Aid Road Act, an amendment was offered as described above.[7] Mr. Robert E. Jones, Jr., of Alabama, made the point of order against the amendment that it was not germane. In defending the amendment, the proponent, Mr. Earl Wilson, of Indiana, stated:

> . . . The Court has ruled against segregation. Here we are authorizing this great appropriation, under which we are going to spend billions of dollars in every State in the Union. Yet, there are some States in which the Negroes are not going to have a chance to work and earn part of this money to pay the taxes to build the highways. . . .
>
> . . . I think these Negroes should be given the opportunity to help build the highways because they are going to help to pay the taxes. I think they should be able to use the facilities, the restaurants, and the comfort stations, and so forth, that appear along the highways.

The Chairman,[8] in ruling on the point of order, stated:

> It is the opinion of the Chair that since the amendment refers to and touches upon the funds collected under this act, limiting their use, the amendment is germane, therefore, the Chair overrules the point of order.

Funds for Alaska and Hawaii Under Federal Airport Act—Funds for Puerto Rico and Virgin Islands

§ 35.77 To a bill amending one section of the Federal Airport Act to provide that the new States Alaska and Hawaii be eligible for certain funds under the act, an amendment to make Puerto Rico and the Virgin Islands similarly eligible and to amend other provisions of the Act was held to be not germane.

In the 86th Congress, a bill[9] was under consideration to provide that Alaska and Hawaii be eligible for participation in the distribution of discretionary funds under a particular section of the Federal Airport Act. An amendment was offered by Mr. John B. Bennett, of Michigan. The bill with a committee amendment,

6. H.R. 7474 (Committee on Public Works).

7. See 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955.

8. Eugene J. Keogh (N.Y.).

9. S. 2208 (Committee on Interstate and Foreign Commerce).

and Mr. Bennett's amendment in the form of a substitute for the committee amendment, were as follows: [10]

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 6(b) of the Federal Airport Act (69 Stat. 442, 49 U.S.C. 1105) is amended to read as follows:

"(2) Such discretionary fund shall be available for such approved projects in the several States, Alaska, and Hawaii as the Administrator may deem most appropriate. . . ."

With the following committee amendment:

Strike out all after the enacting clause and insert: "That paragraph (2) of section 6(b) of the Federal Airport Act (49 U.S.C. sec. 1105(b)(2)) is amended to read as follows:

"'(2) Such discretionary fund shall be available for such approved projects in the several States, Alaska, and Hawaii as the Administrator may deem most appropriate for carrying out the national airport plan, regardless of the location of such projects. The Administrator shall give consideration, in determining the projects for which such fund is to be so used, to the existing airport facilities in the several States, Alaska, and Hawaii, and to the need for or lack of development of airport facilities in the several States, Alaska, and Hawaii.'"

MR. BENNETT of Michigan: Mr. Chairman, I offer a substitute amendment, which is at the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. Bennett of Michigan as a substitute for the committee amendment: Page 2, strike out lines 6 through 18, inclusive, and insert in lieu thereof the following: "That section 2(a) of the Federal Airport Act, as amended (49 U.S.C., sec. 1101(a)), is amended as follows:

"(1) In paragraph (7), strike out 'Alaska, Hawaii, or Puerto Rico and' and insert in lieu thereof 'Puerto Rico, or'. . . .

"Sec. 3. Section 5 of such Act, as amended (49 U.S.C., sec. 1104), is amended as follows: . . .

"(2) In subsection (b), insert '(1)' immediately after '(b)'. . . .

"(5) At the end of such subsection (b), add the following new paragraph:

"'(2) For the purpose of carrying out this Act with respect to projects in Puerto Rico and the Virgin Islands, there are hereby authorized to be obligated by the execution of grant agreements pursuant to section 12 the sum of $900,000 for each of the fiscal years ending June 30, 1960, and June 30, 1961. Each such authorized amount shall become available for obligation beginning July 1 of the fiscal year for which it is authorized and shall continue to be so available until so obligated. Of the sum of $900,000 authorized by this paragraph for each of the fiscal years ending June 30, 1960, and June 30, 1961, the sum of $600,000 shall be available for projects in Puerto Rico and the sum of $300,000 shall be available for projects in the Virgin Islands.'"

A point of order against the amendment having been raised by Mr. Oren Harris, of Arkansas, the following ruling was made by Chairman John A. Blatnik, of Minnesota:

10. 105 CONG. REC. 18840, 18841, 86th Cong. 1st Sess., Sept. 9, 1959.

The bill before the House deals with paragraph 2 of section 6(b). The substitute deals with other portions of the act and also deals with Puerto Rico and the Virgin Islands, which are not in the present act. The point of order is well taken, and the Chair sustains the point of order.

Diverse Amendments to Airport and Airway Development Act—Amendment Adding New Title to Bill

§ 35.78 A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill; thus, to a bill containing several titles amending the Airport and Airway Development Act in diverse respects, including provisions relating to aircraft noise reduction grants, regulation and funding, general airport development projects, and general research, development and demonstration grants, an amendment adding a new title amending the Act to extend the authorization for State Airport Demonstration Grants was held germane.

On Sept. 14, 1978,[11] during consideration of H.R. 8729[12] in the Committee of the Whole, Chairman Gerry E. Studds, of Massachusetts, overruled a point of order against the following amendment:

MR. [WILLIAM H.] HARSHA [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Harsha: At the end of the bill, add the following new title:

TITLE VI

Sec. 601. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980". . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I just heard about this amendment a few minutes ago. While I support what they want to do in this, it is a different program that comes out of different legislation. It is an innovative program that we started last year for demonstration projects for, I believe it was, four States to handle the State money themselves rather than going through FAA with a direct funding to the States. They make all the decisions. They set all the criteria. It is a program that is not dealt with in this bill in any way, shape, or form, and in my opinion is not germane to this bill. . . .

MR. HARSHA: Mr. Chairman, I believe it is germane to the issue. It is a

11. 124 CONG. REC. 29487, 29488, 95th Cong. 2d Sess.

12. The Aircraft Noise Reduction Act.

section that is in the Airport and Airway Development Act. We already have other titles in this bill dealing with the Airport and Airway Development Act, the so-called AADA. This deals with that part of the program and I think it is germane to the title of the bill. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The bill before us amends the Airport and Airway Development Act in several respects and with some depth and breadth. It deals not only with noise control, but planning, grants and research, and in other ways.

Therefore, the Chair feels the amendment of the gentleman from Ohio (Mr. Harsha) is germane to the bill as a whole and the point of order is overruled.

Tax Consequences of Sale of Property by Air Carriers—Determination of Subsidies for Air Carriers

§ 35.79 To a bill amending the Civil Aeronautics Act of 1938 in part to exclude from specified tax computations those gains from the sale of property of an air carrier that are subsequently reinvested in similar property, an amendment was held to be not germane which sought to relate such accounting procedures to the determination of certain subsidies for air carriers.

In the 84th Congress, the following proposition[13] was under consideration:[14]

> . . . That section 406(b) of the Civil Aeronautics Act of 1938, as amended (49 U.S.C. 486), is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:
>
> (2) In determining "all other revenue" of an air carrier for the purposes of paragraph (1), the Board—
>
> (A) shall not take into account any loss on the sale or other disposition of property, and
>
> (B) shall not take into account any gain on the sale or other disposition of property, if the net gain (after applicable taxes) is (within a reasonable time to be fixed and determined by the Board) reinvested in other property similar or related in service or use.
>
> For the purposes of this paragraph, the term "property" means depreciable property used or useful in the carrier's normal operations. . . .

The following amendment was offered:

> Amendment offered by Mr. [John W.] Heselton [of Massachusetts]: Page 2, line 11, strike out all of lines 11 through 22, inclusive, and insert in place thereof the following: . . .
>
> (3) Hereafter in determining that portion of the carrier's mail rate which is payable by the Board (which portion is hereinafter referred to as "subsidy") the Board shall com-

13. Committee amendment to H.R. 8902 (Committee on Interstate and Foreign Commerce).

14. See 102 CONG. REC. 14868, 84th Cong. 2d Sess., July 26, 1956.

pute such carrier's depreciation expense and return on investment after first deducting the net gains not taken into account in determining all other revenue of such carrier from the original cost to such carrier of the flight equipment in which such net gains have been reinvested. . . .

Mr. Oren Harris, of Arkansas, in making a point of order against the amendment, stated, "The amendment . . . goes far beyond the scope of this bill." In defending the amendment, the proponent, Mr. Heselton stated:

> . . . I would like to refer . . . to a ruling . . . found in Cannon's Precedents, section 2993. . . . It is as follows:
>
> > An amendment to a section which is relevant to the subject matter and which may be said to be properly and logically suggested in the perfecting of the section and the carrying out of the intent of the bill would be germane to the bill and thus is in order.

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

> The amendment offered by the gentleman from Massachusetts extends beyond the scope of the language contained in section 406(a) at lines 13 and 14 of the committee amendment.
>
> The language therein contained is very narrow in its scope and applies to one specific phase of the operation.
>
> The amendment offered by the gentleman from Massachusetts extends beyond loss on the sale of property, the matter contained in the amendment; therefore, the entire amendment offered by the gentleman from Massachusetts is not germane and the Chair sustains the point of order. . . .

Federal Funding of Railroads—Amendment Affecting Freight Rate Regulations

§ 35.80 A proposal which may amend existing law in several respects but which is confined to the issue of federal financial assistance does not necessarily permit, as germane, amendments to other sections of that law which involve federal regulations governing the entities being financed by the bill; thus, to a proposition amending existing laws in several respects but limited in scope to the issue of federal funding of railroads, an amendment to one of those laws to require any railroad to maintain certain freight rate practices and waiving provisions of antitrust laws to permit enforcement of those rate practices was held not germane as addressing regulatory authorities in law and not confined to the issue of federal financial assistance.

During consideration of H.R. 12161[16] in the Committee of the

15. Francis E. Walter (Pa.).

16. The ConRail Authorization Act.

Whole on Oct. 14, 1978,[17] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

MR. [FRED B.] ROONEY [of Pennsylvania]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

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

That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

Sec. 2. (a) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(b) Section 216(b)(2) of such Act (45 U.S.C. 716(b)(2)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(c) Section 216(f) of such Act (45 U.S.C. 726(f)) is amended by striking out "$2,100,000,000" and inserting in lieu thereof "$3,300,000,000".

Sec. 3. Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is further amended by redesignating subsection (f) thereof as subsection (g) and by inserting immediately after subsection (e) thereof a new subsection as follows:

"(g)(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied. . . .

MR. [JOHN M.] MURPHY of New York: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York: Page 2, after line 6 insert the following and renumber the remaining paragraphs as appropriate.

"Sec. II. Section 3 of the Interstate Commerce Act (49 U.S.C. 3) is amended by adding at the end thereof the following new paragraph:

"(6)(a) It shall be the duty of any Class I of common carrier by railroad which handles or controls more than 75 per centum of the rail freight traffic to and from a port to establish and maintain equal rates, charges, tariffs, and classifications to and from all points served by rail within such port, and to establish and maintain equal joint routes, rates, charges, tariffs, and classifications for all types of rail freight traffic with all connecting rail carriers to and from all points served by rail within the port. It shall be the duty of each such Class I common carrier by railroad establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation and providing for reasonable compensation to those entitled thereto, and, in case of joint rates, charges, or tariffs, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any participating carrier. . . .

17. 124 CONG. REC. 38671, 38672, 38677, 38678, 95th Cong. 2d Sess.

MS. [BARBARA A.] MIKULSKI [of Maryland]: Mr. Chairman, I make a point of order against the bill on the grounds that the amendment is not germane because the amendment amends the Interstate Commerce Act and the Clayton Antitrust Act.

Mr. Chairman, the amendment in the nature of a substitute is basically an authorization; it authorizes USRA to purchase ConRail securities. The amendment offered by the gentleman from New York (Mr. Murphy) not only amends these two statutes, but also makes new policy concerning intraport equalization. The bill is not a policy oriented bill dealing with the Interstate Commerce Act, but is rather essentially an authorization bill, by far, and I think it is not germane. . . .

MR. MURPHY [of New York:] Mr. Chairman, this amendment was adopted by this House, passed into law, and incorporated in the 4R Act of 1976.

What this amendment does is just restate the fact of the matter because the Interstate Commerce Commission and, of course, ConRail itself have failed to implement the law.

Mr. Chairman, the amendment certainly is germane. It has already been part of this act, and it is a restatement of the original amendment of 3 years ago. . . .

MR. ROBERT E. BAUMAN [of Maryland]: Mr. Chairman, I point out that the substitute amendment to which the amendment is proposed amends the Regional Rail Reorganization Act. The amendment itself, however, amends the Interstate Commerce Act, an entirely different statute; and as has been pointed out by the gentlewoman from Maryland [Ms. Mikulski], the Clayton Act, which is not, I understand, under the jurisdiction of this committee, but under the jurisdiction of the Committee on the Judiciary, which is a test of germaneness.

Mr. Chairman, the entire thrust of the gentleman's amendment deals with the establishment and maintenance of rates, charges, and tariffs and their classifications and divisions, whereas the bill itself deals with nothing like that, but, rather, with the funding, debentures, and stocks and other related matters dealing with ConRail. . . .

THE CHAIRMAN:[18] The Chair is prepared to rule.

The gentlewoman from Maryland [Ms. Mikulski] makes a point of order that the amendment offered by the gentleman from New York (Mr. Murphy) is not germane to the amendment in the nature of a substitute in that the Rooney amendment in the nature of a substitute amends the Regional Rail Transportation Act and provides for financial assistance to railroads in the ConRail system, while the amendment offered thereto amends the Interstate Commerce Act and also provides changes in the Clayton Act which deal with the issue of antitrust matters and railroad rates applicable not only to ConRail but to other rail systems.

