

We do not direct him to take these actions, but merely make it clear that they are there in case he needs them.

Now, I also submit to the chairman that section 10 is far more sweeping in its effect on the Superfund than my amendment is. The previous section, section 10, changes the amount of the State's contribution for State-owned sites from 50 percent to 10 percent, because in some cases they cannot afford the expense.

All my amendment would do is to clarify that the Administrator can in his discretion in those rare instances where such action is appropriate to take actions himself to help the residents of a contaminated area.

THE CHAIRMAN:⁽¹⁹⁾ The Chair is prepared to rule.

Section 10 of this bill does amend subsection 104(c)(3) of the Superfund law, Public Law 96-510, but only in a very narrow respect regarding State contributions and reimbursements from the fund. The bill does not so comprehensively amend the Superfund law as to permit further amendments to the law which are unrelated to the specific changes contained in the bill.

The amendment from the gentleman from Missouri relates to eligibility for certain community relocation assistance for the Superfund and is not related to the issue contained in the bill.

The Chair sustains the point of order.

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

§ 42. Amendment Changing or Citing Existing Law to Bill Not Citing That Law

A point of order may lie against an amendment if it amends, either directly or by implication, a law which is not contemplated in the bill under consideration and which is not before the House.

Bill Amending Fair Labor Standards Act—Amendment To Change Tariff Act

§ 42.1 To a bill reported from the Committee on Education and Labor and amending the Fair Labor Standards Act, an amendment proposing to modify the Tariff Act of 1930, which was a matter within the jurisdiction of the Committee on Ways and Means, was held not germane.⁽²⁰⁾

§ 42.2 To a bill amending two sections of the Fair Labor Standards Act and concerned with certain effects of imports on the domestic labor market, an amendment pro-

20. 113 CONG. REC. 27214, 90th Cong. 1st Sess., Sept. 28, 1967. See §42.2, *infra*, for further discussion of this ruling.

posing changes in the Tariff Act of 1930 and concerned with the importation of merchandise from Communist nations, was held to be not germane.

On Sept. 28, 1967, the Fair Labor Standards Foreign Trade Act of 1967⁽¹⁾ was under consideration. The bill stated in part:⁽²⁾

CONGRESSIONAL FINDING AND
DECLARATION OF POLICY

Sec. 2. (a) Subsection (a) of section 2 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. sec. 202), is amended to read as follows:

(a) The Congress finds that the existence in industries engaged in commerce . . . of labor conditions detrimental to the maintenance of (a) minimum standard of living . . . and the unregulated importation of goods produced by industries in foreign nations under such conditions . . . interferes with the orderly and fair marketing of goods in commerce. . . .

Sec. 3. Subsection (e) of section 4 of the Fair Labor Standards Act of 1938, as amended, is amended to read as follows:

(e)(1) Upon the request of the President, or upon resolution of either House of Congress . . . or upon application of any interested party . . . the Secretary of Labor shall promptly make an investigation . . . to determine whether any product is

being imported into the United States under such circumstances, due in whole or in part to the fact that such foreign goods were produced under conditions such as those referred to in subsection (a) of section 2 of this Act which are causing or substantially contributing serious impairment or threat of impairment to the health, efficiency, and general well-being of any group of workers in the United States or to the economic welfare of the community in which any such group of workers are employed. . . .

(4) Upon receipt of the report of the Secretary containing a finding that an imported product is or likely will be sold in competition with like or competitive goods produced in the United States under such circumstances, the President may take such action as he deems appropriate to remove such impairment or threat of impairment, in addition to any other customs treatment provided by law. . . .

The following amendment was offered to the bill:⁽³⁾

Amendment offered by Mr. [Paul] Findley [of Illinois]: On page 4, immediately after line 18, insert the following:

Sec. 4. (a) Section 313(h) of the Tariff Act of 1930 (19 U.S.C. 1313(h)) is amended by inserting before the period at the end thereof the following:“, except that, if the imported merchandise is imported directly or indirectly from a country or area which is dominated or controlled by Communism, no drawback shall be allowed under subsection (a) or (b).” . . .

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

1. H.R. 478 (Committee on Education and Labor).
2. See 113 CONG. REC. 27212, 90th Cong. 1st Sess.

3. *Id.* at p. 27214.

MR. [JOHN H.] DENT [of Pennsylvania]: Mr. Chairman, the amendment is an amendment to the Tariff Act of 1930, as amended.

This legislation represents an amendment to the Fair Labor Standards Act. The amendment, in my opinion, is not germane, since the provisions of the Tariff Act come under the jurisdiction of the Committee on Ways and Means and not under the jurisdiction of the committee or the subcommittee which it is my honor to chair. . . .

The Chairman,⁽⁴⁾ in ruling on the point of order, stated:

The bill before the committee amends two sections of the Fair Labor Standards Act of 1938. The amendment to section 2 adds further policy declarations to that act. The amendment to section 4 modifies the provision in current law which provides for investigations by the Secretary of Labor to determine the effect of imports in the domestic labor market.

The amendment offered by the gentleman from Illinois goes to another law—the Tariff Act of 1930—a matter not touched on in the bill now under consideration. The Chair has examined a ruling made by Chairman Smith of Virginia, in the 81st Congress, where a similar situation was presented. There the committee had under consideration a bill amending the Defense Production Act of 1950, establishing a system of priorities and allocations for materials and facilities. An amendment proposing to amend the Housing and Rent Act of 1947, relating to rent controls, was ruled out as not germane—81st

4. Jack B. Brooks (Tex.).

Congress, second session, August 3, 1950, Record, page 11751.

The Chair holds that the amendment is on a subject not before the Committee at this time and sustains the point of order that the amendment is not germane.

***Defense Production Act—
Amendment Affecting Application of Child Labor Laws***

§ 42.3 Where a bill sought to amend and extend the Defense Production Act, which provided in part for the allocation of certain materials, for financial assistance in expanding production, and for price and wage stabilization, an amendment was held to be not germane which sought to make child labor provisions of the Fair Labor Standards Act of 1938 inapplicable in certain instances.

On June 25, 1952, during consideration of the Defense Production Act Amendments of 1952,⁽⁵⁾ the following amendment was offered to the bill:⁽⁶⁾

Amendment offered by Mr. (Walter E.) Rogers of Texas: On page 6, line 11, add a new subsection to be numbered 105(f) to read as follows:

5. H.R. 8210 (Committee on Banking and Currency).
6. 98 CONG. REC. 8058, 82d Cong. 2d Sess.

The provisions of section 12 of the Fair Labor Standards Act of 1938, as amended (29 U.S. Code, sec. 212), relating to child labor shall not apply with respect to any employee employed in agriculture while not legally required to attend school.

Mr. Abraham J. Multer, of New York, having raised a point of order against the amendment, Mr. Rogers responded as follows:

. . . I presume that the point of order made by the gentleman from New York is based on the proposition that this is an attempt to amend another law in the Defense Production Act. My position is that this is emergency legislation, and that it does not amend another law, but merely creates an exemption during the effective period of this act, and has nothing in the world to do with amending or repealing any section of the Fair Labor Standards Act.

Mr. Multer stated:

Mr. Chairman, the point is that the amendment offered by the gentleman from Texas will amend the Fair Labor Standards Act, which is not a part of this act and, therefore, is not germane to the bill now before us.

The Chairman,⁽⁷⁾ in ruling on the point of order, stated:

The Chair is of the opinion that the amendment is not germane to the bill before the Committee since it proposes in effect an amendment to another law with reference to which the Committee on Banking and Currency would have no jurisdiction. Therefore, the point of order is sustained.⁽⁸⁾

7. Wilbur D. Mills (Ark.).

8. See §42.6, *infra*, in which an amendment having a similar purpose but

—Amendment To Change Housing and Rent Act

§ 42.4 To the Defense Production Act of 1950, establishing in part a system of priorities and allocations for materials and facilities, an amendment proposing to amend the Housing and Rent Act of 1947 was held not germane.

On Aug. 3, 1950, during consideration of the Defense Production Act of 1950,⁽⁹⁾ the following amendment was offered:⁽¹⁰⁾

Amendment offered by Mr. O'Hara of Illinois: On page 39, after line 14, insert the following new title:

TITLE VII—RENT CONTROL

Sec. 501. Section 4(c) of the Housing and Rent Act of 1947, as amended, is amended by striking out "June 30, 1951" and inserting in lieu thereof, "June 30, 1952, or at such earlier time as the Congress by concurrent resolution or the President by proclamation may designate". . . .

Sec. 508. Section 204(i) of the Housing and Rent Act of 1947, as amended, is amended to read as follows:

"(1) Whenever a local advisory board in any defense-rental area in

not referring specifically to the Fair Labor Standards Act of 1938 was held to be germane, despite its lack of textual reference as merely an exemption from wage control provisions in the bill.

9. H.R. 9176 (Committee on Banking and Currency).

10. 96 CONG. REC. 11751, 11752, 81st Cong. 2d Sess.

which maximum rents were never regulated under the Emergency Price Control Act of 1942 . . . after having determined, with respect to the area over which it has jurisdiction . . . either that (A) a scarcity of rental housing has developed as a result of national defense activity . . . or (C) rents have increased or are about to increase unreasonably, recommends that such action is necessary or appropriate in order to effectuate the purposes of this title, or to promote national defense, the Housing Expediter . . . shall . . . establish such maximum rent . . . for any housing accommodations in such area . . . as in his judgment will be fair and equitable.” . . .

The following exchange⁽¹¹⁾ concerned a point of order raised against the amendment:

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the subject matter of the bill. . . .

MR. [BARRATT] O'HARA [of Illinois]: Mr. Chairman, this is a bill of controls. Certainly nothing could be more germane to such a bill than control over the prices that people can charge for housing. I may say that the amendment I have offered strikes at the very heart and soul of control. . . .

THE CHAIRMAN:⁽¹²⁾ The Chair has considered the amendment rather briefly. It seems to relate to a subject that is nowhere touched on in this present bill before the Committee.

The Chair is constrained to rule . . . that the amendment is not germane to the pending substitute. . . .

- 11. *Id.* at p. 11752.
- 12. Howard W. Smith (Va.).

—Amendment Affecting Internal Revenue Code

§ 42.5 To a bill to amend the Defense Production Act of 1950, a committee amendment citing and indirectly amending the Internal Revenue Code, a matter within the jurisdiction of another committee, was held to be not germane.

The following proceedings,⁽¹³⁾ which took place during consideration of a bill⁽¹⁴⁾ to amend the Defense Production Act of 1950, relate to a committee amendment and objections interposed thereto:

THE CHAIRMAN:⁽¹⁵⁾ The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 12, line 7, insert:

(e) Title III of the Defense Production Act of 1950 is amended by adding at the end thereof the following new section:

“Sec. 305. (a) No construction or expansion of plants . . . or other facilities shall be (1) undertaken, or assisted by means of loans . . . by the United States under this or any other act, or (2) certified under section 124A of the Internal Revenue Code (relating to amortization for tax purposes), and

- 13. See 97 CONG. REC. 7978–80, 82d Cong. 1st Sess., July 11, 1951.
- 14. H.R. 3871 (Committee on Banking and Currency).
- 15. Wilbur D. Mills (Ark.).

no equipment, facilities, or processes owned by the Government shall be installed under the authority of this or any other act in any plant . . . or other industrial facility which is privately owned, unless the President shall have determined that the proposed location of such construction . . . or installation is consistent . . . with a sound policy of (1) utilizing fully the human and material resources of the Nation wherever located . . . and (3) minimizing the necessity for further concentrations of population in areas in which available housing and community facilities are presently overburdened.” . . .

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the subject matter of the bill. It has to do with an amendment to the Internal Revenue Code, in respect to the acceleration of appreciation for tax purposes. . . .

MR. [FOSTER] FURCOLO [of Massachusetts]: . . . There is nothing in the Defense Production Act of 1950 relating to amortization for taxation purposes.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, of course a committee amendment occupies no different status than an amendment offered by a Member from the floor. This amendment undertakes to add to this bill a provision which has no relation at all to the Defense Production Act of 1950. . . .

MR. [ALBERT] RAINS [of Alabama]: Mr. Chairman, this amendment in this particular act has reference to defense plants or to plants engaged in the de-

fense effort. It is true that in this particular amendment reference is made to the Internal Revenue Act and to tax amortization certificates. After the Chair rules—I say this in order that Members may get their speeches ready—if the Chair rules it out on a point of order I have an amendment which I shall offer at this particular place that eliminates the specific reference to any other act. . . .⁽¹⁶⁾

THE CHAIRMAN: . . . The Chair calls attention to the rule on germaneness and desires to read one paragraph from Cannon's Procedure in the House of Representatives:

While the Committee may report a bill embracing different subjects, it is not in order during consideration of the bill to introduce a new subject and the rule applies to amendments offered by the Committee as well as to amendments offered from the floor.

The amendment offered by the committee goes beyond the purview of the bill, House bill 3871, and beyond the jurisdiction of the Committee on Banking and Currency in attempting to amend other statutes in connection with this bill.

The amendment refers not only to the bill under consideration but to other acts. It also refers to section 124(a) of the Internal Revenue Code,

16. Mr. Rains subsequently offered an amendment which eliminated reference to any other acts, including the Internal Revenue Code. The amendment was held to be germane, the Chair ruling on a point of order raised by Mr. Jesse P. Wolcott (Mich.). See 97 CONG. REC. 7982, 82d Cong. 1st Sess., July 11, 1951.

invading the jurisdiction of another standing committee of the House.

The Chair is therefore constrained to sustain the point of order.

—Exemption of Agricultural Workers From Definition of Child Labor

§ 42.6 Where a bill sought to amend and extend the Defense Production Act, which provided in part for the allocation of certain materials, for financial assistance in expanding production, and for price and wage stabilization, an amendment was held to be germane which provided that employment of any employee in agriculture while such employee is not required to attend school be deemed not to constitute oppressive child labor, the amendment being construed merely as an exemption from the wage control provisions of the bill.

On June 25, 1952, during consideration of the Defense Production Act Amendments of 1952,⁽¹⁷⁾ an amendment was offered to that portion of the bill relating, in part, to exemptions from wage

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

control provisions of the bill. The bill stated:⁽¹⁸⁾

Sec. 105 . . .

(d) Subsection (e) of section 402 of the Defense Production Act of 1950, as amended, is amended by adding at the end thereof the following new paragraph:

“(e) Wages, salaries, or other compensation of persons employed in small-business enterprises as defined in this paragraph: *Provided however*, That the President may from time to time exclude from this exemption such enterprises on the basis of industries, types of business, occupations, or areas, if their exemption would be unstabilizing with respect to wages, salaries, or other compensation, prices, or manpower, or would otherwise be contrary to the purposes of this act. A small-business enterprise, for the purpose of this paragraph, is any enterprise in which a total of eight or less persons are employed in all its establishments, branches, units, or affiliates.

The amendment was as follows:⁽¹⁹⁾

Amendment offered by Mr. [Walter E.] Rogers [of Texas]: On page 6, after line 11, add a new subsection to be numbered 105(f) to read as follows:

Employment of any employee in agriculture, while such employee is not legally required to attend school shall be deemed to not constitute oppressive child labor.

Mr. Abraham J. Multer, of New York, having raised the point of order that the amendment was not germane, the following ruling was made:

18. See 98 CONG. REC. 7720, 82d Cong. 2d Sess., June 20, 1952.

19. 98 CONG. REC. 8058, 82d Cong. 2d Sess.

THE CHAIRMAN: ⁽²⁰⁾ . . . The Chair is of the opinion that the amendment in its present form is germane in that the gentleman from Texas proposes a further exemption from the wage control provisions of the existing bill. Therefore, the Chair overrules the point of order raised by the gentleman from New York. ⁽¹⁾

Definition of "Agriculture" in Fair Labor Standards Act—Point of Order That Amendment Affected Other Acts

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

20. Wilbur D. Mills (Ark.).

1. See §42.3, *supra*, in which an amendment having a similar purpose was held not to be germane, inasmuch as it proposed specific changes in the application of an act not under consideration. The purport of the amendment solely as an exemption from the wage control provision of the pending bill does not appear to have been clearly demonstrated. The proponent of the amendment should have been required to show that the amendment did not affect other law.

In the 87th Congress, during consideration of a bill ⁽²⁾ to amend the Fair Labor Standards Act of 1938, discussion for a time focused on the following amendment, which had been offered ⁽³⁾ by Mr. William H. Ayres, of Ohio:

Strike out all after the enacting clauses and insert the following:

That this Act may be cited as the "Fair Labor Standards Amendments of 1961."

DEFINITIONS

Sec. 2. (a) Paragraph (f) of section 3 of the Fair Labor Standards Act of 1938 is amended by inserting after "Agricultural Marketing Act, as amended," the following: "the processing of shade-grown tobacco for use as cigar wrapper tobacco by agricultural employees employed in the growing and harvesting of such tobacco. . . ."

To such amendment, the following amendment was offered: ⁽⁴⁾

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

Page 2, line 5, strike out the period and add the following: "and in the case of fruits and vegetables includes (1) transportation and preparation for transportation, whether or not performed by the farmer, of the commodity from the farm to a place of first processing or first marketing

2. H.R. 3935 (Committee on Education and Labor).
3. See 107 CONG. REC. 4797, 87th Cong. 1st Sess., Mar. 24, 1961.
4. *Id.* at p. 4806.

within the same State, (2) transportation, whether or not performed by the farmer, between the farm and any point within the same State of persons employed or to be employed in the harvesting of the commodity.”

Mr. Roman C. Pucinski, of Illinois, raised a point of order against the amendment, stating that the amendment was not germane. Mr. James G. O’Hara, of Michigan, elaborated upon the point of order as follows:

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

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

The Chairman,⁽⁵⁾ however, ruled that the amendment was germane; he stated:

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

The Chair overrules the point of order.

5. Francis E. Walter (Pa.).

***Omnibus Agricultural Bill—
Amendment Changing Act
Not Otherwise Amended in
Bill***

§ 42.8 To an omnibus agricultural bill, amending several laws relating to agriculture, an amendment proposing changes in the Agricultural Marketing Agreement Act of 1937, which was not otherwise amended in the bill, was held to be not germane.

In the 87th Congress, during consideration of the Food and Agricultural Bill of 1962,⁽⁶⁾ an amendment was offered⁽⁷⁾ whose purpose was explained by the proponent, as follows:⁽⁸⁾

MR. [SAMUEL S.] STRATTON [of New York]: . . . This amendment provides for legalizing the compensatory payments feature of the Milk Marketing Act, which was invalidated on the 4th of June by the Supreme Court of the United States. . . .

“Compensatory payments” referred to certain amounts paid into a fund for the benefit of designated milk producers, as a condition of marketing milk in given areas. A point of order was raised

6. The “second agriculture bill” of 1962, H.R. 12391 (Committee on Agriculture).

7. 108 CONG. REC. 14191, 14192, 87th Cong. 2d Sess., July 19, 1962.

8. *Id.* at p. 14192.

against the amendment, as follows:

MR. [MELVIN R.] LAIRD [of Wisconsin]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from New York. The gentleman's amendment amends the Agricultural Marketing Agreement Act of 1937. The legislation which is before us does not amend that act in any way in any section. This particular amendment amending the Agricultural Marketing Agreement Act of 1937 is not germane to this bill.

The Chairman⁽⁹⁾ ruled as follows on the point of order:

The amendment offered by the gentleman from New York contains a matter which is in no wise related to the subject matter of the several sections under consideration. The point of order is therefore sustained.

Diverse Authorities of Secretary of Agriculture—Amendment to Act Not Amended by Title

§ 42.9 Although an amendment which changes a law not cited in a pending bill is ordinarily not germane, a title of a bill which amends several laws to address a variety of authorities of an executive department may be broad enough to admit as germane an amendment changing another existing law to add an-

other authority of that department within the same general class; thus, to a title of an omnibus agricultural bill respecting a number of unrelated authorities of the Secretary of Agriculture as to crop set-asides, loans and sales, export sales, price supports, importation and allotment studies, an amendment amending the Agricultural Marketing Act of 1946 (not amended by the title) to require the Secretary to adopt a minimum standard for the contents of ice cream, and allowing only such ice cream as meets those standards to bear a USDA stamp of approval, was held germane since restricted to authority of the Department of Agriculture.