The Chair, therefore, sustains the point of order.

Bill Amending Several Sections of Law—Amendment Affecting Sections Not Mentioned in Bill

§ 35.81 A bill amending several sections of an existing law

18. George E. Brown, Jr. (Calif.).

may be sufficiently comprehensive to permit amendments which are germane to other sections of that law; thus, to a bill amending several sections of the Regional Rail Reorganization Act of 1973, an amendment to a section of that Act not mentioned in the bill, relating to congressional disapproval of reorganization plans, and germane to that section, was held germane to the bill (where the argument was not made that the amendment changed the rules of the House).

During consideration of a bill to amend H.R. 2051 on Feb. 19, 1975,[19] the Chair overruled a point of order against the following amendment:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 7 after line 24 insert a new section 5 (and number the succeeding Sections accordingly).

Sec. 5. (a) Section 208(a) of the Regional Rail Reorganization Act of 1973. The sentence "The final system plan shall be deemed approved at the end of the first period of 60 calendar days of continuous session of Congress after such date of transmittal unless either the House of Representatives or the Senate passes a resolution during such period stating that it does not favor the final system." is amended by deleting the language after "shall' and inserting in lieu thereof "be voted by each House of Congress within the period of 60 calendar days of continuous session of Congress after such date of transmittal.". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order on two bases. . . .

The second point of order, Mr. Chairman, is that the amendment goes beyond the scope of the legislation before us. It deals with sections of the statute not currently before the House, and as such it seeks to go to matters on which Members of this body could not, in the exercise of reasonable prudence and care, have been forewarned as to the existence of the pendency of this particular amendment, and that therefore the amendment is violative of the rule of germaneness and is not properly before the body at this time. . . .

MR. ASHBROOK: . . . [I]t is very clear that the entire matter is before us. We are talking about the bill as it now stands, referring to a prospective date of 60 days, when the plan would go into operation. All my amendment does is to change that, to make it affirmative action rather than negative action of the House that is required. I think it is consistent with the precedents and the point of order should be overruled.

THE CHAIRMAN:[20] The Chair is prepared to rule. . . .

As to the second point made by the gentleman from Michigan, the Chair has examined the amendment as well as the "Ramseyer" in the report on the

19. 121 CONG. REC. 3596, 94th Cong. 1st Sess.

20. Walter Flowers (Ala.).

bill under consideration and, in the opinion of the Chair, the bill under consideration amends several sections of the act, and is so comprehensive an amendment as to permit germane amendments to any portion of the law. The amendment offered by the gentleman from Ohio is germane to the section 208 of the act which provides for review by Congress. Therefore the Chair overrules the point of order raised by the gentleman from Michigan.

Parliamentarian's Note: Had the argument been made that the Ashbrook amendment constituted a change in House and Senate rules by requiring a vote in each House within a certain time period, the Chair would have been advised to sustain the germaneness point of order.

Urban Mass Transportation Act—"Buy American" Provisions

§ 35.82 To an amendment in the nature of a substitute comprehensively amending the Urban Mass Transportation Act and authorizing the appropriation of funds to carry out that Act, an amendment further amending the Act to prohibit the obligation of funds authorized to be appropriated thereunder for certain contracts unless American-made goods be used, in pursuance of such contracts, to the extent specified in the amendment, was held germane as a restriction on the broad authorities granted in the bill.

During consideration of H.R. 6417 [1] in the Committee of the Whole on Dec. 4, 1980,[2] it was held that, to a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment denying the use of those authorities or funds to purchase foreign-made goods or equipment is germane. The proceedings were as follows:

> Amendment offered by Mr. Oberstar to the amendment in the nature of a substitute offered by Mr. Howard, as amended: Page 44, after line 7, insert the following:
>
> BUY AMERICA
>
> Sec. 225. (a) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:
>
> "(h)(1) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the

1. The Surface Transportation Act of 1980.
2. 126 CONG. REC. 32169, 32170, 96th Cong. 2d Sess.

United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States at least 50 per centum from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract. . . .

(b) The amendment made by subsection (a) shall not apply to project contracts entered into on or before the date of enactment of this Act or options exercised pursuant to such contracts. Section 401 of the Surface Transportation Assistance Act of 1978 shall not apply to any project contract entered into after the date of enactment of this Act for a project to which section 12(h) of the Urban Mass Transportation Act of 1964 applies. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Minnesota (Mr. Oberstar). This proposed amendment violates rule XVI, clause 7. . . .

Hinds' volume V, section 5825, states that while a committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Cannon's, chapter 8, section 2995, states that the burden of proof is on the proponent of an amendment to establish germaneness, and where an amendment is equally susceptible to more than one interpretation, one of which renders it not germane, the Chair will rule it out of order.

Mr. Chairman, the Oberstar amendment seeks to introduce a new subject which is part neither of this bill nor of the statute which this bill seeks to amend. The Oberstar amendment would introduce a Buy America requirement, through which funds will be limited, into the Urban Mass Transit Act of 1964, where none now exists, and in so doing, it repeals the similar provision that currently exists in the Surface Transportation Assistance Act of 1978. It is an attempt to amend the Surface Transportation Assistance Act of 1978 by adding to the statute which this bill amends and repealing it where it currently exists.

It may be argued that the amendments made by this bill are sufficiently broad to open the entire 1964 act for amendment. But the 1964 act contains no such domestic content provision.

The Oberstar amendment introduces a new subject, and couching it in language that tacks the provision on at the end of the existing section of the 1964 act is not enough to make it germane.

The Oberstar amendment really amends the Surface Transportation Act of 1978, an act which itself amended the 1964 act.

I submit that regardless of whether H.R. 6417 is broad enough to open the entire 1964 act for amendment, it is not broad enough to open other acts . . . for amendments as well, and neither is it broad enough to render germane any new subject. . . .

MR. [JAMES L.] OBERSTAR [of Minnesota]: . . . I rise in opposition to the point of order.

Mr. Chairman, the amendment that I am offering is to the Howard substitute, which is substantially broad enough to admit an amendment dealing with the Buy America Act, which is a part of the original Urban Mass Transit Act. There was a Buy America

provision in the Surface Transportation Assistance Act of 1978, which provided that a final manufactured article should be substantially all-American produced and established the 10-percent price differential between foreign and domestic bids.

My amendment would broaden that language, which is existing law somewhat, and is perfectly in order because it is an amendment to the Howard substitute and is restricted entirely to the language of the Urban Mass Transportation Act and does not, as the gentleman from Minnesota suggested, go beyond the provisions of the Urban Mass Transportation Act. . . .

THE CHAIRMAN PRO TEMPORE:[3] The Chair is prepared to rule.

The Chair has heard the arguments of both the maker of the point of order and the opponent of it, and the Chair is constrained to agree with the gentleman from Minnesota (Mr. Oberstar) that the amendment amends only the Urban Mass Transportation Act. That law in 1978 was in effect amended by the Buy America title contained in the Surface Transportation Assistance Act, and the pending amendment only alters the effect of the 1978 law as it relates to authorities under UMTA. On two previous occasions, Buy America amendments have been held germane when offered to bills, comprehensively amending existing laws and drafted as restrictions on authorities contained in those laws.

The first was on May 7, 1959, when Chairman Bass held germane to a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment prohibiting use of such funds to purchase foreign-made equipment. On another occasion perhaps the gentleman from Minnesota (Mr. Frenzel) will recall, when he made a similar point of order to the Outer Continental Shelf Lands Act amendments; and the chairman of the committee at that time, the gentleman from Kentucky (Mr. Natcher), on July 21, 1976, held the amendment to be in order. These precedents are contained in Deschler's Procedure, chapter 28, sections 4.27 and 23.7.

The Chair, therefore, overrules the point of order and recognizes the gentleman from Minnesota (Mr. Oberstar) in support of his amendment for 5 minutes.

Energy Research and Development Programs—Amendment to Define "Research and Development"

§ 35.83 To a bill not only containing authorizations for one fiscal year but also amending permanent laws in several respects, an amendment further amending one of those laws in a related way may be germane; thus, to a bill, open to amendment at any point, which not only authorized civilian research and development programs for the Department of Energy for a fiscal year but also amended in diverse ways several permanent laws relating to energy research and

3. Gerry E. Studds (Mass.).

development programs, an amendment adding a new title to further amend one of those laws to define the term "research and development" for purposes of laws authorizing energy research and development was held germane.

During consideration of H.R. 12163 in the Committee of the Whole on July 14[4] and July 17,[5] 1978, the Chair overruled a point of order in the circumstances described above. The proceedings were as follows:

TITLE V—GENERAL PROVISIONS

. . .

Sec. 504. (a) Section 111 of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j)(1) Beginning with fiscal year 1980 with respect to Department of Energy civilian research and development programs, for purposes of the President's annual budget submission and of related reports submitted by the Secretary of Energy to the House Committee on Science and Technology and to the Senate Committee on Energy and Natural Resources each plant and capital equipment construction project shall be assigned or reassigned to one of the following categories. . . .

MR. [DON] FUQUA [of Florida]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fuqua: At the end of the bill, add the following new title:

TITLE VII—DEFINITION OF RESEARCH AND DEVELOPMENT

Sec. 701. Section 304 of the Energy Reorganization Act of 1974 (42 U.S.C. 5874) is amended by inserting "(a)" after "Sec. 304.", and by adding at the end thereof the following new subsection:

"(b)(1) For purposes of this Act and the Atomic Energy Act of 1954, the Federal Non-nuclear Energy Research and Development Act of 1974, and the Department of Energy Organization Act, the term "research and development" means—

"(A) basic and applied research . . .

"(D) concept and demonstration development; and

"(E) operational systems development.

"(2) As used in paragraph (1)—

"(A) the term "basic research" means systematic and intensive study directed toward greater knowledge or understanding of a specific subject, and toward the expansion of man's fundamental knowledge of nature (with or without immediate relevance to specific technology programs). . . .

MR. [JOHN D.] DINGELL [of Michigan]: Madam Chairman, I make the point of order that the amendment is not germane to the bill which lies before us.

I would point out, first of all, that the burden is upon the offeror of the amendment to establish the germaneness thereof.

Furthermore, Madam Chairman, under the traditions and practices of the House as well as under the rules of

4. 124 CONG. REC.20994, 20995, 95th Cong. 2d Sess.

5. *Id.* at pp. 21194–96.

the House, it is well settled that the Energy Reorganization Act of 1974 referred to is a statute relating to the reorganization of government and does not lie under the jurisdiction of the Committee on Science and Technology.

I would point out that the amendment clearly seeks to amend a statute lying under the jurisdiction of another committee. . . .

I would point out that the amendment here offered by the gentleman from Florida seeks to change permanent law, as opposed to simply laying forth for the House the basis upon which appropriations may be made, which is the basic purpose on which this particular legislation is before the House. The amendment affects the Atomic Energy Act of 1954.

I point out again that this amendment, which is offered to a 1-year authorization, is permanent legislation, defining a rather sweeping responsibility of the Department of Energy of which I am not able to advise the Chair of all the consequences, nor is the author.

In reiteration, I point out that this is an authorization bill, and it includes limitations and procedural changes. Of course, adoption of this amendment does not affect jurisdiction of any committee or affect the rules of the House. Other permanent provisions of the amendment go much beyond the provisions of an annual authorization, and deal with what is essentially permanent and lasting legislation, not only of the Atomic Energy Act, but also again, I reiterate, another statute not under the jurisdiction of this committee at all, the Energy Reorganization Act of 1974, which was referred to the Committee on Government Operations. . . .

MR. [JOHN W.] WYDLER [of New York]: Madam Chairman, I would only point out to the Chair that in the bill the gentleman from Michigan is going to bring to the floor immediately upon the conclusion of the bill we are now considering, he amends the Department of Energy Act in many places, and I would be hard pressed to understand how he is going to defend that action when he is contending that doing this is a violation of the rules of the House. . . .

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

The gentleman from Michigan (Mr. Dingell) raises a point of order against the amendment offered by the gentleman from Florida (Mr. Fuqua) on the basis that the amendment is not germane to the legislation. The Chair would state to the gentleman from Michigan that this amendment does not amend the rules of the House. Under the rule which provides for consideration of this legislation a substitute was made in order as an original bill, the substitute which was an amendment by the gentleman from Florida (Mr. Fuqua) printed in the Record on the 23d of June.

In the substitute which was made in order as an original bill, the energy Reorganization Act is substantively amended in a permanent way. The gentleman from Florida now seeks to add a new title following the "general provisions" portion of the bill to provide a definition of research and development under the aegis of the Energy Reorganization Act. That is clearly ger-

6. Barbara Jordan (Tex.).

mane because of the provisions of this bill and under the the precedents that have been established in interpreting and applying the rules of the House related to the question of germaneness.

The amendment obviously relates to the question of energy research and development, the subject of the pending bill. Consequently the Chair overrules the point of order raised by the gentleman from Michigan.

Rationing Under Emergency Petroleum Allocation Act—User Charges for Allocations

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

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,[7] the Chair ruled that an amendment to an amendment in the nature of a substitute was not germane. The proceedings were as follows:

Sec. 103. Amendments to the Emergency Petroleum Allocation Act of 1973.

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

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

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

MR. [JAMES G.] MARTIN [of North Carolina:] Mr. Chairman, I offer an

7. 119 CONG. REC. 41750, 93d Cong. 1st Sess.

amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

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

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

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

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

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

THE CHAIRMAN:[8] The Chair is constrained to sustain the point of order on the ground that this amendment in effect would result in a tax not directly related to the rationing authority conferred by the amendment in the nature of a substitute.

Provisions Modifying Standards Imposed by Clean Air Act—Amendment Suspending Authority of Administrator To Control Automobile Emissions

§ 35.85 To an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of the shortage of energy resources upon standards imposed under that Act, an amendment to another section of that Act suspending for a temporary period the authority of the Administrator of the Environmental Protection Agency to control automobile emissions was held germane.

During consideration of H.R. 11450[9] on Dec. 14, 1973,[10] the

8. Richard Bolling (Mo.).

9. The Emergency Energy Act.

10. 119 CONG. REC. 41688, 41689, 93d Cong. 1st Sess.

Chair overruled a point of order against the following amendment:

MR. [LOUIS C.] WYMAN [of New Hampshire]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Wyman to the amendment in the nature of a substitute offered by Mr. Staggers: On page 59, after line 23, insert the following:

(1) Section 202(b) of the Clean Air Act (42 U.S.C. 1857) is amended by adding at the end thereof the following:

"(6)(a) Notwithstanding any other provision of law, the authority of the Administrator to require emissions controls on automobiles is hereby suspended except for automobiles registered to residents of those areas of the United States as specified by subsection (b) of this section, until January 1, 1977, or the day on which the President declares that shortage of petroleum is at an end, whichever occurs later.

(b) Within 60 days after the date of enactment of this paragraph, and annually thereafter, the Administrator shall designate, subject to the limitations set forth herein, geographic areas of the United States in which there is significant auto emissions related air pollution. The Administrator shall not designate as such area any part of the United States outside the following Air Quality Control Regions as defined by the Administrator as of the date of enactment of this paragraph without justification to and prior approval of the Congress. . . .

(3) Section 203(a)(3) of such Act is amended to read as follows:

"(3) for any person to register, on or after 60 days after the date of enactment of this paragraph, a motor vehicle or motor vehicle engine for which the regulations prescribed under section 202(a)(1) do not apply under section 202(a)(3) if such person resides in a geographic area designated by the Administrator to be a geographic area in which there is significant air pollution; or". . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . The second ground on which I make a point of order is that at no point in the bill before us appears an amendment to section 203 of the Clean Air Act. In fact, the gentleman's amendment deals with section 203 and not with the sections which are before us.

As the Chair will observe from the reading of the Clean Air Act, section 203 is the penalty section and relates to certifications. Section 202(b) mandates the EPA to establish emission limitations for automobiles, and it is to section 202(b) which the bill itself now does apply. The amendment goes much further than that and it restricts the authority of automobile owners to register automobiles in States, and this matter is not spoken to otherwise or elsewhere in the legislation before us.

It is, therefore, my strong view, Mr. Chairman, that the amendment before us is not germane to the legislation in dealing with subjects not in the bill and not presently before the House.

Obviously the germaneness rules are here to protect Members from being surprised by amendments which relate to matters different than those before us. Obviously the amendment relates to sections of the Clean Air Act and to matters that are not before us. For that reason the point of order against the amendment should be sustained. . . .

MR. WYMAN: . . . [The amendment] simply suspends . . . the authority of the Administrator to impose [requirements for emission controls] for a definite period during the energy crisis.

This is so plainly in order that I submit the Chair should overrule the point of order.

THE CHAIRMAN:[11] The Chair is ready to rule. . . .

The second aspect of the point of order is the question of nongermaneness in connection with the Clean Air Act. The Chair has simply looked at the Ramseyer on the bill before us and it is very clear that the Clean Air Act is comprehensively amended by the bill and by the pending amendment in the nature of a substitute. Therefore, the Chair overrules the point of order of the gentleman from Michigan.

Regulations Affecting Rationing of Petroleum Products—Amending Rules To Establish Congressional Disapproval Procedure

§ 35.86 While an amendment amending the rules of the House to establish a special disapproval procedure would not ordinarily be germane to a proposition which granted certain authority to the executive but did not contain a provision affecting congressional procedure, such an amendment is in order where the section of law being amended by that proposition contains a comparable provision.

On Dec. 14, 1973,[12] the Committee of the Whole had under consideration a section of an amendment in the nature of a substitute which amended section 4 of the Emergency Petroleum Allocation Act of 1973 to authorize the president to establish priorities, including rationing procedures, among users of petroleum products. An amendment was offered which conditioned the effectiveness of those regulations upon subsequent congressional disapproval (amending the rules of both Houses to provide for the privileged consideration of disapproval resolutions). The amendment was held germane, where the section of law being amended already contained a provision permitting either House to disapprove regulations exempting certain petroleum products from allocations under that section.

The proceedings were as follows:

MR. [H. JOHN] HEINZ [III, of Pennsylvania]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the

11. Richard Bolling (Mo.).

12. See 119 CONG. REC. 41716–18, 93d Cong. 1st Sess. (proceedings relating to H.R. 11450, the Energy Emergency Act).

gentleman from West Virginia (Mr. Staggers). . . .

The Clerk read as follows:

Amendment offered by Mr. Heinz to the amendment in the nature of a substitute offered by Mr. Staggers. Page 8, after line 18, insert the following new subsection: (e) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by inserting at the end thereof the following new subsections:

"(l)(1) The President shall transmit any rule (other than any technical or clerical amendments) which amends the regulation (promulgated pursuant to subsection (a) of this section) with respect to end-use allocation authorized under subsection (h) of this section.

"(2) Any such rule with respect to end-use allocation shall, for purposes of subsections (m) and (n) of this section, be treated as an energy action and shall take effect only if such actions are not disapproved by either House of Congress as provided in subsections (m) and (n) of this section.

"(m) DISAPPROVAL OF CONGRESS. . . .

"(3) Except as otherwise provided in paragraph (4) of this subsection, an energy action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House not favor the energy action. . . .

"(n) DISAPPROVAL PROCEDURE.—

"(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House. . . .

"(4)(A) If the committee to which a resolution with respect to an energy action has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the energy action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, my point of order is that the amendment is not germane to the amendment in the nature of a substitute. Further, the amendment is not germane to the material of the bill. . . .

Mr. Chairman, what the amendment purports to do is create additional ma-

chinery with respect to the allocation section of the bill which is covered in section 103 of that bill so as to provide that the powers which are to be exercised in allocation, including end use allocation, shall be subject to presentation to the Congress during a 15-day period in which, if they are not vetoed by one or the other House, such provisions may be canceled by having been denied by the two Houses.

There is nothing in the original bill or in the amendment that provides for any procedure by which the matter shall be resubmitted to the Congress. There is nothing in the amendment in the nature of a substitute that has any such procedure in it.

The amendment offered here provides an extensive amendment of the procedures of both the House and Senate with respect to the manner in which this is accomplished.

I should like to point out to the Chair that this is not a small change in policy or in law but an extremely large one. What it purports to do, in effect, is to change the role of the Presidency and that of the Congress and to afford a special procedure by which this bill reserves to the Congress the administrative position, a position in which as a condition subsequent to the passage of this bill this bill may require a second look at the entire question and a determination on the question of policy by the Congress.

The major thrust of my point of order does not go to any question of constitutionality.

It indicates too the fact that the matter contained herein so sweepingly alters the procedures of the House, and the work to accommodate itself to this peculiar and unusual problem, that it is far beyond the scope of any provision in the bill. It does not in a minor manner change the bill, but it changes it in an extremely substantial manner because it calls upon the House to make a deep and complete policy determination with respect to the question of allocation at a time subsequent to the passage of the bill, and give that policy determination the effect of law as a condition subsequent to its particular enactment. . . .

MR. HEINZ: . . . Mr. Chairman, the gentleman from Texas contends on the one hand that my amendment is not constitutional, and on the other that it is not germane to the bill.

On the first point I would like to indicate, Mr. Chairman, that there are already on the statute books two laws, the War Powers Act, and the Procedure for Approving Executive Reorganizations. They use the same procedure for the two items I mentioned. Therefore I do not feel that the point of constitutionality can stand the test.

Second, the gentleman from Texas argues that my amendment and the disapproval portion thereof is not germane to the bill. Were this the case it would seem to me inconsistent, Mr. Chairman, because we would not have had, as we did 2 days ago, a vote on the Broyhill amendment which included the exact same procedures as exist in my amendment.

Admittedly, section 105 is not section 103 but, nonetheless, both amendments were offered to the amendment in the nature of a substitute, H.R. 11882. I do not believe, therefore, Mr. Chairman, that the point of order has merit.

MR. ECKHARDT: Mr. Chairman, I should like to urge one other point aside from the germaneness question, and that is that the amendment is out of order because it seeks to amend the Rules of the House.

MR. HEINZ: Mr. Chairman, if I may be heard further, I just do not think that the gentleman from Texas is correct. What is in this amendment is simply no different from writing into the bill, which we could do at any time, for any section, a provision which might say "notwithstanding anything in Section 103 or any other section, the Executive Branch has to come back to the Congress for enactment or approval or determination, or anything."

THE CHAIRMAN:[13] The Chair is prepared to rule.

The gentleman from Texas (Mr. Eckhardt) makes a very interesting and strong argument. The Chair in its ruling is persuaded that the question is a narrow question. The Chair does not rule on the constitutional questions raised in this argument; but there are two aspects of the matter that the Chair takes into consideration in its decision. One, which the Chair believes to be the lesser one, is the fact that in the original bill there is a similar provision which in turn was offered as an amendment to the amendment in the nature of a substitute. But the Chair relies primarily on the fact that the amendment offered by the gentleman from Pennsylvania (Mr. Heinz) is in fact an amendment to section 4 of Public Law 93–159, the Emergency Petroleum Allocation Act which, in a different manner, does provide for a procedure whereby the President shall make submissions to the Congress. And whereby either House may disapprove of such submissions.

Therefore the Chair overrules the point of order.

13. Richard Bolling (Mo.).

Indirectly Superseding Other Law

§ 35.87 To a section of a bill amending the Defense Production Act providing financial assistance for synthetic fuel development to meet national defense needs, an amendment providing expedited review and approval of certain designated priority projects to be financed by the bill, thereby indirectly affecting time periods for procedural review specified in other laws, but not specifically waiving provisions of substantive law which might prohibit completion of such projects, was held germane as not directly amending substantive environmental or energy laws within the jurisdiction of other committees.

On June 26, 1979,[14] during consideration of H.R. 3930[15] in the Committee of the Whole, Chairman Gerry E. Studds, of

14. 125 CONG. REC. 16681–83, 96th Cong. 1st Sess.

15. The Defense Production Act Amendments of 1979.

Massachusetts, overruled a point of order and held the following amendment to be germane:

Amendment offered by Mr. Udall: Page 8, after line 13 add the following new subsection and renumber the subsequent sections accordingly:

(g)(1) The Secretary of Energy is hereby authorized to designate a proposed synthetic fuel or feedstock facility as a priority synthetic project pursuant to the procedures and criteria provided in this section. . . .

(h)(1) Any person planning or proposing a synthetic fuel or feedstock facility may apply to the Secretary of Energy for an order designating such facility as a priority synthetic project. . . .

(i) Not later than forty-five days after receipt of an application authorized under the previous section, the Secretary shall determine whether the proposed synthetic fuel or feedstock facility is of sufficient national interest to be designated a priority synthetic project. Upon reaching a determination the Secretary shall publish his decision in the Federal Register and shall notify the applicant and the agencies identified in subsection (h)(3). In making such a determination the Secretary shall consider—

(1) the extent to which the facility would reduce the Nation's dependence upon imported oil;

(2) the magnitude of any adverse environmental impacts associated with the facility and the existence of alternatives that would have fewer adverse impacts; . . .

(7) the extent to which the applicant is prepared to complete or has already completed the significant actions which the applicant in consultation with the Deputy Secretary anticipate will be identified under subsection (1) as required from the applicant; and

(8) the public comments received concerning such facility. . . .

(l) Not later than thirty days after notice appears in the Federal Register of an order designating a proposed synthetic fuel or feedstock facility as a priority synthetic project, any Federal agency with authority to grant or deny any approval or to perform any action necessary to the completion of such project or any part thereof, shall transmit to the Secretary of Energy and to the priority energy project—

(1) a compilation of all significant actions required by such agency before a final decision or any necessary approval(s) can be rendered;

(2) a compilation of all significant actions and information required of the applicant before a final decision by such agency can be made;

(3) a tentative schedule for completing actions and obtaining the information listed in subsections (1) and (2) of this subsection;

(4) all necessary application forms that must be completed by the priority energy project before such approval can be granted; and

(5) the amounts of funds and personnel available to such agency to conduct such actions and the impact of such schedule on other applications pending before such agency.

(m)(1) Not later than sixty days after notice appears in the Federal Register of an order designating a synthetic fuel or feedstock facility as a priority synthetic project, the Secretary, in con-

sultation with the appropriate Federal, State and local agencies shall publish in the Federal Register a Project Decision Schedule containing deadlines for all Federal actions relating to such project. . . .

(3) All deadlines in the Project Decision Schedule shall be consistent with the statutory obligations of Federal agencies governed by such Schedule.

(4) Except as provided in subparagraph (3) above and in subsection (p) no deadline established under this section or extension granted under subparagraph (5) of the section may result in the total time for agency action exceeding nine months beginning from the date on which notice appears in the Federal Register of an order designating the proposed synthetic fuel or feedstock facility as a priority synthetic project.

(5) Notwithstanding any deadline or other provision of Federal law, the deadlines imposed by the Project Decision Schedule shall constitute the lawful decisionmaking deadlines for reviewing applications filed by the priority synthetic project. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment offered by my good friend from Arizona is not germane. . . .

Mr. Chairman, it is well settled the amendment must be germane not only to the section but also to the bill.

Mr. Chairman, the bill relates to the Defense Production Act.