On July 22, 1977,⁽¹⁰⁾ during consideration of H.R. 7171 (the Agricultural Act of 1977) in the Committee of the Whole, the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

10. 123 CONG. REC. 24558, 24559, 24569-71, 95th Cong. 1st Sess.

9. Francis E. Walter (Pa.).

TITLE IX—MISCELLANEOUS
COMMODITY PROVISIONS

SET-ASIDE ON SUMMER FALLOW
FARMS

Sec. 901. Notwithstanding any other provision of law, for the 1971 through 1981 crops of wheat, feed grains, and cotton if in any year at least 55 per centum of cropland acreage in an established summer fallow farm is diverted to a summer fallow use no further acreage shall be required to be set aside under the wheat, feed grains, and cotton programs for such year.

LOAN EXTENSION AND SALES PROVI-
SIONS FOR WHEAT AND FEED
GRAINS

Sec. 902. The Agricultural Act of 1949, as amended, is amended by adding the following new section:
. . .

FARM STORAGE FACILITY LOANS

Sec. 905. Section 4(h) of the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended; 15 U.S.C. 714b(h)) is amended by inserting immediately before the period at the end of the second sentence the following: “; . . .

SOYBEAN PRICE SUPPORT

Sec. 906. The Agricultural Act of 1949, as amended, is further amended by adding a new section 304, as follows:

“Sec. 304. Notwithstanding any other provisions of this Act, the Secretary shall make available to producers loans and purchases on each crop of soybeans at such level as he determines appropriate in relation to competing commodities and taking into consideration domestic and foreign supply and demand factors.”. . .

REPORT ON RECOMMENDATIONS FOR
REVISED ALLOTMENT SYSTEM

Sec. 909. The Secretary shall collect and analyze currently available information pertaining to the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. . . .

MR. [CHARLES] ROSE [of North Carolina]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Rose: On page 52, line 5, insert the following:

STANDARD OF QUALITY

Sec. 910. Sec. 203(c) of the Agricultural Marketing Act of 1946 is amended by inserting immediately before the period at the end thereof the following semicolon: “; *Provided* That within 30 days of enactment of the Agricultural Act of 1977, the Secretary of Agriculture shall by regulation adopt a Standard of Quality for ice cream which shall provide that ice cream shall contain at least 1.6 pounds of total solids to the gallon, and weighs not less than 4.5 pounds to the gallon . . . In no case shall the content of milk solids not fat be less than 6%. . . . Only those products which meet the standard issued by the Secretary shall be able to bear a symbol thereon indicating that they meet the USDA standard for “ice cream.”. . .

MR. [PAUL G.] ROGERS [of Florida]: . . . I make the point of order against the amendment offered by the gentleman from North Carolina (Mr. Rose) on the ground that it is not germane to the bill under consideration and thus is in violation of rule XVI, clause 7.

The gentleman's amendment is aimed at the Food and Drug Adminis-

tration's proposed regulations which would change that agency's standard of identity for "ice cream" under the authority of section 401 of the Federal Food, Drug and Cosmetic Act. . . .

Knowing full well that any direct attempts to amend the proposed standard of identity would be nongermane, the gentleman now seeks instead to amend the Agricultural Marketing Act to provide that only products that meet statutory standards, as set forth in his amendment, could bear a symbol indicating that they meet a USDA standard for ice cream.

Now, I would base the point of order on three grounds.

First, it amends an act—the Agricultural Marketing Act of 1946—not otherwise amended by the bill, and thus is in violation of rule 16, clause 7. Three precedents support this ground. I cite the Chair's ruling on June 23, 1960, in which, to a bill amending the Agriculture Adjustment Acts of 1938 and 1949 to provide, in part, for market adjustment and price support programs for wheat and feed grains, an amendment to the Agricultural Adjustment Act of 1933 concerning the importation of agricultural products was ruled out as not germane.

On the same day, an amendment to the 1933 act to direct the President under certain conditions to consider an investigation into imports of specified agricultural products was likewise ruled not germane. These rulings are noted in Deschler's Procedure [3rd ed., 95th Cong.], chapter 28, section 33.5 and 33.7.

In addition, the point that I think is most important, on July 19, 1962, a point of order was raised to an amend-

ment to an omnibus agricultural bill, just as this bill, a specific precedent from the same committee on the same type of legislation, seven particular laws amended in the particular section to which the amendment was offered—seven changes, there are only about three or four here—seven changes in those laws. The amendment which had been offered proposed changes in the Agricultural Marketing Agreement Act of 1937, which was not otherwise amended in the bill, just as this would be, exactly on point. The amendment was ruled not to be germane. (Deschler's Procedure, chapter 28, section 33.6.) I do not know of any point of order so much on point that I have ever read, even from the committee, even of the type in the bill.

Second, I would like to say, the proposed amendment does not relate to the title of the bill to which it is offered, nor to the bill as a whole. . . .

The provisions of title IX of H.R. 7171 pertain to set-asides under the wheat, feed grains, and cotton programs; loan extensions and sales provisions for wheat and feed grains; a special grazing and hay program for wheat acreage; export sales of wheat, corn, grain sorghum, soybeans, oats, rye, barley, rice, flaxseed and cotton, farm storage facility loans, soybean price supports; reporting of export sales; restrictions on the importation of filberts, and a report by the Secretary of Agriculture on the use of bushels of wheat and feed grains and pounds of rice as the basis for assigning allotments to producers of such commodities. In no such instance, either directly or by inference, is the Secretary of Agriculture's authority to adopt standards of quality for agricultural

products under 7 U.S.C. 1621 addressed by title IX or by the bill as a whole. . . .

MR. ROSE: . . . What this amendment attempts to do is direct, under its existing authority, the Secretary of Agriculture to develop, not a standard of identity, but a standard of quality for ice cream; a standard of quality that shall contain a certain percentage of nonfat milk solids. . . .

My distinguished friend, the chairman of the subcommittee that has direct jurisdiction over the Food and Drug Administration, has cited Deschler's Procedure, 33.5. I believe that this headnote is misleading, because I believe that if one were to carefully read that entire procedure, one would discover that this is not the actual, in fact, ruling in that case. But, I would base my main argument on section 28.51 of Deschler's Procedure [3rd ed., 95th Cong.], which states:

To a portion of a bill amending several miscellaneous laws on a general subject—

And this is such a section—

an amendment to another law relating to that subject is germane. (120 Congressional Record 8508, 8509, 93rd Congress, 2nd Session, March 27, 1974). . . .

THE CHAIRMAN:⁽¹¹⁾ The Chair is ready to rule.

The gentleman from Florida makes a point of order against the amendment offered by the gentleman from North Carolina on the grounds that it is not germane to the bill or to the pending portion thereof.

The amendment would add to title IX of the bill, which contains miscella-

neous commodity provisions, a new section requiring the Secretary of Agriculture to promulgate a Department of Agriculture standard for ice cream based on its contents, and to allow ice cream meeting that standard to bear a USDA symbol. The amendment would accomplish that purpose by amending the Agricultural Marketing Act of 1946, which is not amended by the bill but which authorizes the Secretary of Agriculture to promulgate food standards.

The gentleman from Florida has first argued that the amendment is not germane under the precedents because it amends a law not amended by the bill under consideration. The precedents do not bear out the assertion that an amendment is necessarily out of order if amending a law not mentioned in the bill. As indicated by "Deschler's Procedure," chapter 28, section 28.51, a title of a bill amending miscellaneous laws on a general subject may be broad enough to admit the offering of an amendment changing another law on that subject. The first two precedents cited by the gentleman dealt with amendments, offered to agricultural price support bills, dealing with the importation of agricultural products, a subject not relevant to the bill under consideration and not entirely within the jurisdiction of the Committee on Agriculture. The third precedent cited by the gentleman involved an amendment to the Agricultural Marketing Act of 1937, not amended by the omnibus agriculture bill under consideration, requiring certain compensatory payments by food handlers to producers.

The basis of the Chair's ruling on that occasion, which is not reflected in

11. Frank E. Evans (Colo.).

the headnote in "Deschler's Procedure," chapter 28 . . . section 33.6, was that the amendment was not germane to the title of the bill to which it was offered; and the Chair was not called upon to rule that the amendment was not relevant to the bill as a whole. On that occasion, the title of the bill under consideration contained commodity programs dealing with conventional authorities of the Secretary as to price supports and payments through the Commodity Credit Corporation, diverted acreage, acreage allotments, and marketing quotas and levels. The amendment, however, was intended to restore competition to the dairy market by requiring not the Secretary but handlers of dairy products to make compensatory payments to producers of milk, a regulatory authority not related to the provisions of the title under discussion.

The gentleman from Florida also argues that the amendment is germane neither to the subject matter nor to the fundamental purpose of title IX to which it is offered. The title does not appear to the Chair to have any single purpose or subject matter, dealing as it does with the authorities of the Secretary of Agriculture as to set-asides, loans and sales, grazing, export sales, price supports, importation and an allotment study for various food commodities. Therefore, the addition of a new authority of the Secretary relative to the production or quality of food or the protection of agricultural producers is relevant to the broad question of the Secretary's authority contained in the title. . . .

. . . The Chair would note that the amendment offered by the gentleman from North Carolina does not regulate

the labeling or marketing of ice cream but only adds a specific emphasis to be followed by the Secretary in carrying out the discretionary authority he already has under law to promulgate quality standards for food products. The subject matter of the amendment being germane to the title under consideration, the Chair finds that couching the authority contained therein as an amendment to another law dealing with general authorities of the Secretary of Agriculture does not on that basis render it subject to a point of order.

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

Bill Authorizing Payments for Acreage Reserves—Amendment Affecting Other Agriculture Laws

§ 42.10 To a bill authorizing the Secretary of Agriculture to make payments for acreage reserves, an amendment was held to be not germane which provided that no individual be eligible under any other Act for price support loans or price support purchases from Commodity Credit Corporation funds in excess of a specified amount.

On May 3, 1956, during consideration of the Soil Bank Act of 1956,⁽¹²⁾ the following amendment was offered:⁽¹³⁾

12. H.R. 10875 (Committee on Agriculture).

13. 102 CONG. REC. 7442, 7443, 84th Cong. 2d Sess.

Amendment offered by Mr. Oliver P. Bolton: On page 51, after line 17, add a new subsection (e).

Notwithstanding any other provision of law, the total amount of price support made available under this or any other act to any person for any year . . . shall not exceed \$25,000. The term "person" shall mean any individual, partnership, firm (and the like). . . .

The following exchange⁽¹⁴⁾ concerned a point of order raised against the amendment:

MR. [FRANK E.] SMITH [of Mississippi]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill in that it amends a law which is not considered in this bill and which is not before the House. . . .

MR. OLIVER P. BOLTON [of Ohio]: Mr. Chairman, it seems to me this is a point which affects all agricultural legislation. We are dealing here with a basic act of agriculture which is tied in as a full and complete subject. . . .

MR. SMITH [of Mississippi]: Mr. Chairman, I would like to point out that this is not a price-support bill, and there are no amendments to the price-support law in the pending legislation. . . .

Mr. Chairman, the rule of germaneness specifically declares that an amendment to be germane has to involve an amendment or a change in the law that is being considered in the bill before us. The bill before us involves the soil-bank matter and is entirely new as was brought out by the Secretary of Agriculture.

14. *Id.* at p. 7443.

The Chairman,⁽¹⁵⁾ in sustaining the point of order, stated:

The amendment offered by the gentleman from Ohio, it appears to the Chair, goes far beyond the scope of the bill under consideration. The Chair desires to read just a portion of the first sentence of the amendment, which is as follows:

Notwithstanding any other provision of law, the total amount of price support made available under this or any other act to any person—

Therefore, because the amendment goes far beyond the scope of the pending bill, the Chair is constrained to sustain the point of order.

The point of order is sustained.

Agricultural Price Support Programs—Amendment to Different Act Concerning Agricultural Imports

§ 42.11 To a bill amending the Agricultural Adjustment Acts of 1938 and 1949 to provide, in part, for market adjustment and price support programs for wheat and feed grains, an amendment to the Agricultural Adjustment Act of 1933 concerning the importation of agricultural products was held to be not germane.

In the 86th Congress, a bill⁽¹⁶⁾ was under consideration which

15. J. Percy Priest (Tenn.).

16. H.R. 12261 (Committee on Agriculture).

amended the Agricultural Acts of 1938 and 1949. The following amendment was offered to the bill:⁽¹⁷⁾

Amendment offered by Mr. Kyl: At the end of title II add the following new section:

The first sentence of section 22(a) of the Agricultural Adjustment Act (of 1933) as reenacted by the Agricultural Marketing Agreement Act of 1937, is amended by inserting before the period at the end thereof the following: “; and the President shall also cause . . . an investigation to be made [with respect to imports] in the case of wheat, corn, barley, oats, rye, soybeans, flax, and grain sorghums, when a surplus exists (as defined in section 106 of Public Law 480, Eighty-third Congress)”.

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

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I make a point of order against the amendment on the ground that the author seeks to amend the Agricultural Adjustment Act of 1933, which is not before us at this time.

In defense of the amendment, the proponent, Mr. John H. Kyl, of Iowa, stated as follows:

Mr. Chairman, this amendment concerns the importation of agricultural products and directs the President to investigate imports under certain conditions. . . .

It is necessary for a very obvious reason. For instance, we have not pro-

duced the quantity of oats, barley or rye that we can consume in the United States. Yet the surplus of those commodities has mounted, and the market price has fallen because of imports.

. . .

Mr. Chairman, I suggest that the amendment is germane because it concerns the specific feed grains which are contained in this bill.

The Chairman,⁽¹⁸⁾ in ruling on the point of order, stated:

The Chair has examined the amendment and is of the opinion that it deals with an act which is not under consideration here today.

The Chair sustains the point of order.

Price Support Program for Domestic Dairy Products—Findings Relating to Dairy Imports

§ 42.12 To a title of a bill reported from the Committee on Agriculture providing a price support program for domestic dairy products, an amendment citing applicable provisions of existing law regarding the effect of dairy imports on domestic dairy products and containing Congressional findings that tariff restrictions should be imposed on dairy imports was held to raise issues primarily within the jurisdic-

17. 106 CONG. REC. 14060, 86th Cong. 2d Sess., June 23, 1960.

18. Frank N. Ikard (Tex.).

tion of the Committee on Ways and Means and was ruled out as not germane.

The proceedings of Oct. 14, 1981, relating to H.R. 3603, the Food and Agriculture Act of 1981, are discussed in Sec. 4.71, supra.

Sale of Surplus Dry Milk by Commodity Credit Corporation—Amendment Affecting Labeling Under Federal Food, Drug, and Cosmetic Act

§ 42.13 To an amendment directing the Commodity Credit Corporation to sell surplus stocks of dry milk to domestic companies for the manufacture of casein (a matter within the jurisdiction of the Committee on Agriculture), an amendment to that amendment deeming as misbranded for purposes of the Federal Food, Drug and Cosmetic Act any food substitutes labeled as “cheese” (a matter within the jurisdiction of the Committee on Energy and Commerce), was ruled out of order as non-germane.

During consideration of The Food Security Act (H.R. 2100) in the Committee of the Whole on

Sept. 26, 1985,⁽¹⁹⁾ the Chair sustained a point of order against an amendment to the following amendment:

MR. [SHERWOOD L.] BOEHLERT [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Boehlert: Page 37, after line 9, insert the following:

DOMESTIC CASEIN INDUSTRY

Sec. 215. (a) The Commodity Credit Corporation shall provide surplus stocks of nonfat dry milk of not less than one million pounds annually to individuals or entities on a bid basis.

(b) The Commodity Credit Corporation may accept bids at lower than the resale price otherwise required by law in order to promote the strengthening of the domestic casein industry.

(c) The Commodity Credit Corporation shall take appropriate action to assure that the nonfat dry milk sold by the Corporation under this section shall be used only for the manufacture of casein.

Redesignate succeeding sections in the subtitle accordingly. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Jeffords to the amendment offered by Mr. Boehlert: At the end of section 211, after the word “date”, insert the following new section:

SEC. 243. MISBRANDED FOOD SUBSTITUTES FOR CHEESE.

19. 131 CONG. REC. 25023–25, 99th Cong. 1st Sess.

For purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.), any food which is an imitation of cheese and which does not comply with any standard of identity in effect under section 401 of such Act for any cheese shall be deemed to be misbranded if its label contains the word "cheese". . . .

MR. [E] DE LA GARZA [of Texas]: . . . Mr. Chairman, this amendment addresses the Food and Drug Act, which is under the jurisdiction of the Committee on Energy and Commerce, and it therefore would not be germane to this legislation. We have no item in the bill that this amendment would be germane to. . . .

MR. JEFFORDS: Mr. Chairman, I would like to respond by saying it is difficult for me to see how anything that talks about cheese could not be relevant to the dairy provisions of the farm bill.

I recognize that there may be some others with concurrent jurisdiction, but certainly the protection of the cheese industry and the ability of our dairy farmers to ensure that imitation products are not sold under the guise of cheese certainly ought to be within the province of this committee. . . .

THE CHAIRMAN: ⁽²⁰⁾ The Chair is prepared to rule.

The Chair will rule that No. 1, the amendment offered by the gentleman from Vermont [Mr. Jeffords] is to the Boehlert amendment and not to the farm bill in general, and the Boehlert amendment deals with Commodity Credit Corporation subsidies for dry

milk; and so it is not germane to that amendment.

Second, the point of order raised by the gentleman from Texas [Mr. de la Garza] is correct in regards to the committee jurisdiction argument.

So the Chair will rule that the amendment is not germane to the Boehlert amendment.

Waiving Law Within Jurisdiction of Another Committee: Bill Relating to Registration of Pesticides—Amendment Barring Award of Attorneys' Fees Notwithstanding Any Other Law

§ 42.14 To a title of a bill reported from the Committee on Agriculture amending an existing law relating to registration of pesticides, an amendment providing that notwithstanding any other law, no attorneys' fees shall be awarded in certain civil actions brought under the law being amended was held not germane, as indirectly amending another law within the jurisdiction of another committee governing fees in federal civil actions generally, where nothing in the pending title amended laws on that subject.

20. David E. Bonior (Mich.).

On Sept. 19, 1986,⁽¹⁾ during consideration of H.R. 2482⁽²⁾ in the Committee of the Whole, the Chair sustained a point of order against the amendment described above, demonstrating that an amendment must be germane to the pending title of the bill to which it is offered. The proceedings were as follows:

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

TITLE I—REGISTRATION

Sec. 101. Preregistration access to data.

Sec. 102. Criminal penalties for disclosure of information.

Sec. 103. Conditional registration.

Sec. 104. Definition of outstanding data requirement.

Sec. 105. Reregistration of registered pesticides.

Sec. 106. Administrator's authority to require data on inert ingredients.

Sec. 107. Definition of ingredient statement.

Sec. 108. Disclosure of inert ingredients.

Sec. 109. Compensation for data on inert ingredients. . . .

MR. [RON] MARLENEE [of Montana]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

1. 132 CONG. REC. 24728-30, 99th Cong. 2d Sess.
2. Federal Insecticide, Fungicide and Rodenticide Act amendments of 1986.

Amendment offered by Mr. Marlenee: Page 43, line 7, insert after "section 16(b)," the following new sentence:

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

MR. [HOWARD L.] BERMAN [of California]: Mr. Chairman, I make the point of order that the amendment offered by the gentleman from Montana is in violation of clause 7 of House rule XVI which prohibits the consideration of amendments on a subject different from that under consideration. Mr. Chairman, the amendment offered by the gentleman from Montana carves out an exemption from the Equal Access to Justice Act, which authorizes the awarding of legal fees in certain cases brought against the Federal Government. The bill before us, H.R. 2482, amends the Federal Insecticide, Fungicide, and Rodenticide Act which concerns itself solely with the regulation of pesticides. Neither FIFRA nor this bill address the issue of the awarding of legal fees. Indeed, the amendment offered by the gentleman says that "Notwithstanding any other provision of law," indicating clearly that he intends to reach outside the scope of this bill and the law which it amends. The amendment goes to a totally different and nongermane matter to the business before the committee, and on this basis I ask that the point of order be sustained. . . .

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

First, the title of the bill it is for "other purposes" than amending FIFRA.

Second, other examples of enactments amended by this bill or by the underlying FIFRA Act are: The Federal Hazardous Substances Act; the Poison Prevention Packaging Act; the Federal Food Drug and Cosmetics Act, and title 5 of the United States Code.