Mr. Chairman, under the amendment, a lengthy process is established whereunder the Secretary of Energy, who is not mentioned elsewhere in the bill, is authorized to designate synthetic fuel or feedstocks facilities as priority synthetic projects, pursuant to lengthy criteria which are set forth at the first and second pages and following.

So, Mr. Chairman, there is a whole range of broad new responsibilities imposed on the Secretary of Energy not found elsewhere, either in the Defense Production Act or in the bill before us, which are quite complex, very obvious, and which involve a lengthy amount of work and which involve amendment either directly or indirectly of a large number of Federal, State, and local statutes dealing with the project and permitting the project.

There is also an extensive procedural responsibility on both the Secretary and one which is imposed on the Governor of the State in which the action would occur.

For that reason, Mr. Chairman, a Member of this body could not very well anticipate as would be required by the rules of germaneness that an amendment of this sweep and breadth could be visited upon us. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, a further point of order. . . .

I make a point of order against the amendment for the following reasons: The bill before us, H.R. 3930, amends the Defense Production Act of 1950 and it does so by extending the authority of the act and also providing for the purchase of synthetic fuels and synthetic chemical feed stock and for other purposes. An examination of the other purposes reveals nothing akin to the amendment before us. The amendment before us in effect seeks to apply the National Environmental and Policy Act

of 1969, specifically on page 5 in subparagraph (d) to the facilities that would contract with the Government.

It appears to me that by attempting to do this, this is beyond the scope of the jurisdiction of this committee. It is within the scope of other committees' jurisdictions and certainly beyond the scope of the bill, which simply deals with contracts and purchases and not the environmental qualities or activities of the people who seek to contract with the Government.

Therefore, the amendment is not germane and beyond the scope of the bill. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The pending bill creates authority to finance directly and indirectly synthetic fuel and chemical feed stocks, feedstock projects. . . .

What my amendment does is not to change any of the existing laws. It does not change any environmental protection laws or anything else, but it says we are going to have decisions. Within nine months after this is put on the fast track, we are going to get a yes or no decision on it. . . .

This amendment simply supplements the existing statutory procedures to achieve expedited approval or disapproval of various authorities necessary for the completion of synfuel projects created under the authority of the legislation; so the subject matter of the amendment is germane to the subject of the pending legislation. The point of order ought to be rejected, Mr. Chairman.

THE CHAIRMAN: The Chair is prepared to rule.

The bill before the committee bestows authority for loan guarantees to finance synthetic fuel or feedstock facility construction. The amendment of the gentleman from Arizona establishes a complex mechanism for expediting procedures for projects financed by loan guarantees under the bill.

The Chair is unable in response to the gentleman from Maryland to find any respect in which the amendment of the gentleman from Arizona would amend the National Environmental Protection Act, but merely provides that determinations made as to priority of synthetic projects eligible for expeditious review shall not be considered major Federal actions under that law.

In the opinion of the Chair, the totality of the Udall amendment constitutes essentially an expediting of procedures under authorities provided for in the bill and is, therefore, germane.

The Chair overrules the point of order.

Specific Project Deemed To Satisfy Requirements of Law Being Amended

§ 35.88 To a bill amending an existing law (the Endangered Species Act) which had been interpreted to prohibit completion of certain federally funded construction projects where species of wildlife would be adversely affected, an amendment providing that a specific federal project permit be deemed to satisfy the requirements of that law was held germane as not spe-

cifically broadening authorities of federal agencies not administering that law.

On Oct. 14, 1978,[16] during consideration of H.R. 14014 in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:
>
> "The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.). . . .

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment. The amendment is not germane to the section of the bill to which it is offered, and in addition it imposes duties upon the Secretary of Commerce that are nowhere else mentioned in the bill.

MR. [MARK] ANDREWS of North Dakota: . . . If a project of this type is stopped because of an interpretation of an act of the Congress, how then can the rules of the Congress prohibit the same Congress from amending the action so that it does not affect a certain type of project? This is basically what the argument is all about. And to tie up projects which would prevent the homeowners from getting their electricity at a sensible cost because of the interpretation of the law—if it cannot be fixed in this body where can it be fixed? . . .

MR. [FRANK E.] EVANS of Colorado: . . . I think the amendment now pending offered by the gentleman from Wyoming is clearly in order. The simple thing this amendment does is declare a legislative funding of fact relative to the Endangered Species Act. Thus it is clearly germane.

THE CHAIRMAN:[17] The Chair is ready to rule. This occupant of the Chair had, as indicated, to make a rather rapid analysis of the previous amendment, not having been aware of the questions at issue. The present amendment offered by the gentleman from Wyoming would appear, based on the information that the Chair has available and on the precedents available to him including the precedent cited by the gentleman from Wyoming, to be germane and completely in the proper form, and therefore overrules the point of order in connection with the amendment of the gentleman from Wyoming.

House Procedures: Content of Committee Reports—Amendment To Require Statements as to Effect of Appropriations on Existing Law

§ 35.89 To an amendment in the nature of a substitute amending Rules X and XI and making conforming and miscellaneous changes in other rules to reorganize House committees, and including requirements as to content and filing of com-

16. 124 CONG. REC. 38143, 38144, 95th Cong. 2d Sess.

17. B. F. Sisk (Calif.).

mittee reports, an amendment to Rule XXI (which relates to appropriation bills and reports) to require the committee report accompanying any bill containing an appropriation to state the direct or indirect changes in law made by the bill and to prohibit such report from containing any directive or limitation affecting the appropriation that was not also contained in the bill was held germane, since the issue of the content of committee reports was within the purview of the amendment in the nature of a substitute.

The proceedings of Oct. 8, 1974, relating to House Resolution 988, to reform the structure, jurisdiction and procedures of House committees, are discussed in § 3.37, supra.

House Procedures: Committee Stage of Legislative Process—Amendment Relating to Voting Procedures in Committee of Whole

§ 35.90 To a proposition reorganizing House committees and dealing with the committee stage of the legislative process, amended to delete reference to consideration of legislation in Committee of the Whole, an amendment relating to voting procedures in the Committee of the Whole was held to be not germane.

On Oct. 8, 1974,[18] the Committee of the Whole had under consideration House Resolution 988, to reform the structure, jurisdiction and procedures of House committees. Pending was an amendment in the nature of a substitute amending Rules X and XI and making conforming changes in other rules to reform the structure, jurisdiction and procedures of committees, and containing miscellaneous provisions reorganizing certain institutional facilities of the House. The amendment had been perfected by amendment to eliminate a revision of Rule XVI which had proposed changes in Committee of the Whole procedure. Pursuant to a point of order, the amendment in the nature of a substitute was held not to be sufficiently broad in scope to admit as germane an amendment to Rule VIII to permit pairs on recorded votes in Committee of the Whole.

> MR. [JONATHAN B.] BINGHAM [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

18. 120 CONG. REC. 34415, 34416, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Bingham to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: On page 53, after line 2, insert the following:

"PAIRS IN COMMITTEE OF THE WHOLE

"Sec. 209. The first sentence of clause 2 of rule VIII of the Rules of the House of Representatives is amended by inserting 'by the House or Committee of the Whole' immediately before the first comma.". . .

MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment for the reason that it is an amendment to rule VIII, whereas the principal resolution under consideration here, House Resolution 988, attempts to amend rules X and XI only. Therefore, the amendment is not germane. . . .

MR. BINGHAM: . . . This would amend title II of the resolution, which is headed, "Miscellaneous and Conforming Provisions." That title of the resolution is not limited to changes in rules X and XI. It affects other rules, section 207, for example, amendment to rule XVI, and under the heading of "Miscellaneous and Conforming Provisions," it would seem to me that a simple amendment to rule VIII would clearly be in order.

THE CHAIRMAN:[19] The Chair is ready to rule.

On hearing the gentleman from Iowa (Mr. Smith) and the gentleman from New York (Mr. Bingham), the Chair is of the opinion that there is nothing in the Hansen amendment in the nature of a substitute, as perfected, relating to voting procedures in the Committee of the Whole. The miscellaneous provisions in the Hansen amendment, as perfected by the Waggonner amendment, do not broaden the Hansen amendment to the extent suggested by the gentleman from New York.

Therefore, the point of order must be sustained, and the point of order is sustained.

Proposal To Amend House Rules With Regard to Open Hearings—Amendment Affecting Investigative Funds for Minority Staff

§ 35.91 To a proposition amending existing law in several particulars but only with regard to a single subject affected thereby, an amendment proposing to modify the law in a manner not related to the subject of the pending proposition is not germane; this principle was applied during consideration of a resolution amending clauses 26 and 27 of Rule XI to require House committee and subcommittee meetings and hearings to be open to the public except where the committee determined by open rollcall vote that the remainder of that meeting or hearing be closed, where an amendment to clause 32(c) of that rule to

19. William H. Natcher (Ky.).

provide that one-third of each standing committee's investigative funds be available for minority staff was held to be not germane.

On Mar. 7, 1973,[20] during consideration of a resolution amending several clauses of a rule of the House but confined in its scope to the issue of access to committee meetings and hearings, an amendment to another clause of that rule relating to committee staffing was held to be not germane. The proceedings were as follows:

MR. [JOHN B.] ANDERSON of Illinois: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Anderson of Illinois: On page 2, line 24, add a new section 4, to read as follows:

Clause 32(c) of rule XI of the Rules of the House of Representatives is amended to read as follows:

"(c) The minority party on any such standing committee is entitled, upon request of a majority of such minority, to up to one-third of the funds provided for the appointment of committee staff pursuant to each primary or additional expense resolution. The committee shall appoint any persons so selected whose character and qualifications are acceptable to a majority of the committee. If the committee determines that the character and qualifications of any person so selected are unacceptable to the committee, a majority of the minority party members may select other persons for appointment by the committee to the staff until such appointment is made. Each staff member appointed under this subparagraph shall be assigned to such committee business as the minority party members of the committee consider advisable.". . .

MR. [JOHN J.] MCFALL [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the matter that we are considering. The matter that we are considering has to do with access to committee meetings, and the amendment has to do with staff make-ups, and they are entirely two different subject matters. . . .

MR. ANDERSON of Illinois: Mr. Chairman, House Resolution 259, the resolution we are considering today amends two clauses in rule XI of the Rules of the House of Representatives. I am proposing another amendment to rule XI namely the provision dealing with minority staffing of committees.

I contend this amendment is germane and in order. Having only Cannon's Procedure of the 87th Congress available to me, I quote from page 201 of that volume dealing with germaneness:

> But where the bill proposes to amend existing law in several particulars, no arbitrary rule can be laid down either admitting or excluding further amendments to the law not proposed in the pending bill, but the question of the germaneness of such additional amendments must be determined in each instance on the merits of the case presented (VIII, 2938).

This ruling was made by Chairman Sydney Anderson of Minnesota on June 10, 1921. I quote from volume VIII of the Precedents:

20. 119 CONG. REC. 6714, 93d Cong. 1st Sess.

The Chair does not think that the general rule can be laid down that where several portions of a law are amended by a bill reported by a committee, it is not in any case in order to amend another section of the bill not included in the bill reported by the committee, nor does the Chair think that the opposite rule can be laid down and rigidly applied in every instance. The Chair thinks that a question of this kind must be determined in every instance in the light of the facts which are presented in the case. In the particular case under consideration it appears that the committee has reported a bill which amends several sections of Title IV of the bill in various particulars. The Chair does not feel that he can hold that no amendment to a section not dealt with by the committee is not in order.

Mr. Chairman, I feel my amendment would clearly be in order.

Mr. Chairman, the substitute rule would not make it possible for any other amendments to be made to rule XI.

It seems to me this further argues in favor of the germaneness of this particular amendment. I ask that the point of order be overruled.

THE CHAIRMAN:[1] The Chair is prepared to rule.

House Resolution 259, while it technically amends two different clauses of rule XI, relates solely to the single subject of public access to House committee meetings and hearings. Thus, amendments to other portions of rule XI pertaining to committee jurisdiction such as staffing, and procedures other than access to hearings and meetings would not be germane.

Under the precedents, the fact that a bill amends several sections of a law does not necessarily open the whole law to amendment. The purpose and scope of the bill must be considered. In the 89th Congress, the Committee of the Whole had under consideration a bill amending the National Labor Relations Act to repeal section 14(b) of that law. On that occasion, in several rulings by Chairman O'Brien of New York, the principal was reiterated that where a bill is amendatory of existing law in several particulars, but relates to a single subject affected thereby, amendments proposing to modify the law but not related to the bill are not germane (July 28, 1965, Rec. p. 18631–18645).

For this reason, the Chair holds that the amendment is not germane and sustains the point of order.

Law Amended in Two Respects—Amendment To Add Postal Service Property to Definition of Federal Property in Assessing "Impact"

§ 35.92 To a title of a bill amending an existing law in two diverse respects, an amendment further amending one section of the law being amended by the bill may be germane; thus, an amendment expanding the definition of federal property to include United States Postal Service property under an educational assistance program subsidizing school districts where there is a federal "impact", was

1. Joe D. Waggoner, Jr. (La.).

held germane (but was ruled out as in violation of Rule XXI, clause 5, since permitting a new use of funds already appropriated).

During consideration of H.R. 12835[2] in the Committee of the Whole on May 11, 1976,[3] the Chair sustained a point of order against an amendment, as described above.

The Clerk read as follows:

TITLE III—TECHNICAL AID AND MISCELLANEOUS EDUCATION AMENDMENTS; REPEALERS, EXTENSIONS, AND EFFECTIVE DATES

TECHNICAL AMENDMENTS

Sec. 301. (a) The Education Amendments of 1974 is amended . . .

(n) Section 403(17) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "(but not including" and inserting in lieu thereof "; but at the option of a local educational agency, such term need not include"; and such section is further amended by striking out "residing in nonproject areas)" and inserting in lieu thereof "residing in noproject areas". . . .

(e)(1) Section 5(c)(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended by the Education Amendments of 1974, is amended to read as follows:

"(1) He shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is entitled as computed under that section for such fiscal year and he shall further allocate to each local educational agency which is entitled to a payment under section 3 an amount equal to 25 per centum of the amount to which it is entitled as computed under section 3(d) for such fiscal year.".

(2) Section 5(c)(2) of such Act, as so amended, is amended (A) by striking out "; and" at the end of clause (F) and substituting a period, and (B) by striking out clause (G). . . .

MR. [WILLIAM D.] FORD of Michigan: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ford of Michigan: Page 190, immediately after line 3, insert the following:

(g) The fourth sentence of section 403(1) (20 U.S.C. 244(1)) of the Act of September 30, 1950 (Public Law 874, 81st Congress), is amended by inserting immediately before the period at the end thereof the following: ", except that such term shall include all real property owned by the United States Postal Service which is not subject to any State or local real property tax" used for the support of education. . . .

MR. [ALBERT H.] QUIE [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Michigan (Mr. Ford) on the grounds that it is not germane to the bill under consideration.

The gentleman's amendment seeks to amend the definitions title of impact aid, Public Law 874 of the 81st Congress. The bill before us contains only two technical amendments to impact aid. The amendment offered by the

2. The Vocational Education Act amendments.

3. 122 CONG. REC. 13409–11, 13417, 94th Cong. 2d Sess.

gentleman from Michigan seeks to make a major change in the impact aid law by substantially increasing payments under the program. The gentleman seeks to include his amendment in title III, which relates to technical and miscellaneous amendments. Clearly, the amendment offered by the gentleman is not technical and is substantial in nature.

It is my view that the amendment is in violation of clause 7 of rule XVI of the Rules of the House of Representatives. I cite as precedent for my position the ruling of the Chair on November 29, 1971, when the Chair ruled that an amendment to regulate a broad scope of activities is not germane to a proposition imposing restrictions within a limited area of activities.

I would also cite as a precedent the ruling of the Chair on April 28, 1971, to the effect that an amendment proposing changes in another section of a law is not germane to a bill amending one section of existing law to accomplish a particular purpose. . . .

The amendment is also in violation of clause 5 of rule XXI, relating to appropriations since the amendment is effective immediately and thereby affects already appropriated funds. . . .

THE CHAIRMAN:[4] The Chair is prepared to rule.

In connection with the point of order the gentleman from Minnesota makes regarding the question of germaneness, the Chair has examined the amendment and the legislation to which the amendment is offered. Upon an examination of title III, which is a very diverse title and is open to amendment at any point, that title actually amends Public Law 81–874 in two diverse respects, as indicated on pages 214 to 217 of the Ramseyer rule in the committee report, section 403 of that act is amended in the bill on page 186. This amendment would make a further change in that section of the law.

Therefore, on the basis of germaneness, it is the opinion of the Chair that the amendment is germane; however, with respect to the point of order that the amendment violates clause 5, rule XXI, it appears to the Chair, recalling the debate on the rule of yesterday where points of order were waived against the committee amendment, that there are in existence appropriated funds for impact aid purposes which this amendment would permit to be used for a new category of recipients. Since the amendment permits a new use of funds already appropriated, the Chair would have to hold that that amendment is a violation of clause 5, rule XXI and, therefore, would sustain that portion of the point of order.

Now, the Chair would state, of course, that we are dealing here with a point of order dealing exclusively with the reuse of funds already appropriated.

Therefore, the Chair sustains the point of order in connection with clause 5 of rule XXI.

Parliamentarian's Note: While the bill was primarily a vocational Education Act amendment and extension, title III amended miscellaneous education laws, including diverse laws on elementary and secondary education, and thus greatly broadened the scope of the bill.

4. B. F. Sisk (Calif.).

Postal Reorganization Act Amended in Diverse Respects—Amendment to Another Subsection of Act

§ 35.93 A proposition amending the Postal Reorganization Act in several diverse respects, considered as read and open to amendment at any point by unanimous consent, was considered sufficiently comprehensive in scope to admit as germane an amendment to another subsection of that Act to render the entire Postal Service operation subject to the annual appropriation process, although the section of the proposition to which offered contained an annual authorization only for a limited (public service) aspect of the Postal Service operation.

On Sept. 29, 1975,[5] it was demonstrated that the test of the germaneness of an amendment is its relationship to the pending portion of a bill to which offered, and where a bill is by unanimous consent considered as read and open to amendment at any point, the germaneness of an amendment thereto is determined by its relationship to the entire bill rather than to the particular section to which offered. The proceedings in the Committee of the Whole were as follows:

THE CHAIRMAN:[6] Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

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

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

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

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

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

5. 121 CONG. REC. 30761, 30764, 30767, 30768, 94th Cong. 1st Sess.

6. Walter Flowers (Ala.).

There was no objection. . . .

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

The Clerk read as follows:

> Amendment offered by Mr. Alexander: Page 12, strike out line 20 and all that follows through page 13, line 6, and insert in lieu thereof the following:
>
> Sec. 2. (a)(1) Section 2401(a) of title 39, United States Code, is amended to read as follows:
>
> "(a)(1) There are authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, such sums as may be necessary to enable the Postal Service to carry out the purposes, functions, and powers authorized by this title. . . .
>
> (b) Section 2401(b) of title 39, United States Code, is amended to read as follows:
>
> "(b)(1) There are authorized to be appropriated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere.". . .

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

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

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

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

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

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

THE CHAIRMAN: The Chair is prepared to rule.

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

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

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

Since all of the bill is before the Committee at this point, the Chair re-

luctantly comes to the conclusion that the position of the gentleman from New York (Mr. Hanley) in his point of order is not well founded and, therefore, the Chair must overrule the point of order made by the gentleman from New York.

Bill Affecting Salaries and Number of Grades in Postal Field Service—Amendment Relating to Annual and Sick Leave

§ 35.94 To a bill relating to the number of grades and positions in the postal field service and providing salary increases for personnel in such service, an amendment relating to annual and sick leave of such personnel was held to be not germane.

In the 82d Congress, a bill[7] was under consideration which sought to amend the act of July 6, 1945, as amended, so as to reduce the number of grades for the various positions under such act. The following amendment was offered to the bill:[8]

Amendment offered by Mr. [Victor L.] Anfuso [of New York]:

Page 10, after line 10, insert the following:

Sec. 4. (a) So much of section 6 of the act entitled 'An act to reclassify the salaries of postmasters, officers, and employees of the postal service . . . " approved July 6, 1945, as amended, as precedes the second paragraph thereof is hereby amended to read as follows:

"ANNUAL AND SICK LEAVE

"Sec. 6. Postmasters, officers, and employees shall be granted 26 days' leave of absence with pay . . . each fiscal year and sick leave with pay at the rate of 15 days a year. . . ."

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

MR. [THOMAS J.] MURRAY [of Tennessee]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from New York is not germane to the pending bill. It does not pertain to any provision of the bill now under consideration which relates only to salary and to reassignment of the first three grades of Public Law 134.

The Chairman,[9] in ruling on the point of order, stated:

As the Chair stated before, this bill provides for the number of grades and positions in the postal field service and also provides salary increases for personnel in such service.

The amendment offered by the gentleman from New York deals neither with the number of grades or positions in the postal service nor with salary increases as such. It concerns an entirely different matter, namely, annual and sick leave.

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7. H.R. 244 (Committee on Post Office and Civil Service).

8. 97 CONG. REC. 11773, 82d Cong. 1st Sess., Sept. 20, 1951.

9. Clinton D. McKinnon (Calif.).

The Chair sustains the point of order.

Rights of Executive Branch Employees—Amendment Affecting Legislative Branch Employees

§ 35.95 Unless a bill so extensively amends existing law as to open up the entire law to amendment, the germaneness of an amendment to the bill depends upon its relationship to the subject of the bill and not to the entire law being amended; thus, to a bill amending a section of title 5, United States Code, granting certain rights to employees of executive agencies of the federal government, an amendment extending those rights to legislative branch employees, as defined in a different section of that title, was held to be beyond the scope of the bill and was ruled out as not germane.

On Oct. 28, 1975,[10] during consideration of a bill[11] dealing with the right to representation for federal executive employees during questioning, the Chair, in ruling that the amendment described above was not germane to that bill, reiterated the principle that one individual proposition is not germane to another individual proposition, even though the two belong to the same class:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—EMPLOYEE RIGHTS

"§ 7171. Right to representation during questioning

"(a) Any employee of an Executive agency under investigation for misconduct which could lead to suspension, removal, or reduction in rank or pay of such employee shall not be required to answer questions relating to the misconduct under investigation unless—

"(1) the employee is advised in writing of—

"(A) the fact that such employee is under investigation for misconduct,

"(B) the specific nature of such alleged misconduct, and

"(C) the rights such employee has under paragraph (2) of this subsection, and

"(2) the employee has been provided reasonable time, not to exceed 5 working days, to obtain a representative of his choice, and is allowed to have such representative present during such questioning, if he so elects. . . .

MR. [ROBIN L.] BEARD of Tennessee: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Beard of Tennessee: on page 1, line 8 insert

10. 121 CONG. REC. 34031, 34036, 34037, 94th Cong. 1st Sess.

11. H.R. 6227.

immediately following the word "agency" the following: ", or any employee as defined under section 2107 of this Title.".

MR. CHARLES H. WILSON of California: Madam Chairman, I have a point of order against the amendment. . . .

Madam Chairman, under rule XVI, clause 7, of the Rules of the House, any amendment to a bill concerning a subject different from those contained in the bill is not germane and is subject to a point of order. The instant amendment proposes to make the bill applicable to a completely new class of employees other than what is covered under the bill, namely, congressional employees. However, the reported bill applies only to employees of executive agencies as defined under section 105.

In my opinion, the subject of the amendment is not similar to any of the subject matters involved in H.R. 6227 which I have just outlined and is not germane. . . .

MR. BEARD of Tennessee: . . . Madam Chairman, I feel the amendment is germane to this particular bill inasmuch as the people we are including in this bill are Federal employees and those concerning whom we are legislating today are Federal employees. . . .

Madam Chairman, if I may be heard further on the point of order, all this does is to remove an exemption rather than add a group of employees. It is just removing an exemption, and I believe that is the fair thing to do.

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

The bill before us is very explicit as to its scope. It includes any employee of an executive agency. The bill itself, by its own terms, affects the class of civil servants known as executive agency employees.

The amendment offered by the gentleman from Tennessee (Mr. Beard) would seek to amend the bill by adding a totally different individual class of employees to the bill beyond the scope of the bill, namely, congressional employees as defined in section 2107.

The rule of germaneness, in terms of amendments of this kind, states as follows: One individual proposition may not be amended by another individual proposition, even though the two belong to the same class.

In light of that principle and in light of the scope of this bill, the Chair rules that this amendment is not germane and is, therefore, out of order. . . .

MR. [JOHN H.] ROUSSELOT [of California]: Madam Chairman, respecting the chairperson's ruling, in regard to title V to which this bill addresses itself, an amendment to title V includes all employees, including the President, Members of Congress, and members of the uniformed services, even though this bill has application, as the gentlewoman has said, only to Federal employees. Therefore, this title V does apply to all Federal employees. . . .

THE CHAIRMAN: To the gentleman from California (Mr. Rousselot) the Chair would only state that the germaneness of the amendment must be weighed against the content and scope of the bill and not title V of the United States Code, as the gentleman would interpret it.

12. Barbara Jordan (Tex.).

Census and Apportionment: Amendment To Modify Law in Manner Not Related to Bill

§ 35.96 To a bill proposing to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane.

In the 76th Congress, a bill[13] was under consideration proposing to amend an act relating to the decennial census and the apportionment of Representatives in Congress. The following proceedings took place on Apr. 11, 1940:[14]

> THE CHAIRMAN:[15] . . . The Clerk will read.
>
> The Clerk read as follows:
>
> That an act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress, approved June 18, 1929, is hereby amended in the first sentence of section 22(a) by striking out the words "second regular session of the Seventy-first Congress" and substituting the following words: "first regular session of the Seventy-seventh Congress", and by striking out "fifteenth" and inserting "sixteenth."
>
> MR. [JAMES W.] MOTT [of Oregon]: Mr. Chairman, I offer the following amendment, which I send to the desk.
>
> The Clerk read as follows: . . .
>
> The said act is further amended in the first sentence of section 22(a) by striking out the words, "the then existing number of Representatives" and substituting the following words, "300 Representatives."
>
> MR. [LINDSAY C.] WARREN [of North Carolina]: Mr. Chairman, I make the point of order against the amendment that it is not germane. . . .

In ruling on the point of order, the Chairman, stated:[16]

> There is no question that the amendment would have been germane to the act of 1929. The precedents, however, seem to be very definite on the proposition that when a bill proposes to amend an act in several particulars an amendment proposing to modify the act but not related to the bill is not germane. . . .
>
> The pending section of the bill does not in any way affect the total number of Members of the House but only proposes to change the time when the statement of the President must be transmitted to Congress. The Chair is of the opinion therefore that the amendment is not germane and sustains the point of order.

District of Columbia: Bill Conferring Broad Powers on New Community Development and Finance Corporation—Amendment Limiting Authority of District of Columbia Council Over Parking

§ 35.97 To a bill conferring broad powers on a new Com-

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13. S. 2505 (Committee on the Census).

14. 86 CONG. REC. 4382, 76th Cong. 3d Sess.