Third, the section and the bill reauthorize programs and funding for the pesticide programs. It also adds a new program (reregistration—section 3 A of FIFRA) that is amended by my amendment. Both the section and the bill relate to fees and funding for the reregistration program. Some of that funding for the reregistration program will come from fees assessed against registrants (see page 42 of the bill) and some will come from appropriated funds (section 816 of the bill).

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

Fourth, my amendment is narrowly drawn and applies only to “fees or expenses shall be awarded for any civil action brought under this section for failure to meet deadlines.” . . .

Fifth, this bill, other than the section I am amending, contains provisions relating to the actions against the United States for just compensation. . . .

The bill also contains provisions relating to the false statement statute (18 U.S.C. 1001) and prosecutions thereunder.

Sixth, section 9 of the FIFRA Act gives the EPA Administrator authority to obtain and execute warrants and section 12 authorizes the Administrator to make certain certification to the U.S. Attorney General. Section 701 of the act discusses patent term extension for registrations of pesticides. . . .

Seventh, I understand, although I have not seen the basis of Mr. Berman’s point of order, that it asserts the nongermaneness of my amendment based on the fact that it amends the Equal Access to Justice Act.

However, section 2412 (b) and (d) of title 28 (Equal Access to Justice Act) specifically provide with respect to fees and expenses of attorneys that those subsections only apply “Unless expressly prohibited by statute,” (subsection (b)) and “Except as otherwise specifically provided by statute,” (subsection (d)).

It is submitted that this bill which reauthorizes the FIFRA programs and funding can be utilized to effect the exception provided for in the Equal Access to Justice Act. It is therefore submitted that my amendment is germane to this bill.

THE CHAIRMAN:⁽³⁾ The Chair is prepared to rule.

The gentleman from California makes the point of order that the amendment offered by the gentleman from Montana [Mr. Marlenee] is not germane to the text of title I of H.R. 5440. The amendment waives all provisions of law which would otherwise permit the awarding of attorneys fees in FIFRA related court cases.

The Chair would first note that the gentleman’s argument reaches into and relates to titles of the bill which have not yet been reached in the amendment process.

The law being waived, moreover, is not the FIFRA law, but is the Equal Access to Justice Act, a law within the jurisdiction of another committee and a

3. Matthew F. McHugh (N.Y.).

law not amended or referenced in the pending title of the bill. Nothing in title I amends existing law pertaining to judicial review and procedures.

The gentleman from Montana has made the point correctly that the Equal Access of Justice Act says that there can be exceptions specified by other statutes.

However, that does not remove jurisdiction from the Judiciary Committee or necessarily change the test of germaneness of amendments to other laws. And therefore, in the opinion of the Chair, the amendment addresses an issue within the jurisdiction of another committee and is not germane to the pending title.

The Chair therefore sustains the point of order.

Amendment To Prohibit Assistance Under "Any Other Act"

§ 42.15 To a bill amending an existing law, an amendment prohibiting assistance under that Act or under any other Act for a particular purpose was held too general in scope, affecting laws not being amended by the bill and was held to be not germane.

The proceedings of May 11, 1976, relating to H.R. 12835, the Vocational Education Act amendments, are discussed in §35.62, *supra*.

Amendment Waiving Other Law: Bill Establishing Emergency Price Supports for Agricultural Commodities—Amendment Relating to Export of Agricultural Commodities

§ 42.16 To a bill reported from the Committee on Agriculture establishing emergency price supports for certain agricultural commodities, an amendment restricting the authority of the Secretary of Commerce under the Export Administration Act over the export of all agricultural commodities (a matter within the jurisdiction of the Committee on International Relations and covering a more general range of commodities) was held to be not germane.

During consideration of H.R. 4296 (a bill concerning the emergency price support program for certain 1975 crops) in the Committee of the Whole on Mar. 20, 1975,⁽⁴⁾ the Chair sustained a point of order against the following amendment:

MR. [STEVEN D.] SYMMS [of Idaho]:
Mr. Chairman, I offer an amendment.
The Clerk read as follows:

4. 121 CONG. REC. 7651, 94th Cong. 1st Sess.

Amendment offered by Mr. Symms: Page 2, line 19, after the words "such crops", insert the following: "Notwithstanding any other provision of law, neither the Secretary of Agriculture nor the Secretary of Commerce shall require or provide for the prior approval of or establish other conditions for the export sales of feed grains, wheat, soybeans, or other agricultural commodities." . . .

MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I make a point of order against the amendment as not germane to the bill. The amendment offered by the gentleman from Idaho affects the implementation of the Export Administration Act. This bill deals with amendments to the Agriculture Adjustment Act of 1949, as amended. The amendment deals with restrictions on exports and is not within the jurisdiction of the Committee on Agriculture, which has brought this bill to the floor.

The well established precedent of the House is that the fundamental purpose of an amendment must be in consonance with the fundamental purpose of the bill. It is not in this case. The jurisdiction of the subject matter lies within the jurisdiction of the Committee on International Relations of the House. I make the point of order that the amendment is not germane and is in violation of rule XVI, clause 4. . . .

MR. SYMMS: . . . I would just say that the reason that we have had the difficulties both in the soybean market and the wheat market, which has caused the stimulation of the need for this legislation, is because of the haphazard misuse of export controls, which so much interferes with the for-

eign markets. Therefore, since the Secretary of Commerce has to be included, this is an appropriate amendment for the House to speak its will on this issue. . . .

THE CHAIRMAN:⁽⁵⁾ The gentleman from Washington makes the point of order that the amendment offered by the gentleman from Idaho is not germane to the bill. The Chair is prepared to rule on this matter.

The subject of export controls administered by the Secretary of Commerce under the Export Administration Act is within the jurisdiction of the Committee on International Relations, and the issue of exportation of all agricultural commodities is beyond the purview of the pending bill. For these reasons, the Chair feels that the amendment is not germane to the bill and sustains the point of order.

—Amendment Affecting Price Support for Additional Commodity

§ 42.17 To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a com-

5. John Brademas (Ind.).

modity outside the class of those covered by the bill, and was held to be not germane.

On Mar. 20, 1975,⁽⁶⁾ during consideration of the emergency price supports bill for 1975 crops⁽⁷⁾ in the Committee of the Whole, the following amendment was ruled out as not germane:

Amendment offered by Mr. Peyser: Page 3, immediately after line 16, insert the following new section:

“Sec. 3. Notwithstanding any other provision of law, there shall be no price support for rice effective with the 1975 crop of such commodity.” . . .

MR. [THOMAS S.] FOLEY [of Washington]: . . . The Findley amendment to H.R. 4296 amends section 103, section 105, and section 107 of the Agricultural Act of 1949.

The amendment of the gentleman from New York is broader than that, and notwithstanding any other provision of law, strikes out any applicable provision for price supports for rice. The rice program was originally enacted in the Agricultural Adjustment Act of 1938. . . .

MR. [PETER A.] PEYSER [of New York]: . . . It seems to me there is nothing out of order dealing with price supports certainly, and certainly nothing out of order dealing with rice. It is a commodity, and it is one that the Department of Agriculture and the legislation relates to. It seems to me perfectly in order.

6. 121 CONG. REC. 7666, 7667, 94th Cong. 1st Sess.

7. H.R. 4296.

THE CHAIRMAN:⁽⁸⁾ The Chair is prepared to rule.

The bill under consideration amends only certain sections of the Agricultural Act of 1949 and no other provision of law. The Chair feels that the amendment of the gentleman from New York waives, in the language of his amendment, “notwithstanding any other provision of law,” waives a provision of law not within the scope of the bill under consideration. The Chair, therefore, rules the gentleman’s amendment not germane and sustains the point of order.

Parliamentarian’s Note: It should be noted that the Peyser amendment contained the language “notwithstanding any other provision of law”, which had the effect of amending a statute not amended by the bill. In the absence of the reference to other law, an amendment merely adding rice to the category of commodities covered by the 1949 Agricultural Act for the same crop year covered by the bill would have been germane.

Amendment Authorizing President To Waive Other Laws

§ 42.18 For an amendment establishing procedures for designating priority projects within a federally financed synthetic fuels program and expediting procedural deci-

8. John Brademas (Ind.).

sion-making deadlines, but not waiving substantive laws that might affect completion of those projects, a substitute amendment authorizing the President to waive any provision of law (if not disapproved by Congress) inconsistent with the approval, construction and operation of synthetic fuel projects was held not germane as a prospective temporary repeal of those substantive laws within the jurisdiction of other committees and beyond the narrow class of procedural waivers in the original amendment.

On June 26, 1979,⁽⁹⁾ the Committee of the Whole had under consideration an amendment to the Defense Production Act Amendments of 1979 (H.R. 3930) when the following substitute for the amendment was offered and, a point of order having been raised, was ruled out as not being germane:

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio as a substitute for the amendment offered by Mr. Udall:

9. 125 CONG. REC. 16683-86, 96th Cong. 1st Sess.

Page 8, after line 13, insert the following new subsection:

“(g)(1) Each Federal officer and agency having authority to issue any permit for, or to otherwise approve or authorize, the construction or operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section shall, to the maximum extent practicable—

“(A) expedite all actions necessary for the issuance of such permit, approval, or authorization, and

“(B) take final action thereon not later than 12 months after the date application for such permit, approval, or authorization is made.

After taking final action on any such permit, approval, or authorization, such officer or agency shall publish notification thereof in the Federal Register.

“(2)(A) Within 6 months after the date of the enactment of this section, and from time-to-time thereafter, the President shall—

“(i) identify those provisions of Federal law or regulations (including any law or regulation affecting the environment or land leasing policy) which the President determines should be waived in whole or in part to facilitate the construction and operation of any facility which is to produce any synthetic fuel or synthetic chemical feedstock for which the President has contracted (or entered into a commitment to contract) under this section; and

“(ii) submit any such proposed waiver to both Houses of the Congress.

“(B) The provisions of law so identified shall be waived with respect to the construction and operation of such facility to the extent provided for in such proposed waiver if 60 days of continuous session of Congress have expired after the date

such notice was transmitted and neither House of the Congress has adopted during that period of continuous session a resolution stating in substance that such House disapproves of that waiver. The term 'continuous session of Congress' shall have the same meaning as given it in section 301 of this Act."

Redesignate the following provisions accordingly. . . .

THE CHAIRMAN:⁽¹⁰⁾ Does the gentleman from Oregon (Mr. Weaver) insist on his point of order?

MR. [JAMES] WEAVER [of Oregon]: I do, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman.

MR. WEAVER: Mr. Chairman, the amendment says the President shall identify provisions of Federal law or regulations. They are unidentified law or regulations, other than to say they deal with the environment and land use policy.

If these provisions of law so identified are submitted to the Congress, they will be waived. In other words, it affects law outside the bill we have before us. It amends unidentified law. . . .

MR. BROWN of Ohio: . . . Mr. Chairman, I rise in opposition to the point of order raised against my amendment.

My amendment is clearly germane not only to the bill before us but also to the Defense Production Act which the bill amends. On page 5 of this very bill, lines 17 through 21, language similar to that contained in my amendment can be found, and I quote:

(c) Purchases, commitments to purchase, and resales under sub-

section (b) may be made without regard to the limitations of existing law, for such quantities, and on such terms and conditions, including advance payments, and for such periods as the President deems necessary. . . .

And then it goes on, and the quotation is ended.

That relates to what I offer in my amendment with reference to the President and his opportunity to waive existing law.

Similar language to that in my amendment providing for waiver of existing laws can be found in title 3 of the Defense Production Act which section 3 of H.R. 3930 would amend.

Mr. Chairman, the Defense Production Act is a very broad bill inasmuch as it deals with our national defense. Title 50, United States Code, section 2091, says, and I quote:

Without regard to the provisions of law relating to the making, performance, amendment, or modification of contracts.

My amendment is a broad waiver provision, but it is no broader than those waiver provisions found in the Defense Production Act and in section 3 of H.R. 3930, which again is designed to amend the Defense Production Act.

Therefore, Mr. Chairman, I would argue to the Chair that my amendment is germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The waivers of existing law found both in the amendment offered by the gentleman from Arizona (Mr. Udall) and in the bill and statute itself are, in the judgment of the Chair, waivers with respect to a very narrow class of

10. Gerry E. Studds (Mass.).

existing law. The statute itself makes reference to provisions of law relating to the “making, performance, amendment, or modification of contracts,” a specific reference to a narrow phase of law.

The Chair would cite Deschler’s Procedure, chapter 28, section 33:

To a bill temporarily amending for one year an existing law establishing price supports for several agricultural commodities, an amendment waiving the provisions of another law relating to price supports for another agricultural commodity was construed to directly change a law not amended by the pending bill and thus to include a commodity outside the class of those covered by the bill and was ruled not germane.

The amendment offered by the gentleman from Arizona (Mr. Udall) does not purport to waive all inconsistent Federal statutes. The substitute offered by the gentleman from Ohio (Mr. Brown) would permit waiver of all provisions of law within the jurisdiction of other committees and is, in the opinion of the Chair, therefore, in effect a temporary prospective repeal of any other laws which otherwise would interfere with the construction of any facility financed by this bill, and the Chair sustains the point of order.

Temporary Waiver of Law

§ 42.19 To a bill authorizing appropriations for a Department for one fiscal year and containing diverse limitations and directions to that agency for that year, an amendment further directing that agency to obtain infor-

mation during that year from the private sector and rendering that information public during that period notwithstanding another provision of law is germane.

On Oct. 18, 1979,⁽¹¹⁾ the Committee of the Whole had under consideration a bill⁽¹²⁾ authorizing appropriations for the Department of Energy for one fiscal year. An amendment was offered requiring the Department, during the fiscal year covered by the authorization, to obtain petroleum supply information from each oil supply company and to publish such information notwithstanding the Freedom of Information Act. The amendment was held germane since confined to the activities of the Department for the fiscal year covered by the bill and not constituting permanent law. The amendment stated in part:

The Clerk read as follows:

Amendment offered by Mr. Peyser: Page 79, after line 25, insert the following new title:

PETROLEUM SUPPLY REPORTS

Sec. 901. During the period covered by this Authorization Energy Information Administration shall obtain them from each oil company not later than the third day (excluding Saturdays, Sundays, and legal public

11. 125 CONG. REC. 28815–17, 96th Cong. 1st Sess.

12. H.R. 3000.

holidays as specified in section 6103 of title 5, United States Code) of each calendar month beginning after the date of the enactment of this title a report specifying—

(1) the total refining capacity of such company on the last day of the last previous calendar month . . .

(7) the inventory of refined petroleum products of such company, by category of products, and the location of such products, on the last day of the last previous calendar month; and

(8) the estimated inventory of refined petroleum products of such company, by category of products and the estimated location of such products, during the calendar month during which the report is submitted.

PUBLISHING AND MAKING PUBLIC REPORTS

Sec. 902. Notwithstanding section 552 of title 5, United States Code (known as the Freedom of Information Act), the Administrator of the Energy Information Administration shall publish, and make available to the public, each report submitted pursuant to section 901 not later than the sixth day . . . of each calendar month during which such report is submitted. . . .

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, this amendment is not germane. The amendment imposes new comprehensive mandatory information reporting requirements on oil companies, not the Department of Energy.

The bill which we are considering would merely authorize appropriations for the Department of Energy. The bill does not institute any new requirements directly on individuals.

Number two, Mr. Chairman, the amendment is also nongermane because it permanently changes the pur-

pose, coverage, and extent of the Freedom of Information Act by making the Freedom of Information Act inapplicable to information gathered in reporting pursuant to proposed new comprehensive programs.

For these two reasons, Mr. Chairman, this amendment is not germane and should be ruled out of order. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Chairman, I think the gentleman does not know that the amendment does not bring about any new requirement. I believe what he has read is the old amendment, which is the reason we had the amendment read now. It no longer says that it requires the oil companies to report. It simply says that the Energy Information Agency shall obtain the information from the oil companies, which is a perfectly legitimate and germane action to take.

On the question of violation of the Information Act, Mr. Chairman, I think that is something that the Congress is going to have to decide, whether this is appropriate or not, because what this amendment is doing is saying that the information from now on will be obtained by the Department of Energy from the oil companies so the Department of Energy is the source of the information to the Congress and not the American Petroleum Institute. So it would seem to me that this is a totally germane amendment as long as we no longer have the oil companies involved in the opening of this amendment to report, and the Information Act is something that the Members here have to vote on. It certainly is not a question of germaneness, and for that reason I believe the amendment should stand, Mr. Chairman. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, the point of order is still appropriate because of the direction of the amendment to the Freedom of Information Act and the modification of that act, which is not a subject of this authorization.

THE CHAIRMAN PRO TEMPORE:⁽¹³⁾ The Chair is prepared to rule.

The first point made by the gentleman from Texas is mooted by the change in wording, as noted by the gentleman from New York and the gentleman from Ohio, since the amendment addresses conduct of the Department and does not directly regulate the activities of others.⁽¹⁴⁾

The amendment is prefaced by the words "During the period covered by this authorization . . ."

In the opinion of the Chair, it covers activities of the Department during the fiscal year in question and does not constitute a permanent change in law.

The reference to the Freedom of Information Act does constitute an indirect waiver of its provisions, but it does not constitute a permanent change in that act. It refers only to public access to information obtained pursuant to section 901, which is a 1-year requirement.

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

13. Gerry E. Studds (Mass.).
14. *Parliamentarian's Note*: The original draft of the amendment required the oil companies to report to the Department. That approach, embodied in an amendment to an authorization bill, would not have been germane.

Affecting Other Laws

§ 42.20 To an amendment to an authorization bill authorizing the use of funds therein for a specific study, an amendment authorizing the availability of funds in that or any other Act for an unrelated purpose is not germane; thus, to an amendment to the Department of Defense authorization bill, authorizing funds for the Departments of Defense and Energy to conduct research on "nuclear winter" and to contract therefor with the National Academy of Sciences, an amendment designating by the names of specific Senators any science and mathematics scholarship or fellowship programs established during the 99th Congress under the bill or any other Act was held not germane, as affecting programs in other Acts not covered by the primary amendment.

On Aug. 15, 1986,⁽¹⁵⁾ during consideration of H.R. 4428, the Department of Defense authorization for fiscal 1987, in the Committee of the Whole, the Chair sustained a point of order against

15. 132 CONG. REC. 22073, 22075, 22076, 99th Cong. 2d Sess.

the amendment described above. The section, and the amendment which was offered to it, were as follows:

Sec. 3302. Nuclear Winter Study and Report.

(a) Study.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.

(b) Report.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). . . .

The Clerk read as follows:

Perfecting amendment offered by Mr. Foley to the amendment offered by Mr. Wirth, as modified as amended: At the end of the amendment, add the following:

At the end of the bill, add the following new section:

SEC. 4005. NAME OF NEW SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM.

Any program established by this Act or any other Act during the 99th Congress to establish a foundation in the executive branch of the Government to award scholarships and fellowships for study in the fields of science and mathematics in order to further scholarship and excellence in education shall be named for Barry Goldwater, Senator from the State of Arizona, and Henry M. "Scoop" Jack-

son, late a Senator from the State of Washington. . . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . [D]oing my utmost to understand the relevance, this gentleman cannot understand the germaneness of the proposed perfecting amendment to the amendment.

I would insist on my point of order that it is not germane. . . .

THE CHAIRMAN PRO TEMPORE:⁽¹⁶⁾ The Chair is prepared to rule.

Without reading further in the amendment, the Chair notes on line 3, "Any program established by this Act or any other Act," the Chair believes goes beyond the subject matter of the pending amendment.

For that reason, the Chair sustains the point of order of the gentleman from Alabama [Mr. Dickinson].

Bill Establishing Federal Energy Administration—Amendment Repealing Emergency Daylight Saving Time Energy Conservation Act

§ 42.21 An amendment repealing existing law is not germane to a bill not amending that law; thus, to a bill reported from the Committee on Government Operations establishing a Federal Energy Administration but not amending existing laws relating to energy conservation policy, an amendment repealing the Emergency Day-

16. Thomas J. Downey (N.Y.).

light Saving Time Energy Conservation Act (reported from the Committee on Interstate and Foreign Commerce) was held not germane.

During consideration of H.R. 11793⁽¹⁷⁾ in the Committee of the Whole, the Chair sustained a point of order in the circumstances described above. The proceedings of Mar. 7, 1974,⁽¹⁸⁾ were as follows:

MR. [BILL] GUNTER [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Gunter: Page 38, line 21, add the following new section:

Sec. 22. (a) The Emergency Daylight Saving Time Energy Conservation Act of 1973, P.L. 93-182; (87 Stat. 707) is hereby repealed.

(b) This section shall take effect at 2 o'clock antemeridian on the first Sunday which occurs after the enactment of this Act.

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, this amendment amends existing law, which is not the subject matter of this bill and is therefore nongermane. I urge that the Chair rule that the amendment is out of order. . . .

MR. GUNTER: . . . Mr. Chairman, I would say and call the attention of the

17. The Federal Energy Administration Act.

18. 120 CONG. REC. 5653, 5654, 93d Cong. 2d Sess.

Members of the House to the language of the declaration of purpose in section 2(a) on page 14 of the committee bill which declares that among the purposes of this act is to require positive and effective action in order to promote the general welfare and the common defense and security.

I submit, Mr. Chairman, under this broad language and for the stated purposes of this act that the general welfare declaration permits an interpretation and a finding by the Congress that the enumerated and authorized activities established by the Federal Energy Administration, if executed within the framework of the year-round daylight saving time provisions, would not serve the general welfare. . . .

MR. [JOHN E.] MOSS [of California]: Mr. Chairman, the language would amend the Uniform Time Act of 1930, the act to which the amendments creating a new daylight saving time limitation were directed. That act has been under the jurisdiction of the Committee on Interstate and Foreign Commerce from the very beginning when it was originally introduced in this body in 1930. Each amendment to that act has been referred to and considered exclusively by the Committee on Interstate and Foreign Commerce. That act is not transferred nor is any portion of it contained in the authority conferred upon the Administrator under the provisions of this reorganization act.

For that reason it is my opinion that it is not germane and that the point of order should be sustained.

THE CHAIRMAN:⁽¹⁹⁾ The Chair is prepared to rule.

The gentleman from Florida (Mr. Gunter) offered an amendment the ef-

19. John J. Flynt, Jr. (Ga.).

fect of which is to repeal an existing law which is not otherwise referred to in the bill under consideration.

The gentleman from New York (Mr. Horton) has made a point of order against the bill that it is not germane to the bill and that it attempts to repeal a separate act which is not previously mentioned in the bill under consideration.

The Chair in ruling on points of order does not rule on the merits of any amendment that has been offered.

The Chair in this case is constrained in his ruling to relate to the germaneness of the amendment to the bill under consideration.

For the reasons stated in the argument of the gentleman from New York the Chair sustains the point of order.

Bill Prescribing Functions of New Federal Energy Administration—Amendment Imposing Ceiling Prices on Petroleum Products

§ 42.22 To a bill consolidating specified existing governmental functions under a new agency, amended to limit the policy-making authority of that agency to that contained in existing law, an amendment prescribing new policy by amending a law not amended by the bill is not germane; thus, to a section of a bill reported from the Committee on Government Operations prescribing the func-

tions of a new Federal Energy Administration in meeting the energy needs of the nation, amended to limit exercise of those functions “to the extent expressly authorized by other sections of the bill or any other provisions of law,” an amendment to the Emergency Petroleum Allocation Act (an Act reported from the Committee on Interstate and Foreign Commerce and not otherwise amended by the bill) establishing specific ceiling prices for petroleum products was held to be not germane.

During consideration of H.R. 11793⁽²⁰⁾ in the Committee of the Whole on Mar. 5, 1974,⁽¹⁾ the Chair, in sustaining a point of order against the following amendment, stated, in part, that in determining the germaneness of an amendment, the Chair examines its relationship to the bill as it has been modified by prior amendment and is not bound solely by the test of committee jurisdiction.

MR. [BENJAMIN S.] ROSENTHAL [of New York]: Mr. Chairman, I offer an amendment.

20. The Federal Energy Administration Act.

1. 120 CONG. REC. 5306-09, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Rosenthal: On page 18, line 11 change Sec. 5 to Sec. 5(a).

On page 20, after the period on line 2, add the following new subsection:

“(b) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

“(j)(1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection. . . .

“(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

“(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil for which prices are posted; and

“(B) a maximum of \$1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I rise to a point of order against the amendment. My point of order is that the amendment offered by the gentleman from New York (Mr. Rosenthal) is nongermane under rule XVI, clause 7. . . .

I do not wish to imply a position for or against the amendment by making this point of order, but I do feel constrained to block it because of the importance of getting this bill through under regular procedure. We must not allow this bill to be tied up in a thousand controversies as have been other energy bills.

The germaneness rule is one of the distinctive features of the procedures of this House. It dates back to our very beginning. There have been occasions where this House has acted as though this rule was not applicable, and the legislation has been poorer as a result. I think the rule of germaneness should be strictly applied to H.R. 11793. It is a soundly conceived organization bill and we should consider it as such.

I realize there has been some question as to whether this bill does, in fact, grant policy and program authority. I have maintained from the beginning that this bill does not do so; and for that reason I was willing to support the amendment, recently adopted, which provides that nothing in the functions sections of the bill shall be considered to set policy or grant program authority. The acceptance of this amendment underscores the lack of policy and program authority in the bill; and, of course, the Chair will have to take into account the significance of the adoption of this amendment because, to quote from Cannon, volume VIII, section 2910:

(T)he Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time at which it is offered.

Let me explain exactly what the bill does. As it states in the “declaration of purpose” section:

(I)t is necessary to reorganize certain agencies and functions of the executive branch and to establish a Federal Energy Administration.

The bill then proceeds to establish the administration. Section 5 sets out the general areas of interest of the new Federal Energy Administration. Section 6 transfers to the Agency authority from other offices and departments in the executive branch. In no way does this bill affect any of these substantive laws other than to change the location of responsibility for their execution. My committee did not amend the substance of these transferred laws, because their substance is within the jurisdiction of other committees. The remaining sections of the bill deal with typical administrative authorities granted to departments and agencies and the necessary arrangements for the transition to the new Agency.

Clause 7, of course, holds that no propositions on a subject different from that under consideration shall be admitted under color of amendment:

The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered does not render it germane. (Cannon, Vol. VIII, sec. 2912).

Also, the whole of the amendment must be germane—Cannon, volume VIII, section 2922, 2980. . . .

I would like to point out that this amendment cannot be held germane simply because it relates to laws being amended by this bill. Let me again quote Cannon, volume VIII, section 2909;

[T]he rule of germaneness applies to the relation between the proposed amendment and the pending bill to

which (it is) offered, and not to the relation between such amendment and an existing law of which the pending bill is amendatory.

There are, of course, numerous other precedents along the same lines, such as Cannon, volume VIII, section 3045, 2948, and 2946. The reason for this is that the House needs a way to protect itself from amendments which have not been properly considered. . . .

H.R. 11793 is a reorganization bill; it is not a policy or program bill. The House has long recognized the distinction between policy bills and organizational bills. The very fact that we have established a Government Operations Committee with responsibility for, and I quote from rule XI, clause 8: "Reorganizations in the executive branch," is evidence of the long appreciation of this House for the distinct legislative area of reorganization. If we begin to allow policy and program authority to be added to reorganization bills, an important barrier between the work of my committee and the work of other legislative committees will have been ruptured. . . .

MR. ROSENTHAL: . . . The subject matter of H.R. 11793 is the establishment of a new Federal Energy Agency whose Administrator is authorized to regulate energy prices and is admonished, in section 5, to "promote stability in energy prices." The subject matter of my amendment is the achievement of stability in energy prices, clearly the same as the subject matter of a major portion of the legislation itself.

House interpretations of the germaneness rule hold that "the fundamental purpose of an amendment must be germane to the fundamental pur-

pose of the bill” and “an amendment should be germane to the particular paragraph or section to which it is offered,” House rule XVI, section 794.

My amendment goes to a fundamental purpose of the bill—bringing about stability in energy prices—and it appears as a part of the “functions” section which requires such stability.

My price rollback amendment is germane for additional reasons:

No House rule or precedent prohibits the Government Operations Committee from granting new power or creating new policy in a bill of this kind—so long as the power or policy is directly related to the purpose for which the agency is being created. In fact numerous provisions already in H.R. 11793 and in other Government Operations’ bills to reorganize and consolidate, create new powers and set new policy.

For example, the committee, in the Federal Energy Act, has already expressly established new policies and created new powers not elsewhere authorized by law:

Section 4(j) amends and revises a Federal conflict of interest statute—section 203 of title 18, United States Code—technically within the jurisdiction of the Post Office and Civil Service Committee. . . .

The committee, in section 2 of the present bill—H.R. 11973—establishes as a purpose of the Federal Energy Administration the establishment of “fair and reasonable consumer prices” for energy supplies. Section 5, paragraph 5, establishes as a function of the Administrator the promotion of “stability in energy prices to consumers.” My amendment merely provides a mechanism by which this purpose and function can be carried out. . . .

THE CHAIRMAN:⁽²⁾ The Chair is prepared to rule on the point of order.

The gentleman from New York (Mr. Rosenthal) has offered a substantive and lengthy amendment which begins with the following words:

Subsection (b), Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by this title is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil and refined petroleum products by adding at the end thereof the following new subsection:

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that the amendment is not germane to the bill under consideration.

The gentleman has made the further point of order that the amendment covers a subject matter not within the jurisdiction of the Committee on Government Operations, but within the legislative jurisdiction of another Committee of the House of Representatives.

The gentleman from New York, in urging the Chair to overrule the point of order, has cited many reasons. Part of the gentleman’s statement deals with another section of the bill which has not been read at this time. Part of his remarks deal with the policy of the amendment, not with the parliamentary situation.

The Chair would not want to rule in this instance in such a manner that every law of the United States dealing with the energy question would be open to amendment in the pending bill.

The gentleman from New York (Mr. Rosenthal) referred during his argu-

2. John J. Flynt, Jr. (Ga.).

ment to a bill in the 89th Congress creating a new Department of Transportation and delineating the duties of its Secretary. The Chair has examined the Congressional Record for the period when that bill was under consideration. An amendment was offered on that occasion directing the Secretary of Transportation to conduct a study of "labor laws as they relate to transportation," a matter within the jurisdiction of another committee, and to recommend procedures for settlement of labor disputes. A point of order was made against that amendment, and the Chairman at that time (the Honorable Mel Price of Illinois) ruled such an amendment out of order as not being germane to the bill under consideration.

The Chair would point out that the question of committee jurisdiction is not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

But this amendment clearly seeks to amend another law, the Emergency Petroleum Allocation Act of 1973, which is not sought to be amended in the bill under consideration.

Therefore, the Chair refers to a ruling made by Mr. Speaker Carlisle on March 17, 1880:

When it is objected that a proposed amendment is not in order because it is not germane, the meaning of the objection is simply that the proposed amendment is a motion or proposition upon a subject matter different from that under consideration.

The Chairman of the Committee of the Whole House, John J. Fitzgerald of

New York, on September 27, 1914, ruled that:

For an amendment to be germane means that it must be akin to or relevant to the subject matter of the bill. It must be an amendment which would appropriately be considered in connection with the bill. The object of the rule requiring amendments to be germane . . . is in the interest of orderly legislation.

In passing on the germaneness of an amendment, the Chair considers the relation of the amendment to the bill as modified by the Committee of the Whole at the time it is offered and not as originally referred to the committee. And it has been held that an amendment which might have been in order, if offered when the bill was first taken up, may be held not germane to the bill as modified by prior amendments.

The Chair, therefore, rules that the amendment seeks to amend a separate piece of legislation, namely, the Emergency Petroleum Allocation Act of 1973, which is not amended in the bill under consideration and sustains the point of order.

Parliamentarian's Note: See § 42.23, *infra*, for similar ruling.

§ 42.23 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the Nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law", an amendment prescribing

guidelines to be followed by the Administrator in establishing petroleum prices (a permissible limitation on the discretionary authority conferred in that section), but also directly imposing ceiling prices on petroleum products where the Administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was held to be not germane.

On Mar. 6, 1974,⁽³⁾ during consideration of H.R. 11793⁽⁴⁾ in the Committee of the Whole, it was demonstrated that, while a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to be administered by that agency is not germane.

MR. [JOHN E.] MOSS [of California]:
Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mr. Moss:
Page 18, line 11, insert "(a)" after
"Sec. 5."

3. 120 CONG. REC. 5433-36, 93d Cong. 2d Sess.
4. Federal Energy Administration Act. See §42.22, supra, for a similar ruling.

Page 20, after line 2 and after the Alexander amendment, insert the following:

(14) In administering any pricing authority, provide for equitable prices with respect to all sales of crude oil, residual fuel oil, and refined petroleum products in accordance with subsection (b) of this section.

(b)(1) Pricing authority of the Administrator shall be exercised so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of any regulation under pricing authority of the Administrator which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

(A) the highest posted price at 6:00 a. m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil for which prices are posted; and

(B) a maximum of \$1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]:
Mr. Chairman, the amendment offered by the gentleman from California (Mr. Moss) is nongermane to this reorga-

nization bill, and section 5, under XVI, clause 7.

The committee yesterday amended section 5 of the bill before us so that the functions listed would clearly not confer any new authority on the FEA Administrator. The authority available to the FEA Administrator must come from other sections of this act, or provisions of other laws which are now in existence.

As the Chair pointed out yesterday, amendments must be germane to the bill as modified by the Committee of the Whole at the time they are offered, and not as originally referred to the committee. Therefore, amendments attempting to add policy or program powers to section 5 are nongermane to that section.

The subject matter of this amendment was not considered in the committee, and is not dealt with in any other provisions in this bill; it is a subject matter completely different from the matter under consideration.

In the interest of orderly legislation . . . the amendment should be ruled out of order. It is inappropriate to section 5, because section 5 does not add any new policy or program. It amends existing law, Mr. Chairman, in ways that are not affected by the bill which is now before the committee. For example, the Economic Stabilization Act, there are sections there that are in this amendment that are not involved in this bill. . . .

MR. MOSS: . . . Section 5 of the bill before us requires the Administrator to:

Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the

energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise. . . .

The amendment I have offered is a limitation upon the Administrator. It says he cannot go back before the prices set in May of 1973 in the exercise of his authority, excepting that he may add a total of \$1.35, bringing to \$5.25 a barrel the effective price of crude oil. It does provide that there can, upon certain findings by the Administrator, be an increase to \$7.09. . . .

. . . We are limiting the discretion. We are limiting the authority which we are by this act itself, the proposed legislation in the Committee on Government Operations, granting to the administrator. Clearly that is germane; clearly that is within the province of this committee and of this House to limit the scope of authority conferred or being conferred upon a new office. . . .

THE CHAIRMAN:⁽⁵⁾ The Chair is prepared to rule.

The gentleman from California (Mr. Moss) has offered a substantive amendment to section 5 of this bill. The amendment has been read in its entirety and will appear in the Record of the proceedings of today.

Against this amendment the gentleman from New York (Mr. Horton) has made a point of order as follows:

That the amendment offered by the gentleman from California (Mr. Moss) is not germane to the bill or to the section of the bill to which it is presently offered.

The Chair had, of course, anticipated that further questions regarding the

5. John J. Flynt, Jr. (Ga.).

germaneness of amendments to section 5 might arise today, and for that reason the Chair has reviewed the actions taken by the Committee of the Whole on yesterday.

The Chair has carefully read and fully attempted to analyze each line of the amendment offered by the gentleman from California (Mr. Moss).

The Chair has diligently endeavored to understand the full import and the total impact of the amendment which the gentleman from California (Mr. Moss) has offered. Section 5 of the bill was amended by the amendment offered yesterday by the gentleman from California (Mr. Holifield), so that the preface to that section now reads as follows:

To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this Act or any other provisions of law. . . .

There follows in section 5 a list of functions which define the broad areas in which the Administrator may act. This list on enumeration of functions, as the Chair stated yesterday, is, of course, subject to germane amendment. Whether additional functions relating to the energy needs of the Nation, if added to this list by way of amendment, would be authorized by other provisions of this bill or by other law, is a legal question and not a parliamentary question.

Whether or not a function given the Administrator under section 5 is authorized by existing law is a matter that goes to the effect of the amendment and not to the question as to whether or not it is germane.

The Chair does not, under the precedents, rule on questions of the consist-

ency of amendments or upon their legal effect. The question upon which the Chair must now rule is, "Is the amendment in its entirety as offered by the gentleman from California germane to section 5 of the bill H.R. 11793?"

The Chair will state that section 5 sets forth the functions of the Administrator, and on yesterday the Chair enumerated some of the functions. The section includes a broad range of functions and duties, and under the rules of germaneness other related functions could be added to the list by way of amendment. Functions or duties could also be limited by way of amendment, but substantive law cannot be changed by an amendment to a section dealing with functions.

Much of what the gentleman from California (Mr. Moss) and others have said is true. Much of the amendment offered deals with functions, and part of the amendment purports to modify the Administrator's functions; but portions of the amendment extend further than defining, restricting, or limiting the functions of the Administrator.

It should be borne in mind that section 5 of this bill relates to the functions of the Administrator of the Federal Energy Administration. Although part of the amendment does define and limit the functions of the administrator, other portions of the amendment place a mandatory burden on him or, even without action on his part, effectively change existing law and pricing authority.

Therefore, the Chair sustains the point of order made by the gentleman from New York.

Policy-making Authority of New Agency Limited to That in Existing Law—Amendment Prescribing New Policy

§ 42.24 To a bill consolidating certain existing governmental functions under a new agency, amended to limit the policy-making authority of that agency to that contained in existing law, an amendment prescribing new policy by amending a law not amended by the bill is not germane.

The proceedings of Mar. 5, 1974, relating to H.R. 11793, the Federal Energy Administration Act, are discussed in Sec. 4.11, *supra*.

Authorization for Department of Energy—Amendment Authorizing Funds for Study of Tax Credits Affecting Energy Use

§ 42.25 Where existing law requires a Department to study and recommend changes in all laws on an annual basis to encourage energy conservation, an amendment to an annual authorization bill for that Department directing it to study and recommend changes in one category of laws with funds cov-

ered by the bill was held germane as confined to the fiscal year covered by the bill and as a specific direction within the general category of duties required by existing law.

On Oct. 18, 1979,⁽⁶⁾ the Committee of the Whole had under consideration a bill⁽⁷⁾ authorizing appropriations for the Department of Energy for one fiscal year, including funds for conservation programs of the Department. An amendment was offered to the bill, adding a new title authorizing appropriations for the same fiscal year for a study of legislative proposals for energy tax credits introduced in the 96th Congress, including an assessment of the costs to the United States and the savings in energy through such proposals. The amendment was held to be germane since confined to the use of funds for the appropriate fiscal year, and since the Department of Energy had the responsibility under existing law, in carrying out its conservation programs, to annually study and recommend changes in all laws to encourage energy conservation. The amendment stated:

Amendment offered by Mr. Clinger:
Page 41, after line 24, insert a new

6. 125 CONG. REC. 28763, 28764, 96th Cong. 1st Sess.

7. H.R. 3000.

title IV as follows and renumber the following titles accordingly.

TITLE IV

TAX CREDIT STUDY

Sec. 401. (a) There is authorized to be appropriated to the Department of Energy for the fiscal year ending September 30, 1980, not to exceed \$38,500 to conduct the study under subsection (b).

(b) The Secretary of Energy shall conduct a study to assess the various proposals for Federal tax credits for residential coal-heating equipment, as contained in legislation introduced in the Congress during the 96th session. The study shall include an estimate of the costs to the United States of the various tax credit proposals and an evaluation of the possible savings in consumption of heating oil and natural gas that would result from the proposals. Not later than one year after the date of the enactment of this Act, the Secretary of Energy shall submit to the Congress a report of the results of the study. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane.

Mr. Chairman, the legislation before us, H.R. 4839, is a 1-year authorization bill for the Department of Energy. It is an authorization bill which relates to the energy activities of the Department of Energy as opposed to taxable matters and taxes.

The amendment is not germane for several reasons. The first is that it relates to matters other than energy, in that it directs a study with regard to tax credits. Nowhere in the proposal before us, Mr. Chairman, do we find anything relating to tax credits in the legislation. . . .

I would point out that the Secretary of Energy, according to the language of the amendment in paragraph (b) is directed to conduct a study to assess various proposals for Federal tax credits for residential coal heating equipment as contained in the legislation in the Congress. I now quote: "During the 96th session."

Now, I assume that refers to the 96th Congress. The 96th Congress will be for this fiscal year, plus portions of the succeeding fiscal year.