15. Marvin Jones (Tex.).

16. 86 CONG. REC. 4383, 4384, 76th Cong. 3d Sess.

munity Development and Finance Corporation for the District of Columbia and narrowly affecting the powers of the District of Columbia Council to the extent that it would only be preempted from interfering with congressional approval authority over projects proposed by the Corporation, an amendment limiting the authority of the Council (and not the Corporation) over all parking in the District of Columbia and not confined to the Corporation's authority over parking and the Council's relation thereto was held to go beyond the scope of the bill and was held to be not germane.

On Oct. 10, 1974,[17] during consideration of H.R. 15888 in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

THE CHAIRMAN:[18] The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: On page 2, in the table of contents, insert "Sec. 309. Audits." immediately following "Sec. 308. Annual report.". . .

"POWERS OF THE COUNCIL

"Sec. 313. Notwithstanding any other provision of law, or any rule of law, nothing in this Act shall be construed as limiting the authority of the District of Columbia Council to enact any act, resolution, or regulation, after January 2, 1975, pursuant to the District of Columbia Self-Government and Governmental Reorganization Act with respect to any matter covered by this Act."

THE CHAIRMAN: The question is on the committee amendments.

The committee amendments were agreed to. . . .

MR. [WALTER E.] FAUNTROY [Delegate from the District of Columbia]: Mr. Chairman, I offer a series of amendments and ask unanimous consent that they may be considered en bloc.

THE CHAIRMAN: Is there objection to the request of the Delegate from the District of Columbia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Fauntroy: Page 33, after line 21, insert the following:

RESERVATION OF CONGRESSIONAL AUTHORITY

Sec. 303. (a) The corporation shall not undertake any project unless such project, including a cost estimate, has been submitted by the corporation to, and has been approved by, the Committees on Appropriations of the House of Representatives and the Senate.

(b) Nothing in this Act shall be construed as amending or modifying the financing, appropriation, or budget process of the government of the District of Columbia, as established in parts D and E of title IV,

17. 120 CONG. REC. 35216–19, 93d Cong. 2d Sess.

18. Sidney R. Yates (Ill.).

and section 603 of the District of Columbia Self-Government and Governmental Reorganization Act.

Page 41, immediately after line 26, insert the following:

(b) Notwithstanding any provision of the District of Columbia Self-Government and Governmental Reorganization Act, the District of Columbia Council shall have no authority to modify or amend the provisions of section 303 of this Act. . . .

The amendments were agreed to.

MR. [STANFORD E.] PARRIS [of Virginia]: Mr. Chairman, I offer amendments and ask unanimous consent that the amendments be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. Parris: Page 41, at the end of section 313, insert the following:

"(c) Notwithstanding any other provisions of law, the District of Columbia Council (established under Reorganization Plan Numbered 3 of 1967) and, after January 2, 1975, the Council of the District of Columbia established under the District of Columbia Self-Government and Governmental Reorganization Act, shall have no authority to adopt any rule or regulation with respect to the utilization of parking facilities (including on-street and off-street parking) within the District of Columbia which is more restrictive upon nonresidents of the District of Columbia than residents of the District of Columbia. Notwithstanding any provision of the District of Columbia Self-Government and Governmental Reorganization Act, the Council of the District of Columbia shall have no authority to modify or amend the provisions of this subsection."

MR. [CHARLES C.] DIGGS [Jr., of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is nongermane. The purpose of H.R. 15888 is to accomplish several specific goals, including the development of low- and moderate-income housing, increase employment opportunities for District residents, and the development of substandard and blighted residential, commercial, and industrial areas in our National Capital in time for our Nation's Bicentennial. Clearly, the powers conferred on the proposed Corporation are specifically subject to the limited and circumscribed purpose in the provisions of the bill. Accordingly, we must read the powers of the bill contained in section 201 in the context of the purposes and findings contained in section 102. Nowhere do we find a statement that the Corporation may engage in establishing parking facilities or the regulation thereof. To argue that the powers are so broad as to allow an amendment which purpose is to restrict the overall powers of the Council is, in my view, outside of the purposes of H.R. 15888 and therefore nongermane. . . .

Any amendment which seeks to deal with Council authority over parking in areas under the control of the United States or the District of Columbia government, which would include the streets of the District, clearly goes beyond the limited powers granted the Corporation under this act. Accordingly, it would be nongermane. . . .

MR. PARRIS: . . . Section 313 of H.R. 15888, as amended by my colleague, Mr. Fauntroy, providing for a subsection b to section 313, directly and expressly limits and thereby amends the District of Columbia Self-Govern-

ment and Governmental Reorganization Act, as it relates to provisions of H.R. 15888.

My amendment does no more and goes no further than does the amendment submitted by Mr. Fauntroy.

With respect to the developmental powers that may be exercised by the District of Columbia Community Development and Finance Corporation and according to the provisions of the act and as stated in the report on page 7, that corporation which is an instrumentality of the District government may:

> 18. Construct, manage or operate public facilities for the District government or any other public body, at its request.

As I read this and as any responsible man would read this, the District government, if it wishes, could by enactment or regulation permit this instrumentality of the District of Columbia, the District of Columbia Development and Finance Corporation, to manage and operate parking facilities in the District of Columbia, be they on public property such as those where meters now exist or other public property in residential areas where a ban on nonresidential parking could be imposed.

Item 17 on page 7 of the report indicated that the corporation may:

> Manage its own property, or to enter into agreement with the District of Columbia government or a private entity for the management of property.

Here again, this would certainly permit this corporation to engage in the management of on-street parking in the District of Columbia in either commercial or residential areas at the direction and discretion of the District of Columbia government and this corporation which is its instrumentality. . . .

Mr. Chairman, I submit that title II of H.R. 15888 is so broad and so general that it permits this corporation, which it establishes, to perform nearly any function that the District of Columbia government itself could perform, because by and large such powers and authority could be delegated to it if, in fact, title II of the bill does not directly and expressly give those powers to that corporation. . . .

THE CHAIRMAN: The gentleman from Michigan makes a point of order against the amendment offered by the gentleman from Virginia.

The amendment offered by the gentleman from Virginia directly limits the powers of the present District of Columbia Council, and of the Council to be established under the Home Rule Act, to regulate all parking facilities within the District of Columbia. The bill H.R. 15888, which the gentleman's amendment seeks to amend, establishes a Community Development and Finance Corporation and gives such corporation certain powers. It does not appear to the Chair that the scope of the bill extends to regulation, either by the Corporation or by the City Council, of all parking within the District of Columbia.

The amendment offered by the gentleman from Virginia does not even mention the powers of the Corporation which is the primary subject of H.R. 15888, but limits instead the powers of the City Council. While a narrowly drawn amendment limiting the power of the Corporation to institute parking

regulations over lands within its jurisdiction might be germane, the issue of the overall powers of the District of Columbia Council, as to all areas of regulation, is not comprehended in the bill.

The gentleman from Virginia has argued that the amendment already incorporated into the bill is similar to his amendment, and that his amendment no more limits the powers of the Council or amends the Home Rule Act than does the adopted amendment. The new section 303, added by amendment of the gentleman from the District of Columbia, only limits the powers of the Council as to the requirement that projects which the Corporation is authorized to undertake be submitted for approval to congressional committees. The new section 303 directly relates to the financing of projects authorized in the bill, and the section further states that the Council may not change the requirement of submission for congressional approval. It does not appear to the Chair that that provision in any way amends the powers of the Council under the Home Rule Act or that it touches on any subject not in the bill H.R. 15888.

Section 313, added by committee amendment to specify that the bill does not preempt the legislative authority conferred on the City Council under the Home Rule Act, does not bring the subject of the general powers of the City Council under the Home Rule Act within the purview of the bill, except to the extent that the Council may or may not control the activities of the Corporation.

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

Restrictions on Funds for Legal Services Corporation—Amendment Making Criminal and Civil Laws Applicable to Corporation

§ 35.98 To a Senate amendment to a general appropriation bill subjecting funds for the Legal Services Corporation to a comprehensive series of restrictions on its activities for that fiscal year and reconstituting its board of directors, a proposed amendment also applying to that corporation "with respect to the use of funds in the bill" certain substantive provisions of Federal criminal and civil law not otherwise applicable to it was held not germane.

The proceedings of Oct. 26, 1989, relating to the conference report on H.R. 2991, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, are discussed in § 34.37, supra.

Laws Governing Handguns Made Applicable to Rifles—Amendment Requiring Firearm Registration

§ 35.99 To a bill which sought, as part of a comprehensive scheme for the regulation of

transfers of firearms, to extend the provisions of existing law governing handguns to transactions involving rifles and shotguns and to specify regulations for the identification of firearms by importers and manufacturers, an amendment requiring registration of firearms by the purchasers thereof was held to be an extension of matter already carried in the bill and therefore germane.

In the 90th Congress, during consideration of the State Firearms Control Assistance Act of 1968,[19] an amendment was offered which stated in part:[20]

> Amendment offered by Mr. [Robert] McClory [of Illinois]: . . . On page 32, after line 11, insert the following:
>
> CHAPTER 44A—REGISTRATION OF HANDGUNS
>
> Sec.
> 931. Definitions
> 932. Registration . . .
>
> §932. Registration.—(a) It is unlawful for a person knowingly to possess a firearm not registered in accordance with the provisions of this section. . . .

A point of order was raised against the amendment, as follows:[1]

> MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the fundamental purpose of the amendment must be germane to the bill. Here the amendment goes far beyond the purposes of the bill and imposes a whole new series of responsibilities on the Secretary, including registration of firearms. . . .
>
> I submit, in conclusion, the [amendment] offered by my friend goes far beyond the matter before the House, compels entirely new duties and responsibilities, adds entirely new classes of persons, creates entirely new regulatory problems, and, indeed, advances and enhances in enormous manner the scope of the bill, far beyond that which was submitted to this body and far beyond that which was contemplated by the committee.

The Chairman,[2] in ruling on the point of order, stated:[3]

> . . . [T]he bill which the Committee of the Whole is now considering seeks to regulate the various transactions involving rifles, shotguns, and handguns. It provides for the identification of such firearms by manufacturers and importers and, as amended by the Committee on the Judiciary and by this committee earlier this afternoon, specifies that this identification shall include serial numbers. Licensed importers, dealers, and manufacturers are required to retain descriptions of the firearms with which they deal.
>
> The amendment proposed by the gentleman from Illinois [Mr. McClory] is drafted as a further amendment to

19. H.R. 17735 (Committee on the Judiciary).

20. See 114 CONG. REC. 22248, 22249, 90th Cong. 2d Sess., July 19, 1968.

1. *Id.* at p. 22249.

2. John J. Rooney (N.Y.).

3. 114 CONG. REC. 22249, 22250, 90th Cong. 2d Sess., July 19, 1968.

title 18, United States Code, the same portion of the Code amended by the pending bill. It carries the concept of registration or identification to the persons having handguns in their possession. The system of registration established by the amendment would be under the jurisdiction of the Secretary of the Treasury, the same officer designated for this purpose by the bill.

The Chair notes that the bill makes at least three major innovations in the existing law concerning gun control: it extends that law with respect to transactions in rifles and shotguns; it brings ammunition within the scheme of the law; and it modifies the law regarding shipment and sale of destructive devices. Since present law is modified in the foregoing ways, an additional change in the law and the bill—a change that is an extension of a subject already carried in the bill—is germane.

The Chair therefore overrules the point of order.

Disposal of Surplus Military Equipment—Amendment Prohibiting Transfer of Surplus Guns

§ 35.100 To a bill authorizing appropriations for military procurement and containing provisions modifying existing law with respect to the disposal of surplus military equipment, an amendment proposing a further modification of that law to prohibit the transfer of surplus guns and ammunition to individuals, clubs or organizations was held to be germane.

In the 90th Congress, a bill[4] was under consideration relating to military procurement authorization for fiscal 1969. The bill stated in part as follows:[5]

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Sec. 201. Funds are hereby authorized to be appropriated during the fiscal year 1969 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law in amounts as follows:

For the Army, $1,641,900,000. . . .

TITLE IV—GENERAL PROVISIONS

Sec. 404. (a) Chapter 163 of title 10, United States Code, is amended by adding at the end thereof the following new section:

§ 2576. Obsolete and surplus military equipment: sale to State, local law enforcement, and firefighting agencies

(a) The Secretary of Defense . . . shall sell to State, local law enforcement and firefighting agencies, at fair market value, obsolete and surplus military equipment. . . .

(b) Obsolete and surplus military equipment shall not be sold under the provisions of this section to a State, local law enforcement or fire-

4. S. 3293 (Committee on Armed Services).

5. See 114 CONG. REC. 20761, 90th Cong. 2d Sess., July 11, 1968.

fighting agency unless request therefor is made by such agency, in such form and manner as the Secretary of Defense shall prescribe. . . . Such equipment may not be sold, or otherwise transferred, by such agency to any individual or public or private organization or agency.

The following amendment was offered to the bill:[6]

Amendment offered by Mr. [Sidney R.] Yates [of Illinois]: On page 11, line 17, strike out the period and substitute a comma and insert the following: "*Provided, however*, That no surplus or obsolete military guns or ammunition shall be sold or loaned or otherwise transferred to any private individual, association, board, club, or organization."

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

MR. [DURWARD G.] HALL [of Missouri]: . . . [T]he amendment is out of order because this is an amendment pertaining to the domestic distribution of firearms and firefighting equipment. It is not consistent with the essence of the bill as prescribed under section 2576 and the actions of the Secretary of Defense.

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

The whole section . . . deals with obsolete and surplus military equipment. This is a further limitation on that. The Chair overrules the point of order.

6. *Id.* at p. 20767.
7. Daniel D. Rostenkowski (Ill.).

Penalties for Inciting Riot—Gun Control Amendment

§ 35.101 To a bill amending a title of the United States Code to provide penalties for travel in or use of interstate facilities with intent to incite a riot, an amendment which sought to control and regulate the shipment of firearms in interstate commerce was held to be not germane.