I would observe that if the study includes matters which were introduced during the 96th Congress, it will include matters which were introduced after the conclusion of the fiscal year in which we find ourselves and after the conclusion of the period covered by the authorization proposal.

The amendment further in its last three lines says as follows:

Not later than one year after the date of the enactment of this Act. . . .

That mandates actions by the Secretary of Energy 1 year after the date of enactment of this statute, which would be whatever date it might be, but it would be 1 year after at least probably the conclusion of the fiscal year in question. Again I recall to the Chair the fact that the proposal before us is a 1-year authorization bill and that this mandates actions by the Secretary well after the conclusion of the period covered in the 1-year authorization bill which is before the committee.

For that reason, I believe that the amendment is nongermane. I would urge that position on the Chair. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, I would . . .

urge upon the Chair the fact that this proposal is very vague and indefinite, in that the study shall be based on all legislation which may be introduced in the 96th Congress, which is an impossibility for the Secretary to undertake, since all of the proposals in the 96th Congress have not yet been introduced and there is no limit to when they can be introduced before the end of the 96th Congress and the impossibility of meeting this 1-year deadline is within the ambiguity of this amendment.

Therefore, for that reason, Mr. Chairman, I urge that the point of order be sustained. . . .

THE CHAIRMAN PRO TEMPORE:⁽⁸⁾ The Chair is prepared to rule. The amendment offered by the gentleman from Pennsylvania directs the Secretary of Energy with funds separately authorized by the amendment for fiscal year 1980 to conduct a study to assess legislative proposals introduced in the 96th Congress which provides Federal tax credits for residential coal heating equipment in order to evaluate the costs of those proposals and possible savings in the consumption of heating oil and natural gas that would result therefrom.

The Secretary shall report his findings not later than 1 year after enactment.

The possibility that the study might not be completed within the fiscal year 1980 does not seem to the Chair to be crucial in this case, since the study is only to be funded by fiscal year 1980 funds and since other activities of the Department of Energy funded by the bill for fiscal year 1980 are ongoing in nature and could also involve contin-

ued participation beyond September 30, 1980.

A more central question is the issue of the tax study. While ordinarily revenue matters are within the jurisdiction of the Committee on Ways and Means and would not be germane to a bill reported by another committee, in the present case the Department of Energy is mandated by its organic statute (Public Law 95-91) to annually study and recommend changes in all laws and regulations needed to encourage more conservation of energy.

The Chair would also observe that title III, which the committee has already dealt with, does address the issue of energy conservation programs in the Department.

As a new title, the amendment imposes upon the Secretary of Energy for fiscal year 1980 a more specific responsibility within the ambit of the Secretary's existing authority and confined to the fiscal year covered by the titles of the bill read to this point.

The Chair would further observe that the observation made by the gentleman from Texas (Mr. Kazen) are addressed to the merits and the substance of the amendment rather than to its germaneness.

The Chair, therefore, overrules the point of order.

Permanent Law Amendment to Authorization Bill

§ 42.26 A bill authorizing appropriations to an agency for one year but not amending the organic law by extending the existence of that agency

8. Gerry E. Studds (Mass.).

does not necessarily open up that law to amendments which are not directly related to a subject contained in the bill; accordingly, to a bill providing an annual authorization for the Energy Research and Development Administration, but not amending the basic law which created that agency, an amendment to such law, extending the existence of the Energy Resources Council (an entity not referred to in the pending bill), was held to be not germane.

During consideration of H.R. 13350 in the Committee of the Whole on May 20, 1976,⁽⁹⁾ the Chair sustained a point of order against the following amendment:

MR. [BARRY] GOLDWATER [Jr., of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Goldwater: On page 32, between lines 6

9. 122 CONG. REC. 14912, 14913, 94th Cong. 2d Sess.

See also §§41.14 and 41.17, supra, for similar instances in which a bill extended only an authorization. Compare §§39.28 and 39.30–39.32, supra, in which the bill sought to extend the existence of an agency, and amendments to the organic law creating that agency were held to be germane to the bill if germane to the basic law.

and 7, insert a new section to read as follows:

“Sec. 405. Section 108(d) of the Energy Reorganization Act of 1974 (42 U.S.C. 5818(d)) is amended by striking the words ‘two years’ and inserting therein ‘four years’, and at the end thereof adding the following:

“Beginning February 1, 1977, the Council shall annually provide to Congress a detailed report of the actions it has taken or not taken in the preceding fiscal year to carry out the duties and functions referred to in subsection (b) of this section, together with such recommendations, including legislative recommendations, the Council may have concerning the development and implementation of energy policy and the management of energy resources. The report shall include such other information as may be helpful to the Congress and the public.”. . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane to H.R. 13350.

The bill authorizes appropriations for 1 year for the programs administered by the Energy Research and Development Administration.

The amendment would have the effect of making permanent the Energy Resources Council, a body established within the Executive Office of the President. Such an amendment is clearly beyond the scope of a 1-year authorization bill and is, therefore, not germane.

Mr. Chairman, I would ask that the point of order be sustained, and I specifically refer to rule XVI, clause 7. . . .

MR. GOLDWATER: . . . Mr. Chairman, the amendment is directly related to subject matter of the bill—ERDA’s programs and how they are

carried out under the Energy Reorganization Act.

The Reorganization Act created ERDA and its programs and also the Energy Resources Council to insure the full and complete coordination of those programs and all other energy agencies and programs. ERDA's programs and the ERC go hand and glove in a programmatic sense.

FUNDAMENTAL PURPOSE AS TEST

The fundamental purpose of the amendment is to continue our only statutory mechanism for coordinating our energy programs to insure they are effective and not duplicative.

Last year, section 309 of the Authorization Act stated:

The administrator shall coordinate nonnuclear programs of the Administration with the heads of relevant Federal agencies in order to minimize unnecessary duplication.

My amendment addresses that same goal—avoiding duplication and maximizing effectiveness.

COMMITTEE JURISDICTION

The Science Committee and JAEC have sole jurisdiction over energy R. & D. programs.

Once the ERC was established, it came under the jurisdiction of the energy committees who must have responsibility for legislating effective energy programs. If we do not have it, no one does.

The ERC does not have a separate staff. It uses agency personnel on assignment in the agency's area of responsibility. So ERDA personnel can and do staff ERC functions. This bill provides the funds in program support

for those employees. Therefore, this bill actually will fund the extended activities of ERC in fiscal year 1977 under my amendment.

GENERAL VERSUS SPECIFIC

This is specific amendment to the general provisions. It is an ERDA program-wide provision, that is to have a continued, statutory mechanism for coordination of all energy programs.

AMENDMENT TO EXISTING LAW

The amendment merely extends the ERC for 2 years by a minimal change in the Energy Reorganization Act. The thrust is basically programmatic in nature, not a substantive change.

The bill is under the Reorganization Act, and further the Reorganization Act requires in section 305 that there be an annual authorization for "appropriations made under this act."

The Reorganization Act, the ERDA program and the ERC—under section 108—of the act are all tied together.

KEY POINT

The amendment is germane, because this bill includes program support for the salaries of ERDA employees who staff parts of the Energy Resources Council.

THE CHAIRMAN:⁽¹⁰⁾ The Chair is prepared to rule.

The Chair has examined the amendment and has listened to the argument in support of the point of order and to the argument presented by the gentleman from California (Mr. Goldwater) very carefully and it, indeed, is an argument which deserves the careful attention of the Chair.

10. J. Edward Roush (Ind.).

The Chair would call attention to the fact that the amendment offered by the gentleman from California (Mr. Goldwater) seeks to amend the Energy Reorganization Act of 1974 by extending the life of the Energy Resources Council.

The point of order is made that the amendment is not germane and that the amendment goes beyond the scope of the bill before us.

The bill before the committee at this time is an annual authorization bill. It is a bill to authorize appropriations for the Energy Research and Development Administration and does not amend the basic organic statute which established ERDA.

The Chair is constrained to state that, in his opinion, the amendment offered by the gentleman from California (Mr. Goldwater) goes beyond the scope of the bill which is pending before the committee at this time in that that bill does not directly amend the Energy Reorganization Act of 1974 nor does it deal with the Council as a separate entity.

The Chair would refer to Deschler's Procedure, chapter 28, section 33, and the numerous precedents set out there concerning amendments changing existing law to bills not citing that law.

The Chair, therefore, sustains the point of order.

Study of Energy Conservation—Additional Study

§ 42.27 To an amendment in the nature of a substitute establishing a Federal Energy Administration and directing that agency to conduct a

comprehensive study of energy conservation, an amendment directing that agency to conduct another study as to whether regulations issued under the Economic Stabilization Act were contributing to the energy shortage was held to be germane.

During consideration of H.R. 11450⁽¹¹⁾ in the Committee of the Whole on Dec. 14, 1973,⁽¹²⁾ the Chair held that to a proposition establishing an executive agency and conferring broad authority thereon, an amendment directing that agency to conduct a study of a subject within the scope of that authority was germane:

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

The Clerk read as follows:

Amendment offered by Mr. Jones of Oklahoma to the amendment in the nature of a substitute offered by Mr. Staggers:

On page 9, after line 22, section 104 is amended by inserting the following new subsection after subsection (c), and redesignating the subsequent subsections:

Sec 2. Price Control and Shortages. The President and the Administrator shall conduct a review of all rulings and regulations issued pur-

11. The Energy Emergency Act.

12. 119 CONG. REC. 41752, 93d Cong. 1st Sess.

suant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of petroleum products, coal, natural gas, and petrochemical feedstocks, and of materials associated with the production of energy supplies, and equipment necessary to maintain and increase the exploration and production of coal, crude oil, natural gas, and other fuels. The results of this review shall be submitted to the Congress within thirty days of the date of enactment of this Act. . . .

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

Mr. Chairman, as the Chair will note, the amendment before us imposes the duty upon the President to perform a study related to the effectiveness and the effects of another statute, namely, the Economic Stabilization Act. As the Chair notes, the Economic Stabilization Act and studies under the Economic Stabilization Act lie in the jurisdiction of another committee, namely the Committee on Banking and Currency.

I am sure the Chair is also aware that nowhere else in this statute appears the Economic Stabilization Act.

While I recognize the merits of the amendment offered by the gentleman from Oklahoma and salute him for an awareness of a problem of considerable importance, nevertheless the rules of this House do not permit this committee to amend the Economic Stabilization Act, referring to the Committee on Interstate and Foreign Commerce, and indeed the Economic Stabilization Act is not mentioned anywhere else in the bill.

Of course, it follows the committee of which we are now a part may not direct studies relating to the effect of that under the guise of amending the bill H.R. 11882, because it deals with different matters.

I make a point of order against the amendment on the grounds of germaneness. . . .

MR. JONES of Oklahoma: I think the amendment is germane to this bill, because in the first place it does fit into the overall concept of the bill in trying to ease our energy problems and fits in with the title of the bill.

Second, it does not amend the Economic Stabilization Act in any way but merely calls for a study to give to this Congress information that will be necessary in case an amendment to that act is necessary in the future.

So I believe it is germane to this bill, because, it does fit into the overall objective.

THE CHAIRMAN:⁽¹³⁾ The Chair is prepared to rule.

The amendment offered by the gentleman from Oklahoma (Mr. Jones) only provides for a study of certain effects of actions taken under the Economic Stabilization Act. The amendment in the nature of a substitute in its present form is replete with various studies.

Therefore the Chair overrules the point of order.

Bill Authorizing Environmental Research and Development—Amendment Adding Permanent Regulatory Authority

§ 42.28 To a bill authorizing environmental research and

13. Richard Bolling (Mo.).

development by an agency for two years, an amendment adding permanent regulatory authority to that agency by amending a law not being amended by the bill and not within the jurisdiction of the committee reporting the bill is not germane.

On June 4, 1987,⁽¹⁴⁾ the Committee of the Whole had under consideration H.R. 2355, the Environmental Research and Development Authorization for fiscal 1988 and 1989, reported from the Committee on Science, Space and Technology. The bill had as its purpose the authorization of environmental research and development programs. An amendment was offered which sought to amend the Clean Air Act, a law not amended by the bill and one that was within the jurisdiction of the Committee on Energy and Commerce. The amendment, moreover, sought to provide new regulatory authority for the agency that was to conduct the research and development programs.

The Clerk read as follows:

H.R. 2355

Be it enacted by the Senate and House of Representatives of the

14. 133 CONG. REC. 14739, 14753-14755, 14757, 100th Cong. 1st Sess.

United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1987".

SEC. 2. GENERAL AUTHORIZATIONS.

(a) Environmental Research, Development, and Demonstration.—There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development and demonstration activities, the following sums:

(9) \$55,866,600 for fiscal year 1988 for energy activities of which not more than \$52,331,100 shall be for acid deposition research, and \$56,216,900 for fiscal year 1989 for energy activities of which not more than \$52,611,900 shall be for acid deposition research. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 12, after line 22, insert the following new section:

SEC. 8. ACID DEPOSITION CONTROL.

Title I of the Clean Air Act is amended by adding at the end thereof:

"PART E—ACID DEPOSITION CONTROL

"SEC. 181. EMISSIONS FROM UTILITY BOILERS.

"(a) State Plans to Control Emissions.—Not later than one year after the enactment of this section, the Governor of each State shall submit to the Administrator a plan establishing emission limitations and compliance schedules for controlling

emissions of sulfur dioxide and oxides of nitrogen from fossil fuel fired electric utility steam generating units in the State. The plan shall meet the requirements of subsections (b) and (c). . . .

“SEC. 185. FEES.

“(a) Imposition.—Under regulations promulgated by the Administrator, the Administrator may impose a fee on the generation and importation of electric energy. Such fee shall be established by the Administrator at such level (and adjusted from time to time) as will ensure that adequate funds are available to make interest subsidy payments in the amount authorized under section 187. . . .

SEC. 102. REVISIONS OF NEW SOURCE PERFORMANCE STANDARDS FOR CONTROL OF NITROGEN OXIDE EMISSIONS.

Section 111 of the Clean Air Act is amended by adding the following new subsections at the end thereof:

“(k) . . . The Administrator shall revise the standards of performance for emissions of nitrogen oxides from electric utility steam generating units which burn bituminous or sub-bituminous coal. . . .

MR. [ROBERT A.] ROE [of New Jersey]: . . . On the point of order, Mr. Chairman, the committee feels that the amendment as drafted by the gentleman from Vermont [Mr. Jeffords] has a regulatory purpose which goes beyond the R&D programs authorized by this bill. And for this reason the amendment is not germane. . . .

MR. JEFFORDS: Mr. Chairman, I would like to point out that section 2 of this bill states as follows, the first sentence after the title of section A: “There are authorized to be appropriated to the Environmental Protection Agency for environmental re-

search, development and demonstration activities the following sums” and it delineates the amounts of those sums. Some of those are for activities which are authorized under the Clean Air Act. So we have money authorized here. The amendment I have will use little or no funds of those. There is nothing in here that says it is prohibited from using those funds. The amendment that I offered and as I say has no budgetary impact in addition to what is already authorized under this bill, it provides for the development of State plans to take care of the problems of acid rain. It authorizes studies which are research programs. It also authorizes development programs to control the emissions consistent with the Clean Air Act by amending the Clean Air Act to do that, both for stationary sources and mobile sources and also authorizes certain field experiments.

I believe it is well within the authority that is gathered and given by this bill which is a bill of general nature within the areas being authorized. So I feel it is well within the jurisdiction of the committee, there is no question about that and I believe it is germane.

THE CHAIRMAN:⁽¹⁵⁾ . . . [T]he Chair is prepared to rule.

The Chair is ruling that the gentleman’s amendment, the gentleman from Vermont, amends a law that does not come within the jurisdiction of the Committee on Science, Space, and Technology. In addition, the pending bill is research and development legislation and the gentleman concedes that he not only addresses a research issue, but addresses regulation regarding

15. Nick J. Rahall, II (W. Va.).

acid rain that is outside the jurisdiction of the committee reporting the pending bill.

The gentleman from New Jersey's point of order is sustained.

Temporary Suspension of Environmental Laws—Amendment To Prohibit Federal Assistance Under Another Law

§ 42.29 To a proposition temporarily suspending certain requirements of a law, an amendment accomplishing that result by prohibiting federal assistance under another law (within the jurisdiction of a different House committee) where there has been failure to comply with standards imposed by the amendment was held to be not germane.

On May 1, 1974,⁽¹⁶⁾ during proceedings relating to H.R. 14368, the Energy Supply and Environmental Coordination Act of 1974, the Committee of the Whole was considering an Interstate and Foreign Commerce Committee amendment in the nature of a substitute amending several sections of the Clean Air Act to permit limited variances from environmental requirements, including the temporary suspension of

16. 120 CONG. REC. 12520, 12522–24, 93d Cong. 2d Sess.

certain emission standards imposed upon automobile manufacturers. An amendment was offered which sought to impose restrictions on emissions, only for new automobiles, in designated geographical areas, through requirements affecting the manufacture, purchase, and registration of automobiles. The amendment also sought to withdraw state entitlements to federal assistance under the Clean Air Act or under the Federal Water Pollution Control Act. The latter Act was within the jurisdiction of the Committee on Public Works. The amendment was ruled out of order as not germane. The proceedings are discussed in greater detail in §4.5, *supra*.

Temporary Suspension of Clean Air Act Requirements—Suspension of Requirements of Other Environmental Laws

§ 42.30 To a proposition temporarily suspending certain requirements of the Clean Air Act, an amendment temporarily suspending other requirements of all other environmental protection laws was held not germane.

The proceedings of Dec. 14, 1973, relating to H.R. 11450 (the Energy Emergency Act), are discussed in §9.44, *supra*.

Bill Amending Federal Water Pollution Control Act—Amendment to Clean Air Act

§ 42.31 To a bill reported from the Committee on Public Works and Transportation amending the Federal Water Pollution Control Act, an amendment amending the Clean Air Act (a statute within the jurisdiction of the Committee on Energy and Commerce) to regulate “acid rain” by controlling emissions into the air was held not germane as amending a law and dealing with a subject within the jurisdiction of another committee.

On July 23, 1985,⁽¹⁷⁾ during consideration of H.R. 8, the Water Quality Renewal Act of 1985, the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Conte: Page 113, after line 13, insert the following new title:

TITLE II—ACID DEPOSITION CONTROL

SECTION. 1. SHORT TITLE.

17. 131 CONG. REC. 20041, 20050–52, 99th Cong. 1st Sess.

This title may be cited as the “Water Quality Improvement and Acid Deposition Reduction Act of 1985.”

SEC. 2. PURPOSE.

The purpose of this Act is to improve water quality, protect human health and preserve aquatic resources in the United States by reducing the threat of acid deposition.

Subtitle I—Acid Deposition Control and Assistance Program

SEC. 101. AMENDMENT OF CLEAN AIR ACT.

Title I of the Clean Air Act is amended by adding the following new part at the end thereof:

“PART E—ACID DEPOSITION CONTROL

“Subpart 1—General Provisions

“Sec. 181. purpose of part.

“The purpose of this part is to decrease sulfur dioxide emissions in the 48 contiguous States by requiring certain electric utility plants and other sources to reduce their rates of sulfur dioxide emissions. The reduced rates shall be rates which (if achieved by those sources in the emissions baseline year) would have resulted in total emissions from such sources 12,000,000 tons below the actual total of sulfur dioxide which those sources emitted in the emissions baseline year. The reduction is to be achieved within 10 years after the date of the enactment of this part. Such reduction shall be achieved through—

“(1) a program under subpart 2 consisting of direct federally mandated emission limitations for 50 of the largest emitters of sulfur dioxide.

. . .

MR. [M. G.] SNYDER [of Kentucky]: . . . The amendment which the gentleman offers is not germane. It is,

with minor changes, substantially that embodied in H.R. 1030, which the gentleman introduced on February 7, 1985. The purpose of that bill was to decrease sulphur dioxide emissions by requiring certain electric utilities plants and other sources to reduce their rates of emissions. Since the bill made extensive amendments to the Clean Air Act, it was referred solely to the Committee on Energy and Commerce, who have jurisdiction of this matter.

Today we have almost identical provisions before us embodied in Mr. Conte's amendment which are far beyond the scope of the bill we are now considering, H.R. 8, and deal with the subject properly within the jurisdiction of another committee, that is, the Committee on Energy and Commerce.

The scope of H.R. 8 is limited to the Clean Water Act and does not include extensive amendments to the Clean Air Act as the gentleman has proposed.

MR. CONTE: . . . Mr. Chairman, the amendment I feel is germane to the committee amendment. It deals with the same subject matter as contained in the bill.

For example, the committee amendment includes a program to address the acidification of this Nation's lakes. If implemented, this amendment would accomplish the same goal by controlling the source of this acidity. Also, the bill, as a whole, is concerned with the protection and improvement of water quality in this country. And this amendment directly addresses the protection of water quality by controlling acid rain.

For these reasons, the amendment is in order and germane to the bill. . . .

MR. [HOWARD C.] NIELSON of Utah: . . . The Public Works and Transportation Committee does have water pollution, but they do not have air pollution; they do not have air quality in their committee.

As the gentleman from Kentucky appropriately stated, this is the exclusive province of the Committee on Energy and Commerce and the Health and Environment Subcommittee of that committee. . . .

THE CHAIRMAN:⁽¹⁸⁾ It is the ruling of the Chair that the amendment changes a law not amended in the pending bill and outside the jurisdiction of the reporting committee, and deals with the regulation of emissions not within the scope of the bill.

For that reason, the amendment is not germane.

Exemptions From Endangered Species Act for Economic Development Projects—Amendment Conferring New Authorities on Officials With Respect to Projects

§ 42.32 To a bill amending the Endangered Species Act to establish new procedures for determining the extent of protection to be accorded to endangered species by permitting exemptions for qualifying economic development projects, an amendment waiving the provisions of that Act and other laws to

18. Harry M. Reid (Nev.).

permit construction of certain public works projects and to require modifications of those projects by federal officials whose authorities to regulate those projects were not addressed by the pending bill, was ruled out as nongermane since broadening authorities of agencies not directly covered by the bill.

On Oct. 14, 1978,⁽¹⁹⁾ during consideration of H.R. 14014 in the Committee of the Whole, the Chair sustained a point of order against the amendment described above. The pending section of the bill and the amendment offered thereto were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

Sec. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any

species which was listed prior to enactment of the Endangered Species Act Amendments of 1978." . . .

MR. [TENÓ] RONCALIO [of Wyoming]:
Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mr. Roncalio: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) . . . and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended; and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the National Environmental Policy Act, and the Endangered Species Act; *Provided That* following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Secretary of the Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after

19. 124 CONG. REC. 38134, 38140, 38141, 95th Cong. 2d Sess.

consultation as appropriate with the affected States.”. . .

MR. JOHN J. CAVANAUGH [of Nebraska]: Mr. Chairman, I make a point of order against the amendment on the grounds it is not germane. The amendment deals with several statutes not before the House committee. It would affect the National Environment Policy Act, 42 U.S.C. 4321; the Federal Water Pollution Control Act, 16 U.S.C. 531; the Rural Electrification Act and loan guarantees and approvals thereunder, and legislation creating the Missouri Basin power project.

The amendment could have gone to the Committees on the Interior and Public Works, as those are the committees with jurisdiction over the basic statutes cited.

The amendment imposes duties and burdens specifically on the Corps of Engineers and other agencies, such as the Environmental Protection Agency, which are not subject to specific mandate in the Endangered Species Act, which we are considering today. . . .

MR. RONCALIO: . . . In the first place, the amendment seeks to change none of the statutes which my good friend, the gentleman from Omaha, has cited.

The precedents are clearly established for comparable legislation. I shall read from the most recent one, from Deschler's Procedures in the U.S. House of Representatives, page 477, at which there is cited under the amendments and the germaneness rule:

§5.18 For a bill authorizing the construction of a trans-Alaska oil-gas pipeline pursuant to procedures—

That bill came out of this very body not 4 years ago—

promulgated by the Secretary of Interior and including a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted, an amendment in the nature of a substitute containing a similar series of safeguards and including an exception from the prohibition against judicial review—to provide a mechanism for expediting other actions challenging pipeline permits—was held germane. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

The holding at that time survived a challenge against it and was held germane, even though there was a prohibition against providing a mechanism for expediting other actions challenging pipeline permits, whether they be for the Corps of Engineers or any others; so the amendment is clearly germane to the proceedings today. . . .

MR. CAVANAUGH: Mr. Chairman, I just reiterate that the amendment does impose new duties and obligations upon agencies of Government not in consideration in this legislation, the National Environmental Protection Policy Act, the Federal Water Pollution Control Act, and the REA Act, and imposes new burdens and obligations upon those agencies not envisioned in this legislation. . . .

MR. RONCALIO: Mr. Chairman, the amendment imposes no burden of any kind on anybody. It imposes no burden whatever on the staffers of any of the agencies mentioned by the gentleman from Nebraska. It lets them go about their work and do nothing. It does not impose a duty of any kind.

THE CHAIRMAN:⁽²⁰⁾ . . . The Chair, in exploring the amendment in the

20. B. F. Sisk (Calif.).

very brief time in which the Chair has had to look at this and exploring the cited examples, feels that this is not a question actually of waiver, but rather a question of the expanded authority and responsibility and obligation of the Departments cited by the gentleman from Nebraska in connection with his point of order, such as that calling for expanded authority on the part of the Army Corps of Engineers and the Rural Electrification Administration—authorities not covered by the pending bill.

Therefore, based on the brief opportunity the Chair has had, the Chair would find it necessary to sustain the point of order.

A similar amendment was then offered which omitted references to other statutes except the Endangered Species Act, but was also ruled out as not germane. See §35.104, *supra*.

Nuclear Regulatory Commission Authorization Bill Including Criminal Penalties for Sabotage—Amendment to Federal Criminal Code

§ 42.33 To a bill authorizing appropriations for the Nuclear Regulatory Commission, amended by several permanent changes in law relating to the organization of the Commission and to regulation of nuclear facilities, including a provision amending the Atomic Energy

Act to impose a criminal penalty for sabotage of nuclear facilities, an amendment in the form of a new title amending the Federal Criminal Code to make it a felony to assault a Commission inspector was held to be germane as within the class of conduct already covered by the bill although amending a different law.

On Dec. 4, 1979,⁽¹⁾ the Committee of the Whole was considering H.R. 2608, the Nuclear Regulatory Commission authorization for fiscal 1981, under a special rule prohibiting, with one exception, amendments to the bill that “amend or affect” the Atomic Energy Act. The following amendment, among others, had been agreed to:⁽²⁾

Amendment offered by Mr. Harris: Page 11, after line 15, add the following new section:

Sec. 303. The Atomic Energy Act of 1954 is amended by adding a new section to read as follows:

“Sec. 235. Sabotage of Nuclear Facilities”.—

“(a) Any person who willfully injures, destroys, or contaminates . . . any nuclear production facility . . . or utilization facility licensed under this Act . . . any special nuclear material or byproduct material possessed pursuant to a license issued

1. 125 CONG. REC. 34514, 34518, 34519, 96th Cong. 1st Sess.

2. *Id.* at p. 34516.

by the Commission under section 53 or section 81 of this Act . . . or any special nuclear material or byproduct material contained in a carrier, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: Page 11, after line 15, add the following new title:

TITLE IV—PROTECTION FOR INSPECTORS

Sec. 401. Section 1114 of Title 18, United States Code is amended by inserting "any construction inspector or quality assurance inspector on any Nuclear Regulatory Commission licensed project," after "Department of Justice." . . .

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, on my point of order, according to the rule, these modifications of major law are not allowed, and this is a modification of the law, so it is not appropriate at this time. It is not germane to the bill.

MR. GONZALEZ: . . . I find nothing here that conflicts with the particular wording of the rule under which this is being considered.

In the first place, it does not address itself to any revision of the Atomic Energy Commission Act.

In the second place, it addresses itself to a fundamental problem, a most significant and most disturbing problem that should concern all Members of Congress writing laws on the inspection process, which is the key and the heart of the whole deficiency that we have heard many complaints about the NRC.

Therefore, I cannot think of anything more germane than this amendment, which merely says that it shall be an offense to assault, attack or criminally intimidate an inspector. . . .

I cannot find any real reason why this would not fall squarely within the definition of the rule limitations, as well as an amendment that has already been adopted, having to do with culpability and sanctions. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . We have had what is called a modified closed rule here in which certain kind of amendments were ruled out. It seems to me that the amendment of the gentleman from Texas is not within the scope of the rule adopted by the House.

Second, the gentleman's amendment would change title 18, section 114, which is the Criminal Code of the United States and deals with protection of officers and employees of the United States in the performance of their duties.

I do not see anything in the bill that relates to that title 18.

I therefore urge the point of order be sustained.

THE CHAIRMAN:⁽³⁾ . . . (T)he Chair is prepared to rule.

There are two bases for possible objection here with regard to this amendment. The first is in regard to the rule and the statement in the rule prohibiting with one exception any amendment to the bill that amends or affects the Atomic Energy Act. This amendment in no way affects or changes the Atomic Energy Act.

The second possible basis is with regard to germaneness to the bill as a

3. Leon E. Panetta (Calif.).

whole, in its amended state. There are in the bill as amended diverse permanent provisions of law that deal with civil and criminal sanctions, the most relevant of which was the Harris amendment. This amendment would impose criminal sanctions for assaults on an Atomic Energy employee, a matter within the class of general subjects related to nuclear regulations and safeguards already covered by the bill as amended.

Therefore, it is the opinion of the chair that the amendment is germane, considering the other amendment dealing with criminal violations against the Federal nuclear establishment.

Therefore, the Chair overrules the point of order on the amendment.

Parliamentarian's Note: Arguably, a showing could have been made that such an amendment as that proposed to Title 18 of the United States Code could be construed as "affecting" the criminal provisions contained in the Atomic Energy Act, which would have caused the amendment to be ruled out under the unique provisions of the special modified closed rule on the bill, which prohibited amendments that "amend or affect" the Atomic Energy Act. It is also worth noting that, while the question of committee jurisdiction was not raised with respect to the issue of germaneness, the ruling supports the proposition that committee jurisdiction over a law is not the sole test of germaneness of an amendment where the bill

being amended already contains provisions on the same general subject, although not specifically amending that law.

Bill To Increase Strength of Armed Services—Amendment To Amend Internal Revenue Code

§ 42.34 To a bill, reported by the Committee on Armed Services, to provide for the common defense by increasing the strength of the armed forces, an amendment seeking to amend the Internal Revenue Code, a matter within the jurisdiction of the Committee on Ways and Means, was held not germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,⁽⁴⁾ the following amendment was offered:⁽⁵⁾

Amendment offered by Mr. Eberharter: Amend H.R. 6401, on page 43, line 1, by inserting after the period the following: "Section 22(b) (relating to exclusions from gross income) of the Internal Revenue Code is hereby amended by striking out 'January 1, 1949' wherever occurring therein, and inserting in lieu thereof 'January 1,

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

5. 94 CONG. REC. 8701, 80th Cong. 2d Sess., June 17, 1948.

1951.' Section 10(b) of the act of August 8, 1947 (Public Law 384, 80th Cong.), entitled 'An act to terminate certain tax provisions before the end of World War II' is hereby amended by striking out 'January 1, 1949' and inserting in lieu thereof 'January 1, 1951'."

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

MR. [HAROLD] KNUTSON [of Minnesota]: Mr. Chairman, it is with great reluctance that I make a point of order against the amendment. It has to do with the revenue laws and should be considered by the Ways and Means Committee. The amendment . . . is clearly out of order on this legislation. . . .

MR. [HERMAN P.] EBERHARTER [of Pennsylvania]: . . . Section 14 of the bill provides for the pay and allowances of the members who will be inducted under this bill. My amendment has reference to their pay and allowances and merely seeks to maintain the same rate of pay as is now in existence for the men in the armed services whose rate of pay will be changed in January next. . . .

THE CHAIRMAN:⁽⁶⁾ . . . Clearly the amendment proposes to legislate on the Internal Revenue Code which is legislation that would be within the jurisdiction of the Committee on Ways and Means. Therefore the Chair is constrained to sustain the point of order.

Military Procurement Contracts—Amendment Affecting Contracts of Other Agencies

§ 42.35 To a title of a bill reported from the Committee

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

on Armed Services amending several laws within the jurisdiction of that committee on the subject of military procurement and military departments, an amendment amending and extending the Renegotiation Act, a matter within the jurisdiction of the Committee on Banking, Finance and Urban Affairs and covering not only the Department of Defense procurement contract profits but also contracts entered into by other agencies not within the jurisdiction of the Committee on Armed Services was held to be not germane.

On June 26, 1985,⁽⁷⁾ during consideration of H.R. 1872⁽⁸⁾ in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Gonzalez: At the end of Title VIII (page 143, after line 19), add the following new section:

SEC. 802. WAR PROFITEERING PROHIBITION ACT.

(a) Section 102 of the Renegotiation Act of 1951 (50 U.S.C. App.

7. 131 CONG. REC. 17417-19, 99th Cong. 1st Sess.

8. The Defense Department Authorization for fiscal 1986.

1212) is amended by adding at the end thereof the following:

“(f) Certain Amounts Received After October 1, 1985.—Notwithstanding the provisions of subsection (a), the provisions of this title shall not apply to contracts with departments, or related subcontracts, to the extent of the amounts received or accrued by a contractor or subcontractor during the period beginning on October 1, 1985, and ending on the date of the enactment of this subsection.”

(b) The last sentence of section 102(c)(1) of the Renegotiation Act of 1951 (50 U.S.C. App. 1212(c)(1)) is amended to read as follows: “For purposes of this title, the term ‘termination date’ means September 30, 1988.”. . .

MR. [WILLIAM L.] DICKINSON [of Alabama]: . . . I make a point of order on the amendment offered by the gentleman from Texas, in that it is non-germane under the rule. The subject matter falls principally outside the jurisdiction of this committee, and the Renegotiation Act to which the amendment applies includes a variety of departments in the executive branch over which this committee has no jurisdiction or oversight or authority, and nothing in this bill pertains to it or would give rise to the amendment.

So I would insist, reluctantly, on my point of order. The amendment is well intended, and I cannot argue with the thrust of that either, but I do think at this point (it) is not germane, and I do insist upon my point of order. . . .

THE CHAIRMAN PRO TEMPORE:⁽⁹⁾ The Chair is prepared to rule on the gentleman’s point of order.

The amendment would make certain changes in, and extend the provisions

of, the Renegotiation Act of 1951. That act was originally in the jurisdiction of the Committee on Ways and Means, but the Committee Reform Amendments of 1974 transferred specific jurisdiction over renegotiation to the Committee on Banking, Finance and Urban Affairs. The act covers contracts for procurement and construction necessary for the national defense, but the act covers not only the Department of Defense and the military departments, but also the Maritime Administration, the General Services Administration, the Atomic Energy Commission, the National Aeronautics and Space Administration, the Federal Aviation Agency, and such other agencies having a connection with the national defense as the President may designate. The title of the bill under consideration deals with procurement for the Department of Defense and the military departments, and not with other agencies outside the jurisdiction of the Committee on Armed Services.

Since the subject matter of the amendment goes beyond the coverage of the title and bill under consideration, and since it falls squarely within the jurisdiction of another committee, the Chair sustains the point of order.

Muster-Out Pay Bill—Amendment To Amend Selective Service and Training Act

§ 42.36 To a bill providing muster-out pay for men in the armed services, an amendment seeking to amend the Selective Service and Training Act of 1940 to provide

9. Marty Russo (Ill.).

that agencies of the Selective Service System be used for the purpose of furnishing advice and assistance to members of the armed services and their heirs and representatives with regard to claims and rights, was held not germane.

On Jan. 19, 1944,⁽¹⁰⁾ the Committee of the Whole had under consideration the Muster-Out Pay Bill of 1944.⁽¹¹⁾ The bill stated in part:

Be it enacted, etc., That (a) except as provided in subsection (b) of this section, each member of the armed forces who shall have been engaged in active service in the present war, and who is discharged or relieved from active service under honorable conditions on or after December 7, 1941, shall be eligible to receive mustering-out payment.

(b) No mustering-out payment shall be made to—

(1) any member of the armed forces who, at the time of discharge or relief from active service, is receiving base pay at a higher rate than the base pay of the third period as prescribed in section 1 of the Pay Readjustment Act of 1942, as amended. . . .

Sec. 2. (a) Mustering-out payment for persons eligible under section 1 shall be in sums as follows:

(1) \$300 for persons who have performed active service for 60 days or more;

(2) \$100 for persons who have performed active service for less than 60 days. . . .

(3) Any member of the armed forces entitled to mustering-out payment who shall have been discharged or relieved from active service under honorable conditions before the effective date of this act shall, if application therefor is made within 1 year after the date of enactment of this act, be paid such mustering-out payment by the War Department or the Navy Department, as the case may be, beginning within 1 month after application has been received and approved by such department. . . .

Sec. 5. (a) Mustering-out payments due or to become due under this act shall not be assignable and any payments made to or on account of a veteran hereunder shall be exempt from taxation. . . .

Sec. 6. As used in this act, the term "member of the armed forces" means any member of the Army or Navy of the United States, the United States Marine Corps, the United States Coast Guard, or any of their respective components. . . .

Sec. 7. Appropriations for the Army and Navy, and the several components thereof, respectively, shall be available for the payments provided by this act and necessary administrative expenses. There is hereby authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this act. Amounts expended hereunder shall be included in the annual reports to the Congress by the departments concerned.

An amendment was offered, as follows:

Amendment offered by Mr. Voorhis of California: on page 9, line 25, insert a new section as follows:

Sec. 8. The Selective Training and Service Act of 1940 as amended is

10. 90 CONG. REC. 424, 78th Cong. 2d Sess.

11. S. 1543 (Committee on Military Affairs).

further amended by adding to section 8-G thereof the following: Under such rules and regulations as the Director of Selective Service may prescribe, the facilities . . . and personnel of the Selective Service System shall be available for the purpose of furnishing advice and assistance to members of the armed forces and to their heirs . . . or legal representatives in connection with their claims for any rights, benefits . . . or allowances . . . due by reason of service in the armed forces. . . .

Mr. Andrew J. May, of Kentucky, having raised a point of order against the amendment, the proponent of the amendment stated:⁽¹²⁾

MR. [H. JERRY] VOORHIS of California: . . . This is a bill for mustering-out pay. My amendment seeks to provide machinery which would be, in my judgment, of very marked assistance to the veteran at the time he is mustered out. . . . I think it might well be that in a great many cases the payment of this mustering-out pay, if made to the veteran, could be accompanied by advice and counsel and help which he may receive from his local draft board, and would make the payment of that mustering-out pay of greater benefit to him than would otherwise be the case.

The Chairman,⁽¹³⁾ without elaboration, held that the amendment was not germane to the bill.

12. 90 CONG. REC. 425, 78th Cong. 2d Sess.

13. Howard W. Smith (Va.).

Bill To Amend Selective Service Act—Amendment To Amend Naturalization Laws

§ 42.37 To a bill to amend the Selective Service Act of 1948, an amendment proposing to amend the naturalization laws was held not germane.

In the 82d Congress, during consideration of a bill⁽¹⁴⁾ comprising amendments to the Universal Military Training and Service Act, the following amendment was offered:⁽¹⁵⁾

Amendment offered by Mr. Sadlak:

Page 26, following the amendment offered by Mr. Walter, insert the following: "Any citizen of a foreign country who . . . shall have been inducted into the Armed Forces of the United States pursuant to the provisions of this title, shall be eligible for full and immediate United States citizenship in accordance with the provisions of section 22 of this title."

On page 52, after line 14, insert the following new paragraph:

(y) The Selective Service Act of 1948 (62 Stat. 604), as amended, is further amended by adding at the end of title I thereof a new section, as follows:

NATURALIZATION OF PERSONS INDUCTED OR ENLISTED IN THE ARMED FORCES

Sec. 22. (a) Any person not a citizen . . . who on or after June 25,

14. S. 1-1951 (Committee on Armed Services).

15. 97 CONG. REC. 3909, 3910, 82d Cong. 1st Sess., Apr. 13, 1951.

1950, and not later than June 3, 1952, has actively served or actively serves, honorably, in the Armed Forces of the United States and who, having been lawfully admitted . . . to the United States, including its . . . possessions . . . shall have been at the time of his . . . induction within any such areas may (notwithstanding the provisions of sections 303 and 326 of the Nationality Act of 1940, as amended) be naturalized upon compliance with all of the requirements of the naturalization laws, except that (1) no declaration of intention and no period of residence within the United States or any State shall be required. . . .