In the 90th Congress, during consideration of a bill[8] amending Title 18 of the United States Code and making it a crime to travel in or use interstate facilities with the intent to incite a riot, an amendment was offered which sought to add to Title 18 a comprehensive gun control law and to repeal the Federal Firearms Act, found in Title 15.[9] Mr. Edwin E. Willis, of Louisiana, reserved a point of order against the amendment.[10] The following exchange ensued:

MR. [HAROLD R.] GROSS [of Iowa]: Mr. Chairman, I make the point of order against the amendment on the grounds that the amendment is not germane to the pending legislation.

8. H.R. 421 (Committee on the Judiciary).
9. See the amendment at 113 CONG. REC. 19408–12, 90th Cong. 1st Sess., July 19, 1967.
10. *Id.* at p. 19412.

MR. WILLIS: That is the reservation that I had in mind.

MR. GROSS: I have no reservation, I am making the point of order.

MR. WILLIS: All right.

The proponent of the amendment, Mr. Richard D. McCarthy, of New York, stated in response to the point of order:

Mr. Chairman, this amendment is germane because the pattern of these riots is clear. Guerrilla warfare in the streets with snipers pouring deadly gunfire from roofs. . . .

After some further remarks, and in response to objections of Mr. Gross, the Chairman[11] made the request that Mr. McCarthy "confine his remarks to the point of order."

Speaking in support of the point of order, Mr. Willis stated:[12]

The bill before the Committee is one which proscribes travel by people across State lines in furtherance of rioting.

The amendment would add a new chapter, chapter 102, to title 18 of the Code under the subject of "Riots." The words "Chapter 102 of the Code" are not even mentioned in this strange and completely disassociated amendment. . . .

The following exchange, directed to the point of order, concerned the meaning of the terms of the bill:

MR. [ANDREW] JACOBS [Jr., of Indiana]: . . . If a rifle, which is an integral part of effective and deadly riot, is shipped in interstate commerce, it seems to me that it does relate to a facility in interstate or foreign commerce, the shipment of which is with the intent to incite a riot or other violent disturbance, and that therefore the amendment . . . is germane. . . .

MR. [THOMAS S.] FOLEY [of Washington]: . . . [T]he use of "facility" in the bill before the committee is designed to mean a facility of transportation or communication and not a facility such as an instrument of firearms. . . .

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

The committee has before it H.R. 421, a bill which adds a new chapter entitled "Riots" to title 18, United States Code, and it makes certain activities in interstate commerce unlawful, and specific penalties are provided.

The amendment offered by the gentleman from New York [Mr. McCarthy] makes unlawful certain actions and deals in sale and transportation in interstate and foreign commerce of firearms or ammunition. The amendment provides a comprehensive legislative scheme for control for interstate shipment of firearms.

The Chair feels that the amendment comes within the rule of germaneness, wherein it is said that one individual proposition may not be amended by another individual proposition even though the two belong to the same class. . . .

. . . [T]he Chair feels that while [the bill and the amendment] are simi-

11. Joseph L. Evins (Tenn.).

12. 113 CONG. REC. 19413, 90th Cong. 1st Sess., July 19, 1967.

lar, there are differences . . . and the Chair sustains the point of order.

Diverse Amendments to Laws Relating to Intelligence Community—Amendments Relating to Accountability for Intelligence Activities

§ 35.102 To a proposition dealing with a subject matter by diverse changes in existing laws, an amendment relating to that same general subject matter may be germane although including additional changes in law not contained in the bill; thus, to a bill authorizing funding for the intelligence community for one fiscal year and making diverse changes in permanent laws relating to the intelligence community (including laws concerning congressional oversight of certain intelligence activities), an amendment changing another permanent law to address accountability for intelligence activities was held germane.

On Oct. 17, 1990,[13] during consideration of the Intelligence Authorization Act of 1991[14] in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

> The text of the bill is as follows: . . .
>
> TITLE I—INTELLIGENCE ACTIVITIES
>
> SEC. 101. AUTHORIZATION OF APPROPRIATIONS.
>
> Funds are hereby authorized to be appropriated for fiscal year 1991 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:
>
> (1) The Central Intelligence Agency.
>
> (2) The Department of Defense.
>
> (3) The Defense Intelligence Agency. . . .
>
> TITLE II—INTELLIGENCE COMMUNITY STAFF
>
> SEC. 201. AUTHORIZATION OF APPROPRIATIONS.
>
> There are authorized to be appropriated for the Intelligence Community Staff for fiscal year 1991 $27,900,000.
>
> SEC. 202. AUTHORIZATION OF PERSONNEL END STRENGTH
>
> TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS
>
> SEC. 301 AUTHORIZATION OF APPROPRIATIONS.
>
> There are authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1991 $164,600,000. . . .

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13. 136 CONG. REC. p. —, 101st Cong. 2d Sess.

14. H.R. 5422.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. . . .

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE PROVISIONS

SEC. 501. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICE.

(a) The Secretary of Defense is authorized to grant the use of the Department of Defense reimbursement rate for military airlift services provided by the Department of Defense to the Central Intelligence Agency if the Secretary of Defense determines that such services are provided in support of authorized intelligence activities. . . .

SEC. 502. PUBLIC AVAILABILITY OF MAPS, ETC., PRODUCED BY DEFENSE MAPPING AGENCY.

(A) In General.—(1) Chapter 167 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2796. Maps, charts, and geodetic data: public availability; exceptions

"(a) The Defense Mapping Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

SEC. 503. USE OF COMMERCIAL ACTIVITIES AS COVER SUPPORT FOR INTELLIGENCE COLLECTION ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) In General.—Chapter 21 of title 10, United States Code, is amended . . .

(2) by adding at the end the following:

"SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

"431. Authority to engage in commercial activities as security for defense intelligence collection activities . . .

"§ 437. Congressional oversight

"(a) Proposed Regulations.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect. . . .

"(c) Annual Report.—Not later than January 15 of each year, the Secretary shall submit to the intelligence committees a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. . . .

SEC. 504. DISCLOSURE TO MEMBERS OF CONGRESS OF CLASSIFIED DEFENSE INTELLIGENCE AGENCY REPORT RELATING TO MILITARY PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR.

The Secretary of Defense shall provide to any Member of Congress, upon request, full and complete access to the classified report of the Defense Intelligence Agency commonly known as the Tighe Report, relating to efforts by the Special Office for Prisoners of War/Missing in Action of the Defense Intelligence Agency to fully account for United

States military personnel listed as prisoner, missing, or unaccounted for in military actions. . . .

MRS. [BARBARA] BOXER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. Boxer: Page 25, after line 18, insert the following new title:

TITLE VI—OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 601. CONGRESSIONAL OVERSIGHT.

(a) In General.—Section 501 of the National Security Act of 1947 (50 U.S.C. 413) is amended to read as follows:

"CONGRESSIONAL OVERSIGHT

"Sec. 501. (a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this title referred to as the "intelligence committees") are kept fully and currently informed of the intelligence activities of the United States including any significant anticipated intelligence activities, as required by this title, except that—

"(1) nothing contained in this title shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of intelligence gathering activities. . . .

"(b) The President, upon being made aware of any allegations of illegal intelligence activity, shall immediately report such allegations to the intelligence committees and keep the intelligence committees informed of the ongoing investigations into such activities, such reports to encompass any measures taken to prevent a recurrence of such illegal activity, including the reporting of such activity to the Department of Justice for prosecution.

"(c) The President and the intelligence committees shall each establish procedures as may be necessary to carry out the provisions of this title, including procedures to ensure that each is kept fully and currently informed of intelligence activities.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to ensure that all members of the Congress are informed regarding intelligence activities to the extent consistent with the need to protect from unauthorized disclosure classified information and information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this title. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) As used in this section, the term "intelligence activities" includes 'covert actions', as defined in section 503(e)."

(b) INFORMATION REQUIRED TO BE DISCLOSED; FINDINGS.—The National Security Act of 1947 is amended—

(1) by redesignating sections 502 and 503 as sections 505 and 506, respectively; and

(2) by inserting after section 501 the following:

"REPORTING INTELLIGENCE ACTIVITIES

"Sec. 502. To the extent consistent with due regard for the protection from unauthorized disclosure of clas-

sified information relating to sensitive intelligence sources and methods, the President shall—

"(1) keep the intelligence committees fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of the United States Government, including any significant anticipated intelligence activity and significant failures; and

"(2) furnish the intelligence committees any information or material concerning intelligence activities which is within their custody or control and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. . . .

"Sec. 503. (a) In setting forth the procedures regulating covert actions, this title shall not be construed as authorizing the use of covert operations as a routine means of conducting foreign policy or achieving foreign policy objectives.

"(b) The President may not conduct covert actions without prior approval by the intelligence committees, except as set forth in subsection (c)(6).

"(c) Approval of a covert action by the intelligence committees shall be predicated on the following: . . .

"(6) The approval by the intelligence committees of each covert action must be obtained in writing before the covert action can commence, except that the President may under extraordinary and emergency conditions, when time is of the essence, initiate a covert action prior to receiving approval from the intelligence committees, but such covert action shall cease within 48 hours of initiation unless express written approval of the covert action is given by the intelligence committees pursuant to such procedures as the intelligence committees may adopt to ensure a prompt response in such circumstances.

"(d) The President shall—

"(1) keep the intelligence committees fully and currently informed of the status of all covert actions which are carried out for or on behalf of the United States Government, including significant failures;

"(2) furnish to the intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of the executive branch and which is requested by either of the intelligence committees; . . .

"Sec. 504. Any person who knowingly initiates or participates in a covert action in violation of this title shall be guilty of a felony punishable by up to 20 years in Federal prison, a fine of $100,000, or both.". . .

MR. [HENRY J.] HYDE [of Illinois]: Mr. Chairman, I make a point of order that the amendment violates clause 7 of rule XVI. . . . The proposed amendment is not germane to the bill because it deals with matters beyond the scope of the bill's provisions and the amendment includes matters within the jurisdiction of committees of the House not reporting the bill under consideration.

Mr. Chairman, the amendment is not germane, and consequently violates clause 7 of rule XVI in the following specific respects:

First, the bill authorizes funds for a limited number of executive departments or their subcomponents specified in section 101 of the bill and makes a few very modest changes in the statutory authorities of only a few of those agencies.

The amendment would enact a comprehensive scheme of oversight and reporting requirements for all U.S. intelligence activities which are engaged in by any U.S. Government agency, not

just those covered by the bill, as well as by third parties outside of the U.S. Government. (Amndt: p. 4, lines 6–12.)

In this regard, I call attention to a ruling by the Chair on September 27, 1967 (113 Cong. Rec. page 26957) cited in section 798f of the Rules and Practice of the House of Representatives. That ruling states that, "To a bill limited in its applicability to certain departments and agencies of government, an amendment applicable to all departments and agencies is not germane."

Second, the only provision of the bill addressing congressional oversight of intelligence is section 503. That provision is limited to oversight related only to one specific and narrow class of intelligence activities, and that is commercial cover activities to provide security only for intelligence collection. Moreover, section 503 of the bill applies only to elements of one executive department, the Defense Department, and the provision expires at the end of 5 years.

The amendment goes far beyond that one new and specifically limited oversight subject in the bill. The amendment provides for a comprehensive oversight system for intelligence activities of the U.S. Government in general, and in some cases the role of outside third parties. The amendment is also not limited in duration, as is section 503 of the bill, but is broader because it would enact a permanent statutory change. In these regards, the amendment is not germane because it is more general in nature than the only provision of the bill which deals with one particular and narrow class within the general subject of intelligence oversight reporting.

The amendment further requires, as part of its oversight scheme, that the House and Senate establish certain procedures by adopting internal rules or resolutions, matters not dealt with in any form by the bill. (Amndt: page 3, lines 4–18.)

Third, the amendment is not germane because its text consists entirely of provisions repealing or amending sections of two statutes not amended or addressed by the bill under consideration.

The amendment extensively amends title V of the National Security Act of 1947, codified in title 50 of the United States Code, and repeals section 662 of the Foreign Assistance Act of 1961, codified in title 22 of the United States Code. The bill does not amend either of those statutes, and indeed, does not amend any part of title 22 of the United States Code.

Section 799 of the Rules and Practice of the House of Representatives cites a ruling by the Chair on May 11, 1976, that, "Generally to a bill amending one existing law, an amendment changing the provisions of another law . . . is not germane." Precedents cited in sections 33.1 and 33.3 of chapter 28 of Procedures in the U.S. House of Representatives, 97th Congress, 4th Edition (Deschler and Brown) support this principle with which the proposed amendment is inconsistent.

Furthermore, chapter 28, section 33.14 of Deschler and Brown's Procedures in the U.S. House of Representatives, 97th Congress, 4th Edition cites a precedent from a ruling of March 7, 1974 (120 Cong Rec. 5653, 5654, 93rd Cong. 2nd Sess.) that, "An amendment repealing existing law has been held not germane to a bill not amending that law." In proposing to repeal a sec-

tion of the Foreign Assistance Act of 1961, a statute not amended by the bill, the proposed amendment is not germane. (Amndt: page 1, lines 3–4.)

Fourth, the amendment is not germane because it fails the test of committee jurisdiction under section 798c of the Rules and Practice of the House of Representatives by including matters within the jurisdiction of committees not reporting the bill, the Committee on Foreign Affairs and Rules.

The amendment would repeal section 662 of the Foreign Assistance Act of 1961. That act is within the jurisdiction of the Foreign Affairs Committee. (Amndt: page 1, lines 3–4.)

The amendment also would require the House (and one of its committees) to establish certain internal procedures by the adoption of House rules or resolutions. Such matters are within the jurisdiction of the Committee on Rules. (Amndt: p. 3, lines 4–18.)