The following exchange⁽¹⁶⁾ concerned a point of order raised against the amendment:

MR. [CARL] VINSON [of Georgia]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the pending bill.

THE CHAIRMAN: G5(17) Does the gentleman from Connecticut desire to be heard on the point of order? . . .

MR. [ANTONI N.] SADLAK [of Connecticut]: Mr. Chairman, how much time will be allotted to me for that purpose?

THE CHAIRMAN: That is in the discretion of the Chair. The gentleman's argument must be confined to the point of order. The Chair will hear the gentleman on the point of order.

MR. SADLAK: . . . Under the provisions of S. 1 aliens who are legally here in the United States will be more readily inductible into the armed services than heretofore because of the provisions that have been added to the

original measure. Since we are bringing them into service under the bill and because many will continue to come within the provisions of this act voluntarily by enlistment, I feel my amendment has positive germaneness since it is directly concerned with those actively engaged in the common defense and security of the United States as is this title of S. 1. . . .

THE CHAIRMAN: . . . It appears clearly that the scope of the amendment is beyond the scope covered by the pending bill and, therefore, the Chair sustains the point of order.

Direct Loans for Veterans—Use of Specified Funds for Guaranteed Mortgages

§ 42.38 To a bill encouraging new residential construction for veterans' housing by increasing the maximum authorized for direct loans, an amendment authorizing use of a portion of the National Service Life Insurance Fund for purchase of guaranteed mortgages, was held to be not germane.

On Mar. 25, 1957,⁽¹⁸⁾ the Committee of the Whole had under consideration a bill⁽¹⁹⁾ to encourage new residential construction for veterans' housing. The bill stated in part:

Be it enacted, etc., That section 512 of the Servicemen's Readjustment

18. 103 CONG. REC. 4312, 85th Cong. 1st Sess.
19. H.R. 4602 (Committee on Veterans' Affairs).

16. *Id.* at p. 3910.

17. Jere Cooper (Tenn.).

Act of 1944 (38 U.S.C., sec. 694 (l) is amended to read as follows:

“DIRECT LOANS TO VETERANS

“Sec. 512. (a) The Congress finds that housing credit under section 501 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

“(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed under section 501 of this title, he shall designate such rural area or small city or town as a ‘housing credit shortage area’, and shall make, or enter into commitments to make, loans for any or all of the following purposes in such area—

“(1) For the purchase or construction of a dwelling to be owned and occupied by a veteran as his home;

“(2) For the purchase of a farm on which there is a farm residence to be owned and occupied by a veteran as his home. . . .

Sec. 2. (a) Subsection (a) of section 513 of such act (38 U.S.C., sec. 694m) is amended (1) by striking out “June 30, 1957” and inserting “July 25, 1958,” and (2) by inserting immediately before the period at the end of the second sentence thereof the following: “Retaining, however, a reasonable reserve for making loans with respect to which he has entered into commitments with veterans before such last day.”. . .

Sec. 3. (a) The fourth sentence of subsection (a) of section 500 of such act (38 U.S.C., sec. 694) is amended by striking out all that follows “in this title,” and inserting “is automatically guaranteed by the Govern-

ment by this title in an amount not exceeding 60 percent of the loan if the loan is made for any of the purposes specified in section 501 of this title. . . .

(b) Subsection (b) of section 501 of such act (38 U.S.C., sec. 694a) is amended by striking out all that follows “(b)” to the colon immediately preceding the first proviso and inserting: “Any loan made to a veteran for any of the purposes specified in subsection (a) or subsection (c) of this section 501 is automatically guaranteed, if otherwise made pursuant to the provisions of this title, in an amount not exceeding 60 percent of the loan.”

The following amendment was offered:

Amendment offered by Mr. Edmondson: On page 9, immediately after line 20, insert the following:

(d) Such section 501 (of the Servicemen’s Readjustment Act) is further amended by adding at the end thereof the following new subsection:

“(d) In order to stabilize the price at which loans guaranteed under this section generally will be salable to investors, the President in his discretion may authorize the Administrator to invest and reinvest not more than 25 percent of the National Service Life Insurance Fund by purchasing, and making commitments to purchase, loans guaranteed under this section. . . .”

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

MR. [E. ROSS] ADAIR [of Indiana]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the pending legislation. This amendment would require an amendment to the National

Service Life Insurance Act whereas the legislation here before us today relates to the Servicemen's Readjustment Act. It would also provide funds for guaranteed loans whereas the legislation now pending relates to direct loans. . . .

In defense of the amendment, the proponent stated as follows: ⁽²⁰⁾

MR. [EDMOND] EDMONDSON [of Oklahoma]: Mr. Chairman, may I say with regard to the point of order that this amendment was written with the intention to confine definitely to the scope of this bill and to the functions of this bill the additional authority over NSLI funds that was provided for the President and for the Administrator of Veterans' Affairs. It is designed entirely to bolster and support the direct and guaranteed loan program for the veterans of the United States. I personally do not see why it requires any further amendment to the national service life insurance law because it seems to me to give an implementing authority to the President consistent with his present powers. . . . The money is affected only to the extent that it is shifted from purchase of Government bonds over to a purchase of Government-insured mortgages. . . . Further, may I point out, Mr. Chairman, the legislation does contain sections which do amend the guaranteed loan program as well as amendments of the direct loan program.

The Chairman,⁽¹⁾ in ruling on the point of order, stated:

20. 103 CONG. REC. 4313, 85th Cong. 1st Sess.

1. Robert L. F. Sikes (Fla.).

In the opinion of the Chair the bill before us, H.R. 4602, does deal primarily and solely with direct loans, and it is clearly shown in the title and elsewhere in the bill that that is the intent of the bill. The amendment which has been offered would include guaranteed loans, and it would bring in the national service life insurance. Therefore, new legislation would be brought into consideration, and in the opinion of the Chair the amendment is not germane. Therefore the Chair sustains the point of order.

***Sale of Surplus War Housing—
Amendment Proposing That
Specified Instruments, Other-
wise Nonnegotiable, Be Ac-
ceptable as Part Payment***

§ 42.39 To a bill having for its purpose the disposal of surplus war housing, an amendment proposing that "terminal leave bonds," nonnegotiable under existing law, be acceptable as part payment in purchases of such housing was held to be not germane.

In the 80th Congress, a bill⁽²⁾ was under consideration amending the National Housing Act and providing for the expeditious disposition of certain war housing. The bill provided in part: ⁽³⁾

2. H.R. 3492 (Committee on Banking and Currency).

3. 93 CONG. REC. 6916, 6918, 80th Cong. 1st Sess., June 12, 1947.

Be it enacted, etc., That this act may be cited as the "War Housing Disposal Act of 1947."

DEFINITIONS

Sec. 2. For the purposes of this act—

(1) The term "Administrator" means the Federal Works Administrator.

(2) The term "Lanham War Housing Act" means the act entitled "An act to expedite the provision of housing in connection with national defense, and for other purposes," approved October 14, 1940, as amended.

(3) The term "war housing" means any interest, owned by the United States and under the control of the National Housing Agency, in (A) housing (other than temporary housing) acquired or constructed under the Lanham War Housing Act . . . or under the Second Deficiency Appropriation Act, 1944 (Public Law 375, 78th Cong.), and (B) such other property as is determined by the Administrator to be essential to the use of such housing. . . .

TRANSFER OF WAR HOUSING TO FEDERAL WORKS ADMINISTRATION

Sec. 3. (a) The functions of the National Housing Administrator and of the National Housing Agency with respect to war housing are hereby transferred to the Administrator. . . .

SALE OF WAR HOUSING

Sec. 4. (a) All war housing (except mortgages, liens, or other interests as security) transferred to the Administrator by section 3 shall, subject to the provisions of this act, be sold for cash as expeditiously as possible and not later than December 31, 1948.

The following amendment was offered to the bill on June 18, 1947:⁽⁴⁾

Amendment offered by Mr. Rogers of Florida: Page 4, line 10, after the period insert the following sentence: "For purposes of this subsection terminal leave bonds (at face value plus interest at the time of sale) may be transferred to, and accepted by, the Administrator in lieu of cash, but shall be held by the Administrator until said bonds are payable as may be provided by law."

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

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make the point of order against the amendment that it is not germane, that it operates in effect as an amendment to the Terminal Leave Pay Act, which is not within the subject matter of the bill under discussion.

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

MR. [DWIGHT L.] ROGERS of Florida: Mr. Chairman, I do not think there is any question that this certainly deals with how these houses may be purchased. . . . The bill says cash. I provide by this amendment that for the purposes of this section the cash payment may be reduced by the value of the bond. That is all. To my mind, Mr. Chairman, it is germane. . . .

Other remarks addressed to the point of order were as follows:

4. 93 CONG. REC. 7259, 80th Cong. 1st Sess.

MR. [JOHN W.] McCORMACK [of Massachusetts]: Mr. Chairman, this bill relates to the sale of certain war housing. Certainly, it seems to me in connection with the sale of war housing that Congress can determine the method of payment. . . . It certainly seems to me if the Congress . . . tries to permit the use of these terminal-leave bonds in payment . . . it is certainly germane to this bill, the basic premise of which is the sale of certain war housing, and this is an incidental part thereof. . . .

MR. WOLCOTT: . . . Under the terminal-leave-payment bill, there is an express provision that the bonds are nonnegotiable and that the bonds are nontransferable. In order to provide that they be used as down payment . . . in connection with these projects, they must be negotiated. . . . For that reason, we amend a basic provision of the law which is not within the purview of the bill presently under consideration.

The Chairman,⁽⁵⁾ in ruling on the point of order, stated:

. . . The Chair holds the point of order is well taken, for the reason that the Terminal Leave Pay Act provided that the bonds were nonnegotiable for a definite period of time—5 years. That is not within the purview of the bill under consideration, this being a bill which does not seek to amend or change the provisions of the Terminal Leave Pay Act, but merely for the disposal of surplus housing.

The Chair sustains the point of order.

5. George B. Schwabe (Okla.).

Bill To Amend Federal Deposit Insurance Act—Amendment To Change name of Federal Savings and Loan Insurance Corporation

§ 42.40 To a bill to amend the Federal Deposit Insurance Act, an amendment proposing to change the name of the Federal Savings and Loan Insurance Corporation, which had been created by a different act, was held not germane.

In the 81st Congress, during consideration of a bill⁽⁶⁾ to amend the Federal Deposit Insurance Act, the following amendment was offered:⁽⁷⁾

Amendment offered by Mr. [Abraham J.] Multer [of New York]: Page 62, after line 4, add the following new section:

Sec. 6. The name of the Federal Savings and Loan Insurance Corporation created by section 402(a) of the National Housing Act is hereby changed to "Federal Savings Insurance Corporation," and the words "Federal Savings and Loan Insurance Corporation" wherever else appearing in law shall be deemed to mean "Federal Savings Insurance Corporation."

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

6. S. 2822 (Committee on Banking and Currency).

7. 96 CONG. REC. 10727, 81st Cong. 2d Sess., July 20, 1950.

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, the Federal Savings and Loan Association, and the Federal Savings and Loan Insurance Corporation are set up under a separate act. I do not think there is any question at all that a point of order would lie against this amendment. We have not had any hearings on this.

Remarks made by Mr. Brent Spence, of Kentucky, in defense of the amendment, were as follows:

Mr. Chairman, the purpose of changing the name of the Federal Savings and Loan Insurance Corporation is because it is a long name and is not really in conformity with what is actually done. The Federal Savings and Loan Insurance Corporation does not insure loans. . . . What they really do is insure the savings, and this designation is in accordance with their functions and their duties. . . .

. . . We have already legislated in this bill on the name of the Federal Savings and Loan Insurance Corporation, providing that if they use the phrase "Federal Savings Insurance Corporation" in their advertisements it will not be a violation of the law preventing the associations from stating they are federally insured. . . .

The Chairman,⁽⁸⁾ in ruling on the point of order, stated:⁽⁹⁾

The Committee has under consideration a bill to amend the Federal Deposit Insurance Act. The gentleman

8. Aime J. Forand (R.I.).

9. 96 CONG. REC. 10727, 10728, 81st Cong. 2d Sess., July 20, 1950.

from New York has offered an amendment to change the name of the Federal Savings and Loan Insurance Corporation, which was created under another act.

They are two very separate and distinct acts; therefore the Chair is constrained to rule that the amendment is not germane and sustains the point of order.

Bill To Remove Loan Agencies From Department of Commerce—Amendment Affecting President's Authority Under War Powers Act

§ 42.41 To a bill to remove federal loan agencies from the Department of Commerce, an amendment to lessen the President's authority, given him under the War Powers Act, with respect to the redistribution of functions of executive agencies was held not germane.

In the 79th Congress, a bill⁽¹⁰⁾ was under consideration to provide for the effective administration of certain lending agencies of the federal government. The bill stated in part:⁽¹¹⁾

Sec. 2. All powers, functions, and duties of the Department of Commerce and of the Secretary of Com-

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

11. 91 CONG. REC. 1190, 1191, 79th Cong. 1st Sess., Feb. 16, 1945.

merce which relate to the Federal Loan Agency (together with the respective personnel, records, and property, including office equipment, relating to the exercise of such functions, powers, and duties) are hereby transferred to the Federal Loan Agency to be administered under the direction and supervision of the Federal Loan Administrator.

Sec. 3. The unexpended balance of the funds made available to the Secretary of Commerce by Public Law 365, Seventy-eighth Congress, approved June 28, 1944, for administrative expenses of supervising loan agencies, shall be transferred to the Federal Loan Agency to be used for the administrative expenses of that Agency.

Sec. 4. No functions, powers, or duties shall be transferred from the Federal Loan Agency under the provisions of title I of the First War Powers Act, 1941, or any other law unless the Congress shall otherwise by law provide.

The following amendment was offered to the bill:⁽¹²⁾

Amendment offered by Mr. Wolcott: Page 2, line 20, at the end of section 4, add a new section as follows:

Section 1 of Public Law 354, Seventy-seventh Congress, is amended as follows: At the end of said section 1 strike out the period and insert a colon and the following: "*Provided further*" , That hereafter, no order providing for the redistribution of functions or providing for the transfer or consolidation of any existing executive or administrative commission, bureau, agency, Government owned or controlled corporation or office, or the duties, powers, or functions thereof, shall be effective unless the Congress shall provide otherwise by concurrent resolution."

12. *Id.* at p. 1191.

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

MR. [BRENT] SPENCE [of Kentucky]: Mr. Chairman, the purpose of the pending bill is merely to take out of the Commerce Department the Reconstruction Finance Corporation as it now exists and there is no change made in the organic law. This amendment attempts to repeal the War Powers Act vesting in the President all the extensive powers necessary for the successful prosecution of the war.

The proposed amendment certainly cannot be germane to the pending bill. I make a point of order against the amendment for the reasons stated.

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

MR. [JESSE P.] WOLCOTT [of Michigan]: . . . I have always taken the position the amendment is in order inasmuch as the bill itself seeks to amend the authority of the President under [the War Powers Act] and this is merely a further limitation upon the President's authority to transfer and consolidate executive agencies.

The Chairman,⁽¹³⁾ in ruling on the point of order, stated:

. . . The amendment offered by the gentleman from Michigan seeks to take from the President all authority under the War Powers Act. The War Powers Act was reported to the House by the Committee on the Judiciary. Again the Chair calls attention that the definition of "germaneness" is that it must be closely allied to the bill which is

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

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

Regulation of Credit for Purchasers of Goods—Regulation of Reserve Requirements for Banks

§ 42.42 To a provision of a bill authorizing the Board of Governors of the Federal Reserve System to regulate terms of credit extended to purchasers of various goods, an amendment authorizing the board to make changes in the reserve requirements for banks was held not germane.

On July 20, 1951, during consideration of a bill⁽¹⁴⁾ to amend the Defense Production Act of 1950, an amendment was offered, as follows:⁽¹⁵⁾

Amendment offered by Mr. Multer: At page 45, after line 6, insert the following:

(d) Sec. 606. In order to protect the Nation's monetary, banking, and credit structure, and interstate and foreign commerce, against increased inflationary pressures, and to prevent injurious credit expansion, the Board of Governors of the Federal Reserve System are authorized, not-

withstanding any other provision of law, to establish and from time to time change by regulation the requirements as to reserves to be maintained against demand or time deposits or both. . . .

The following exchange⁽¹⁶⁾ concerned a point of order raised against the amendment:

MR. [JESSE P.] WOLCOTT [of Michigan]: Mr. Chairman, I make the point of order against the amendment that in substance, if not in language, the amendment seeks to amend the Federal Reserve Act, and in that respect is not germane to the subject matter of this bill. As I understand, it is sought to increase the reserve requirements of banks. These are established under authority contained in the Federal Reserve Act. Inasmuch as this bill has no language in it which amends, modifies, or repeals in any respect the rediscount rates, reserve requirements, or other functions of the Federal Reserve Board, excepting those which have been delegated to it under this act in the administration of the direct controls as opposed to the indirect controls, it is not germane to this act. . . .

MR. [ABRAHAM J.] MULTER [of New York]: There is no doubt, Mr. Chairman, but what title 6 of the Defense Production Act deals with the authority of the Board of Governors of the Federal Reserve bank in connection with controlled credit. We have a title in this bill which deals with the same subject.

THE CHAIRMAN:⁽¹⁷⁾ Will the gentleman point out the title?

14. H.R. 3871 (Committee on Banking and Currency).

15. 97 CONG. REC. 8607, 82d Cong. 1st Sess.

16. *Id.* at pp. 8607, 8608.

17. Wilbur D. Mills (Ark.).

MR. MULTER: Title 6 of the law entitled "Control of Consumer and Real-estate Credit." "The Board of Governors is authorized, notwithstanding the provisions of Public Law 386, to exercise consumer credit," and so forth. . . .

MR. WOLCOTT: . . . I was certain that the gentleman from New York understood the difference between indirect controls and direct controls, but it is very obvious, if he insists upon this language to this bill, that he does not know the difference between indirect controls exercised under the Federal Reserve Act, and direct controls which we make possible under this act the administration of which is delegated to the Federal Reserve Board. . . .

MR. [FRED L.] CRAWFORD [of Michigan]: . . . If I understood the amendment correctly, it goes directly to the increasing of the reserve powers of the Federal Reserve Board in line with the basic provisions of the Federal Reserve law. My contention is that the amendment is not germane to the bill now under consideration or to the section which we are now considering. The amendment would have the effect of amending the Federal Reserve Banking Act instead of merely dealing with the use of credit.

THE CHAIRMAN: . . . The Chair has . . . had an opportunity to read portions of title VI of the Defense Production Act of 1950, which has to do with control of consumer and real-estate credit.

The Chair is of the opinion that the amendment offered by the gentleman from New York is actually beyond the scope of the Defense Production Act of 1950 and beyond the scope of the bill before the Committee, H.R. 3871.

The Chair, therefore, sustains the point of order raised by the gentleman from Michigan [Mr. Wolcott]. . . .

New Office Within Department of Justice—Amendment To Abolish Department of Justice

§ 42.43 To a bill establishing a new Office of Law Enforcement and Criminal Justice within the Department of Justice, an amendment abolishing the Department of Justice and transferring its powers and functions to a new independent agency was held to be not germane as a reorganization within the jurisdiction of another committee.

In the 90th Congress, during consideration of the Law Enforcement and Criminal Justice Assistance Act of 1967,⁽¹⁸⁾ the following amendment was offered:⁽¹⁹⁾

Amendment offered by Mr. [William E.] Minshall: On Page 25, strike out lines 5 through 15, and insert the following:

Sec. 401. (a) There is hereby established as an independent agency of Government an Office of Justice which shall be headed by an Attorney General who shall be appointed

18. H.R. 5037 (Committee on the Judiciary).

19. 113 CONG. REC. 21845, 90th Cong. 1st Sess., Aug. 8, 1967.

for a term of 15 years by the President by and with the advice and consent of the Senate. The Attorney General, in the performance of his duties, shall not be subject to the direction or supervision of the President, nor shall he be a member of his Cabinet.

(b) There are hereby transferred to the Attorney General of the Office of Justice all functions exercised by the Department of Justice on the date of enactment of this Act, including all functions provided for in this Act. Such personnel, property, and unexpended balances of appropriations as the Director of the Bureau of the Budget determines relate primarily to functions transferred by this Act shall be transferred to the Office of Justice.

(c) The Department of Justice, the office of Attorney General in such Department, and all other offices provided for by law in such Department are hereby abolished.