Fifth, the amendment (at p. 8, lines 8–12) would create a penal offense, whereas the pending bill does not deal with or create any criminal offenses. In addition, the committees reporting the bill do not have jurisdiction to consider such matters. In that regard, I would call the attention of the Chair to a precedent of the House, rulings by the Chairman of the Committee of the Whole, Mr. Forand on April 7, 1960. In those rulings, the Chair sustained points of order against two amendments to a pending amendment in the nature of a substitute to a bill relating to employment of retired officers by Defense contractors reported from the Armed Services Committee. Those points of order were sustained by the Chair, which ruled that the substitutes dealt with the imposition of criminal penalties, a matter not dealt with in the proposition being amended. Further, the Chair ruled that the substitutes' imposition of criminal penalties was a matter outside the jurisdiction of the committee which had reported the pending bill [Armed Services] and, if offered as a separate bill, would have to be referred to the Committee on the Judiciary.

For all the reasons given and in light of the precedents cited, the amendment is not germane, and therefore it violates clause 7 of rule XVI. I insist upon my point of order, Mr. Chairman. . . .

MRS. BOXER: . . . We feel it is absolutely germane. We feel that there are other provisions in the bill, for example on page 26 and page 33 that talk about permanent changes in law, and we would say that this is absolutely germane.

My goodness, we are talking about covert activities, and certainly the Intelligence Committee, and it is hard for me to believe that someone could say that a discussion of covert activities in this particular amendment would not be germane to the intelligence authorization bill. . . .

MR. [ANTHONY C.] BEILENSON [of California]: . . . I recognize the right of the gentleman, of course, to make this point of order and, in fact, I do not know how the Chair will rule on the precedents which the gentleman from Illinois has cited. I would only ask that in its ruling the Chair consider the fact that there are already provisions in the bill which do broaden its scope. . . .

THE CHAIRMAN:[15] . . . The Chair is prepared to rule.

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15. Bill Nelson (Fla.).

The gentleman from Illinois (Mr. Hyde) makes the point of order that the amendment offered by the gentlewoman from California is not germane to the bill. The amendment adds a new title and must be germane to the bill as a whole, as amended.

The bill authorizes funding for the intelligence community for 1 fiscal year and makes several, diverse changes in permanent law relating to sundry authorities of the Central Intelligence Agency and the Department of Defense. For example, the bill makes changes in the CIA retirement and disability system; it authorizes the Secretary of Defense to permit components of DOD to charge the CIA the same rate for airlift services that they would charge another component of DOD; and it authorizes the Secretary of Defense to withhold certain geodetic products from disclosure under the Freedom of Information Act. In addition, the bill, as perfected, includes the amendment recommended by the Committee on Armed Services directing the Secretary of Defense to provide Members of Congress access to a classified report of the Defense Intelligence Agency assessing efforts to account for military personnel listed as prisoners of war or missing in action.

The amendment at the desk does not repeal the Hughes-Ryan law, but does amend title V of the National Security Act of 1947—relating to accountability for intelligence activities. Among other things, it assigns to the President several responsibilities of the type that the existing act assigns to lower officials, such as the Director of Central Intelligence.

Although the bill does not amend the National Security Act of 1947, neither does it confine itself to authorities and activities of the intelligence community. In addition to the changes in permanent law already noted, at section 503 the bill inserts new provisions in title 10 of the United States Code—relating to the Armed Forces—to ensure congressional oversight of activities of the Department of Defense in commercial cover of intelligence operations.

Thus, the subject matter of the amendment—the relationship between the executive branch and the Congress with respect to the authorities and activities of the intelligence community—is one of the diverse topics already addressed in the bill.

Accordingly, the point of order is overruled.

MR. HYDE: Mr. Chairman, may I ask one question?

Mr. Chairman, I did not hear that part, what the Chair read about the criminal penalties that she inserts in the law, and my point that that should go to the Committee on the Judiciary, that it is certainly beyond the scope of our bill.

I must have missed that. How did the Chair rule on that, sir?

THE CHAIRMAN: The Chair thinks that the bill, as presented and amended contains provisions within several committee jurisdictions. Therefore the amendment need not meet a strict jurisdictional test. Accordingly, the Chair rules that the point of order is overruled.

Parliamentarian's Note: Mr. Hyde's point of order anticipated inclusion in the Boxer amendment of a provision repealing the so-called "Hughes-Ryan" amendment

to the Foreign Assistance Act (22 U.S.C. 2422), a law not amended by the bill and within the partial jurisdiction of another committee (Foreign Affairs). The offered amendment did not include that proposed repeal but did include the criminal provision cited in the point of order. As indicated in the Chair's follow-up response, it was only because of the diverse nature of the bill that the criminal provision was held germane. (Compare Apr. 7, 1960, rulings in sections 4.39 and 4.40, supra, cited by Mr. Hyde.) In those cases the points of order were sustained that the criminal sanction provisions contained in the amendments attempted to attain a result by a method unrelated to the narrow purpose of the bill. The pending proposition in those cases was not diverse and therefore not susceptible to the amendments ruled out.

Bill Amending 1937 Flood Control Act—Amendment To Amend 1936 Act

§ 35.103 To a bill proposing to amend the Flood Control Act of 1937, an amendment proposing to amend the Flood Control Act of 1936 was held to be not germane, the act of 1936 having been enacted for purposes not related to the bill.

The ruling described above was made on July 6, 1939.[16] Proceedings were as follows:

> The Clerk called the bill (H.R. 6634) amending previous flood-control acts and authorizing certain preliminary examinations and surveys for flood control, and for other purposes.
>
> There being no objection, the Clerk read the bill as follows:
>
> > *Be it enacted, etc.*, That section 2 of the Flood Control Act of August 28, 1937, is hereby amended to read as follows:
> >
> > "That the Secretary of War is hereby authorized to allot not to exceed $300,000 from any appropriations heretofore or hereafter made for any one fiscal year for flood control, for removing accumulated snags and other debris and clearing channels in navigable streams and tributaries thereof when in the opinion of the Chief of Engineers such work is advisable in the interest of flood control: *Provided*, That not more than $25,000 shall be allotted for this purpose for any single tributary from the appropriations for any one fiscal year."
> >
> > Sec. 2. Funds heretofore or hereafter appropriated for construction and maintenance of flood-control works by the War Department shall be available for expenditure by the War Department in making examinations and surveys for flood control heretofore or hereafter authorized, or in preparing reports in review thereof as authorized by law, in addition to funds heretofore authorized to be expended for such purposes by the War Department.
> >
> > Sec. 3. That section 2 of the River and Harbor Act of June 20, 1938, is

16. 84 CONG. REC. 8715, 76th Cong. 1st Sess. Under consideration was H.R. 6634 (Committee on Flood Control).

hereby made applicable to authorized works of flood control. . . .

MR. [LOUIS L.] LUDLOW [of Indiana]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ludlow: On page 2, after the word "department" in line 12, insert a new section, as follows:

"Sec. 3. Section 3 of the act entitled 'An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes', approved June 22, 1936, as amended, is amended by adding before the period at the end thereof a colon and the following: '*And provided further*, That if, after investigation, the President finds that any city or town is, by reason of its financial condition, unable to comply with the requirements of this section as to local cooperation, he is hereby authorized to waive such requirements on any individual levee or flood-wall project not to exceed 50 percent of the estimated costs of the lands, easements, and rights-of-way.'"

"The first paragraph of section 2 of the act entitled 'An act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes, approved June 28, 1938, is amended to read as follows:

"'That section 3 of the act of June 22, 1936 (Public, No. 738, 74th Cong.), as heretofore amended, as herein further modified, and as amended after June 28, 1938, shall apply to all flood-control projects, except as otherwise specifically provided by law.'"

MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, I make the point of order that, as I said, this amendment is not germane to the bill. The bill undertakes to amend the Flood Control Act of 1937 and the Flood Control Act of 1938. They are perfecting amendments. The gentleman's amendment is an amendment to the act of 1936, that is in no way involved in this bill, as it relates to local contributions for levees and flood walls.

So I make the point of order that the amendment is not germane to the bill under consideration or any section thereof.

THE SPEAKER PRO TEMPORE [Sam Rayburn, of Texas]: The Chair is ready to rule.

MR. [CASSIUS C.] DOWELL [of Iowa]: Mr. Speaker, the amendment submitted by the gentleman from Indiana merely asks to relieve the city from the payment of what is due under the law and is in no way germane to the question before the House.

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

The bill before the House is a bill to amend the Flood Control Act of 1937. That act had one purpose. The Flood Control Act of 1936 had another purpose. The gentleman from Indiana (Mr. Ludlow) offers an amendment as an amendment to the Flood Control Act of 1936. The amendment clearly is not germane to this bill, and the Chair sustains the point of order.

Endangered Species Act—Amendment Giving Responsibilities to Parties Not Within Coverage of Bill

§ 35.104 To a bill amending the Endangered Species Act, an amendment providing that a Corps of Engineers permit

for a power project, and Rural Electrification loan guarantee commitments and approvals be deemed to satisfy the requirements of the Endangered Species Act and of other environmental acts, and directing the Corps and the Administration, after the rendering of an opinion by the Fish and Wildlife Service and in consultation with the Secretary of the Interior, to require modifications in the project to protect endangered species and their habitats, and a similar amendment only omitting the references to other environmental acts, were held not germane since broadening the responsibilities and authorities of agencies not covered by the bill.

During consideration of H.R. 14014 in the Committee of the Whole on Oct. 14, 1978,[17] the Chair sustained a point of order in the circumstances described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Sec. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.". . .

MR. [TENO] RONCALIO [of Wyoming]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) as amended, and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the Endangered Species Act; *Provided,* That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Sec-

17. 124 CONG. REC. 38134, 38140, 38141, 95th Cong. 2d Sess.

retary of Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after consultation as appropriate with the affected States.". . .

MR. RONCALIO: Mr. Chairman, I cannot imagine how a point of order could be reserved on the amendment at this point.

The precise objections to the last amendment [18] were stricken from this amendment, and this amendment is left with a citation of only one statute, and that is the Endangered Species Act, which is precisely the statute before us at this time. I cannot imagine an attack on the germaneness provision at this point.

I have stricken from my first amendment all reference to the Army Corps of Engineers, all reference to the National Environmental Policy Act of 1969, and all reference to the Federal Water Pollution Control Act. There is only one act cited in the amendment, and that is precisely the one before us. . . .

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment on the basis that the amendment is not germane to the bill. The differences between this amendment and the amendment previously offered are that the gentleman from Wyoming has stricken specific references in the first portion of his amendment to the National Environmental Policy Act, the Federal Water Pollution Control Act, and the Rural Electrification Act, but the gentleman's amendment has not stricken new responsibilities imposed upon the Rural Electrification Administration, the Army Corps of Engineers, the Fish and Wildlife Service, and the Secretary of the Interior.

The amendment would continue to require biological opinion by the Fish and Wildlife Service, and require additional duties of responsible officers of the REA, the Corps of Engineers; to require modifications of the project.

In addition, it requires the Secretary of the Interior to consult with the appropriate affected states, which would also be a new obligation not envisioned in the act imposed upon agencies of Government. In addition to that, the amendment is not germane to the section. It appears as a new section following section 32, a section dealing with certain antique articles.

So, I would renew my point of order as to germaneness both to the bill and to the section.

THE CHAIRMAN: [19] The Chair is prepared to rule.

Actually, the amendment adds a new section, let the Chair say to the gentleman from Nebraska, which in the opinion of the Chair would need only be germane to the bill as a whole.

However, the earlier matter cited by the gentleman from Nebraska in his point of order dealing with the expanded authority and responsibilities and obligations of the Rural Electrification Administration and Army

18. See § 42.32, infra.

19. B. F. Sisk (Calif.).

Corps of Engineers is still a part of the amendment as the Chair views it.

Therefore, the Chair would have to sustain the point of order on the basis that it would still expand authorities which are not within the coverage of the bill.

§ 36. Amendment Repealing Existing Law to Bill Amending That Law

To a bill amending existing law in one particular,[20] or in a limited respect,[1] an amendment repealing the law is not germane. Thus, to a bill establishing a new office within a government department, an amendment to abolish the department is not germane.[2] Similarly, to an amendment proposing to amend existing law in some particulars, an amendment proposing to repeal the law in its entirety is not germane,[3] unless the proposition being amended changes law in a comprehensive and diverse way, in which case an amendment proposing repeal of the law may be germane.[4] And to a bill referring to certain provisions of existing law, an amendment repealing a portion of that law has been held not to be germane.[5]

Continuing Tax Exemptions for Property Used by Government—Amendment Repealing Other Exemptions

§ 36.1 To a bill to continue the tax-exempt status of certain property owned by others but used and occupied by government agencies or by the Red Cross, an amendment seeking to repeal the law granting tax exemptions with respect to property occupied by the Daughters of the American Revolution was held not to be germane.

In the 79th Congress, a bill[6] was under consideration which stated in part as follows:[7]

> Whereas in times of national stress it is necessary for the United States of America and its various instrumentalities to use and occupy additional space necessary for the proper execution of their enlarged functions: Therefore be it
>
> *Resolved, etc.,* That the use and occupancy of real property in the District of Columbia by any department, agency, or instrumentality of the United States of America, or by the American Red

20. See § 36.2, infra.
1. See § 42.43, infra.
2. *Id.*
3. See § 36.3, infra.
4. See 5 Hinds' Precedents § 5824.
5. See § 41.6, infra.
6. H.J. Res. 236 (Committee on the District of Columbia).
7. 91 Cong. Rec. 9911, 79th Cong. 1st Sess., Oct. 22, 1945.