(d) Effective date of this section will be March 1, 1969.

In ruling on a point of order raised against the amendment, the Chairman⁽²⁰⁾ stated:

The amendment offered by the gentleman from Ohio [Mr. Minshall] proposes the abolishment of the Department of Justice and the transfer of its functions to a newly created Office of Justice. . . .

The gentleman from New York [Mr. Celler] has raised the point of order that the amendment is not germane to the bill under consideration.

The bill now before the Committee of the Whole bestows certain new functions, authority, and responsibilities on the Attorney General. It creates, within the Department of Justice, a new

Office of Law Enforcement and Criminal Justice. It does not reorganize the existing structure of the Department.

The amendment offered by the gentleman from Ohio is, in effect, a plan for governmental reorganization, and as such would not be within the jurisdiction of the Committee on the Judiciary, which reported this bill. This is one argument against considering the amendment germane.

The Chair feels that the situation presented by this amendment is analogous to that presented when a bill amendatory of existing law in one particular is sought to be amended by a repeal of the law. In those cases, decisions are uniform to the effect that the amendments are not considered germane—volume [Cannon's Precedents] VIII, sections 2948–2949.

The Chair does not feel that the amendment is within the scope of the bill before the Committee of the Whole. It relates to a subject not under consideration at this time. The Chair therefore sustains the point of order.

***Control of Crime Through Research and Training—
Amendment To Regulate Sale
of Firearms***

§ 42.44 To a bill designed to aid in the control of crime through research and training, an amendment aimed at the control of crime through regulation of the sale of firearms was held not germane.⁽¹⁾

1. See §6.6, supra, for discussion of the proceedings found at 113 CONG. REC.

20. Daniel D. Rostenkowski (Ill.).

Increased Salaries for Members—Amendment Affecting Audits in House

§ 42.45 To a bill reported from the Committee on Post Office and Civil Service providing in part for increased salaries for Members of Congress and legislative employees, an amendment proposing changes in the Accounting and Auditing Act and relating to procedures governing audits of financial transactions of the House of Representatives and the Architect of the Capitol was held to be not germane as within the jurisdiction of another House committee (Government Operations).

In the 88th Congress, during consideration of a bill⁽²⁾ relating to salary increases for federal officers and employees, the following amendment was offered:⁽³⁾

Amendment offered by Mr. Oliver P. Bolton on page 40, immediately following line 4, insert the following:

21846–50, 90th Cong. 1st Sess., Aug. 8, 1967, relating to H.R. 5037 (Law Enforcement and Criminal Justice Act of 1967, Committee on the Judiciary).

2. H.R. 8986 (Committee on Post Office and Civil Service).
3. 110 CONG. REC. 5125, 88th Cong. 2d Sess., Mar. 12, 1964.

Sec. 203. Section 117 of the Accounting and Auditing Act of 1950 (64 Stat. 837; 31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

“(c) Except as otherwise provided by law, the Comptroller General in auditing the financial transactions of the House of Representatives and of the Architect of the Capitol shall make such audits at such times as he may deem appropriate. For the purpose of conducting such audits, the provisions of section 313 of the Budget and Accounting Act (42 Stat. 26; 31 U.S.C. 54) shall be applicable to the legislative agencies under audit. . . .”

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

MR. [JAMES H.] MORRISON [of Louisiana]: Mr. Chairman, the amendment is not germane and has nothing to do with pay raises. It was not discussed in our committee. It covers a subject completely outside the provisions of the bill. It is not contemplated within the title of the bill.

In defense of the amendment, the proponent stated, as follows:⁽⁴⁾

MR. OLIVER P. BOLTON [of Ohio]: . . . The bill deals with the salary of the Members of the House. My amendment would go toward the accounting for those expenditures of the House which if they were not expended by the House would well be considered salary. . . .

The Chairman,⁽⁵⁾ in ruling on the point of order, stated:

The subject matter of the pending bill pertains to salaries of various gov-

4. *Id.* at p. 5126.

5. Chet Holifield (Calif.).

ernmental employees and not to accounting. The amendment that the gentleman from Ohio offers is, in effect, the same as a bill which he has introduced that was referred to the Committee on Government Operations. The subject matter of the bill and of the gentleman's amendment pertains to accounting, which comes under the jurisdiction of the Committee on Government Operations and not under the jurisdiction of the Committee on Post Office and Civil Service.

Penalties for Violation of House Rules

§ 42.46 To an amendment requiring registration and public disclosure by lobbyists before Congress and the executive branch and providing civil penalties for failure to so register and disclose, an amendment applying the same sanctions to persons having the privilege of the floor of the House and violating the prohibition in the House rules against lobbying on the floor or in adjacent rooms is in effect a change in the rules of the House and is not germane.

During consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole on Sept. 28, 1976,⁽⁶⁾ Chairman Richard

6. 122 CONG. REC. 33087, 33088, 94th Cong. 2d Sess. For discussion of

Bolling, of Missouri, sustained a point of order against the following amendment to the pending amendment in the nature of a substitute:

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer amendments to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendments offered by Mr. Myers of Pennsylvania to the amendment in the nature of a substitute offered by Mr. Bennett: On page 19, line 17, insert immediately following "thereunder,": "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act,".

On page 20, line 1, insert immediately following "misleading," "or ex-Members of the House of Representatives, former Parliamentarians of the House, former elected officers of the House, and former elected minority employees of the House of Representatives who willfully violate Rule XXXII of the Rules of the House of Representatives by appearing in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act." . . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, I would raise a point of order to the amendments of

other germaneness issues arising from amendments to H.R. 15, see §§ 3.74-3.76, supra.

ferred by the gentleman from Pennsylvania. I have just gotten the amendments, but it would appear to me, Mr. Chairman, that they would violate the purposes of the bill and the substitute for the bill in that they would require sanctions against ex-Members of the House, former parliamentarians of the House, former elected officers of the House, and so forth, as opposed to the organizational concept from which both the bill and substitute recede.

Mr. Chairman, for those reasons we feel that they are not germane to the bill or the substitute therefor.

MR. MYERS of Pennsylvania: Mr. Chairman, the amendment applies only to those ex-Members of the House, and so forth, who are mentioned here, who would be required to register under another section by this act.

And in relationship to the gentleman's remarks about the sanctions applying to individuals, section 13(a) begins:

Sec. 13. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or the regulations promulgated thereunder, shall be subject to a civil penalty of not more than \$5,000 for each such violation.

So, query, Mr. Chairman: The amendment is designed in such a way that not all ex-Members will have to comply but only those who find themselves as lobbyists or who would be required to file under another section of this act.

There is no prohibition in this act preventing a Member from being fined under the sanction section.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has had an opportunity to look at the sanction provisions in the

amendment in the nature of a substitute and to examine the amendment thereto. For a variety of reasons, but the primary one which the Chair will state, the Chair is prepared to sustain the point of order. The reason that the Chairman will sustain the point of order is that the effect of the amendment is tantamount to a rules change, an attempt to provide a new enforcement mechanism for violation of a House rule and the Chair feels that it is important that the rules of the House be very carefully protected. The sanctions provided in the Bennett amendment in the nature of a substitute are for failure to report or disclose information, and the Chair feels that this amendment goes well beyond that and in effect deals with the rules of the House and he therefore sustains the point of order.

MR. MYERS of Pennsylvania: Mr. Chairman, may I be heard further on the point of order?

THE CHAIRMAN: No. The Chair has ruled.

Civil Rights—Amendment Providing Compensation for Businesses Injured by Enforcement of Antidiscrimination Laws

§ 42.47 To that title of a civil rights bill prohibiting discrimination based on race, color, and the like, in places of public accommodation and providing for enforcement of such prohibition, an amendment providing that the owner of a business that is

damaged by such enforcement be entitled to damages as provided for property taken for public use, was held to be not germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,⁽⁷⁾ the following amendment was offered:⁽⁸⁾

Amendment offered by Mr. [Jamie L.] Whitten [of Mississippi]: On page 48, at the end of title II, add a new subsection, as follows:

(d) When any business is destroyed or caused to become insolvent, or suffers financial loss as a result of any action brought under the provisions of title II, upon the request of the owner it shall be deemed that such business has been taken for public use under the right of eminent domain, as authorized in subsection (12) of section 490 of title 40 of the United States Code, and the defendant shall be entitled to full damages as provided for property taken for public use.

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

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I object to the amendment and make a point of order against it on the ground that the amendment is not germane to title II of the bill.

The Chairman,⁽⁹⁾ in ruling on the point of order, stated:

7. H.R. 7152 (Committee on the Judiciary).
8. 110 CONG. REC. 1987, 88th Cong. 2d Sess., Feb. 5, 1964.
9. Eugene J. Keogh (N.Y.).

The gentleman from Mississippi offers an amendment to title II by adding a new subsection which would have for its objective the reimbursement to individuals for any business that is destroyed or caused to become insolvent. Title II refers to injunctive relief against discrimination in places of public accommodation. The amendment of the gentleman from Mississippi, to which a point of order has been made, would bring into title II section 490 of title 40 of the United States Code, and in the opinion of the Chair that is not germane to the pending title. Therefore, the Chair sustains the point of order.

—Amendment Providing for Plea in Bar to Contempt Proceeding, Based on Proceedings Against Same Person Under Separate Statutes

§ 42.48 To a bill authorizing the Attorney General to institute or intervene in civil contempt proceedings based on a violation of civil rights, an amendment was held to be not germane which provided that a plea in bar be available to any person proceeded against under such provisions or under separate criminal statutes who could establish a prior proceeding against him based on the same offense.

In the 85th Congress, during consideration of a bill⁽¹⁰⁾ to secure and protect the civil rights of persons within the jurisdiction of the United States, the following amendment was offered:⁽¹¹⁾

Amendment offered by Mr. Rogers of Texas: page 12, after the last period add a new paragraph to be numbered part V.

Notwithstanding any provisions herein contained or otherwise provided by statute, rule or regulation, no person shall be subject for the same offense to be twice put in jeopardy of life or limb. And a plea in bar shall be available to any person proceeded against under this act or the Criminal Statutes of the United States or any State thereof, who can establish a prior proceeding against such person for the same offense, act or transaction, for which he is called upon to answer, whether such proceeding be under the Criminal Statutes of the United States or any State thereof or under the provisions of this act.

The following exchange⁽¹²⁾ concerned a point of order raised against the amendment:

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment offered by the distinguished gentleman from Texas is not germane. It provides for changes in criminal statutes, it provides for immunities in criminal stat-

utes, for double jeopardy, which cannot be part and parcel of a bill that is limited solely to civil penalties and civil procedures. . . .

MR. [WALTER E.] ROGERS [of Texas]: Mr. Chairman, this amendment is certainly in order because it is an incorporation in this act of a part of the Constitution that is applicable to the provisions of this new law which creates a restriction on how far the Attorney General can exercise this right or the other courts of the land can exercise the right if the Attorney General takes action.

THE CHAIRMAN:⁽¹³⁾ . . . The Chair holds that the amendment offered by the gentleman from Texas is too broad in its purposes, it opens up all other statutes, rules, and regulations, whereas the bill under consideration is confined strictly to matters of civil rights.

The Chair, therefore, sustains the point of order.

***District of Columbia Code—
Substitute Amendment Affecting
Revenue and Other Laws
of District***

§ 42.49 To a committee amendment in the nature of a substitute comprising in part general provisions relating to the organization of the District of Columbia government as well as amendments to several revenue provisions of the District of Columbia Code, a proposed substitute making comparable amend-

10. H.R. 6127 (Committee on the Judiciary).

11. 103 CONG. REC. 9384, 85th Cong. 1st Sess., June 17, 1957.

12. *Id.* at pp. 9384, 9385.

13. Charles M. Price (Ill.).

ments to the revenue laws and diverse other laws of the District of Columbia as well as amending portions of the code not affected by the committee amendment was held to be germane.

On Aug. 11, 1969, during consideration of the District of Columbia Revenue Act of 1969,⁽¹⁴⁾ a committee amendment in the nature of a substitute was pending. Such proposition sought to amend several acts relating to District of Columbia taxes and to provide an annual federal payment authorization for the District, and also contained general provisions pertaining to the organization and structure of the District government. A substitute was offered generally amending the same revenue acts, creating a federal payment formula for the District applicable for the next five fiscal years, and amending several provisions of the District of Columbia Code not amended by the committee amendment.⁽¹⁵⁾ A point of order was raised against the substitute, as follows:⁽¹⁶⁾

MR. [JOHN] DOWDY [of Texas]: The bill is a bill to provide additional rev-

14. H.R. 12982 (Committee on the District of Columbia).

15. See 115 CONG. REC. 23126-29, 91st Cong. 1st Sess.

16. *Id.* at p. 23129.

enue for the District of Columbia. The substitute amendment offered contains provisions which would amend title XXXI of the District of Columbia Code, which concerns education and cultural institutions; therefore, it is not germane to the bill pending before the House.

The following exchange ensued:

MR. [BROCK] ADAMS [of Washington]: . . . I would point out that this particular proposal was placed in the law governing the District of Columbia by the revenue bill of last year. So it would certainly be germane to the subject in that it was put in in this fashion and so it can be taken out in the same fashion.

I would also point out that there is in the committee amendment a personnel freeze dealing with the Board of Education which provides that the personnel freeze will not apply to it. The subject has been raised in the bill.

Further, I point out that this revenue bill abolishes an office in the District of Columbia and freezes certain employees and does away with certain powers of the District Government, so that it covers matters other than revenue. . . .

MR. DOWDY: . . . The fact that this provision was put into title 31 of the District Code in a revenue bill last year has nothing to do with whether it is germane to a revenue bill this year. . . .

The Chairman,⁽¹⁷⁾ in ruling on the point of order, stated:

The Chair has had an opportunity to study the question during the quorum

17. Robert N. Giaimo (Conn.).

call and the Chair would say to the gentleman from Texas the fact that there might be other items in the bill which might be subject to a point of order, as was just stated, indicates that the committee amendment has in it items which are other than revenue matters and therefore opens the bill up to other related amendments. The fact is that the legislation before us is basically a revenue matter, but it does apply to many other sections of the District of Columbia Code. Among other things not having to do with revenue, it eliminates the office of the Director of Public Safety; it provides for a freeze on the number of personnel and employees who may be hired by the District of Columbia government. These provisions also involve the Federal-Aid Highway Act of 1968. The language involving education here involves a part of existing law. It seems to the Chair it is germane to the bill in toto. Therefore the Chair feels that the point of order must be overruled.

Transfer of Property for Use as Homeless Shelter—Amendment Requiring Reversion of Property if Not Used for Charitable Purpose Under Internal Revenue Code

§ 42.50 To a bill authorizing the transfer of federal property to accomplish a particular purpose, an amendment rescinding the transfer if the use of the property is not consistent with that purpose (as defined in another law) is germane if that law

refers to the same purpose covered by the bill; thus, to a bill providing for the transfer of a specified property in the District of Columbia solely for the purpose of providing shelter to homeless and to protect the public health, amended to include restrictions on liability and maintenance responsibilities, an amendment requiring reversion of the property if not used for that charitable purpose as defined under a provision of the Internal Revenue Code was held germane as a further restriction on the same use of the property.

During consideration of H.R. 4784 (the District of Columbia homeless shelter transfer bill) in the Committee of the Whole on June 5, 1986,⁽¹⁸⁾ Chairman John P. Murtha, of Pennsylvania, overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

H.R. 4784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services shall, within five days after the date of enactment of

18. 132 CONG. REC. 12592-94, 99th Cong. 2d Sess.

this Act, transfer jurisdiction over the property located at 425 Second Street, Northwest, in the District of Columbia, to the municipal government of the District of Columbia in accordance with section 1 of the Act of May 20, 1932 (40 U.S.C. 122), other than the first proviso of such section, solely for purposes of administration and maintenance of such property for providing shelter and related services to homeless individuals in the District of Columbia and for other use in the protection of the public health. . . .

THE CHAIRMAN PRO TEMPORE: The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: At the end of the bill add the following new section:

Sec. 2. Upon the transfer of jurisdiction pursuant to the first section of this Act, the Federal Government (1) shall not be liable for injuries or damages that occur while the property is under the jurisdiction of the municipal government of the District of Columbia and that arise out of the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property by such municipal government; and (2) shall not be responsible for the operation, maintenance, repair, renovation, reconstruction, or other capital improvement of that property while the property is under the jurisdiction of such municipal government. Nothing in this section shall be deemed to prohibit the Federal Government from funding the renovation of the property. . . .

The Committee amendment was agreed to. . . .

MR. [JOSEPH J.] DIOGUARDI [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DioGuardi. At the end of the bill add the following new section:

Sec. 4. (a) If any organization selected by the municipal government of the District of Columbia to administer such property as a shelter for homeless individuals uses such property in a manner that would cause a charitable organization as described in section 501(c)(3) of the Internal Revenue Code of 1954 to lose its tax exempt status under section 501(a) of the Internal Revenue Code of 1954—

(1) the property shall be considered to have ceased being used for the purposes described in the first section of this Act; and

(2) jurisdiction over such property shall revert to the United States. . . .

MR. [THEODORE S.] WEISS [of New York]: Mr. Chairman, the amendment offered by the gentleman from New York is not germane to H.R. 4784. It places restrictions on the use of the building in question that are not within the jurisdiction of the Government Operations Committee, have nothing to do with the transfer of Federal property, which this bill addresses, and is otherwise in violation of rule XVI. . . .

THE CHAIRMAN PRO TEMPORE: . . . The Chair agrees with the gentleman from New York that this amendment merely places additional restrictions on the use of the property covered by this bill in addition to those other restrictions which are already in the bill. So the Chair thinks the amendment is germane and overrules the point of order.

Authorizations for Foreign Aid Program—Amendment Affecting Trade Expansion Act

§ 42.51 To a bill amending the Foreign Assistance Act of 1961, as amended, to provide authorizations for the foreign aid program, an amendment pertaining to trade agreement concessions with Poland, proposing changes in the Foreign Assistance Act of 1963, and affecting the Trade Expansion Act of 1962, was held to be not germane.

In the 90th Congress, during consideration of the Foreign Assistance Act of 1968,⁽¹⁹⁾ the following amendment was offered:⁽²⁰⁾

Amendment offered by Mr. [Leonard] Farbstein [of New York]: On page 13, after line 25, add the following:

PART IV—AMENDMENT TO FOREIGN ASSISTANCE ACT OF 1963

Sec. 401. Subsection (b) of section 402 of the Foreign Assistance Act of 1963 is amended by inserting immediately before the quotation marks at the end thereof the following:

“The benefits of trade agreement concessions extended to the Polish Peoples Republic under this subsection are hereby suspended with respect to the products of Poland im-

ported after the date of enactment of this sentence. The suspension under the preceding sentence shall continue until the President determines that the Government of Poland has discontinued its present campaign of discrimination against Polish intellectuals, students . . . and the Jewish minority in Poland. . . .”

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

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It involves our trade agreements with another nation, which is within the jurisdiction of another committee, and it is quite outside the scope of this bill.

Among the remarks made with respect to the point of order were the following:

MR. [PAUL] FINDLEY [of Illinois]: . . . The Government of Poland was extended most favored nation status as a result of a provision of the 1963 Foreign Assistance Act. Therefore, because the Government of Poland does enjoy this status today by virtue of an amendment to the Foreign Assistance Act of 1963, in my view it is entirely in order for an amendment which suspends that status to be considered as an amendment to this bill.

The Chairman,⁽¹⁾ in ruling on the point of order, stated:⁽²⁾

The amendment offered by the gentleman seeks to amend section 402 of the Foreign Assistance Act of 1963.

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

20. 114 CONG. REC. 22109, 90th Cong. 2d Sess., July 18, 1968.

1. Charles M. Price (Ill.).

2. 114 CONG. REC. 22109, 22110, 90th Cong. 2d Sess., July 18, 1968.

The language of the gentleman's proposed amendment would in reality apply to benefits of trade agreement concessions to Poland.

While the language in the Foreign Assistance Act of 1963 dealt with a matter relating to the Trade Expansion Act, it was seeking to amend that act in a different manner.

The Chair holds that the amendment would properly be within the jurisdiction of the Committee on Ways and Means, and that in reality it seeks to amend the Trade Expansion Act.

Therefore, the Chair sustains the point of order.

Types of Foreign Assistance

§ 42.52 To a bill authorizing military assistance to foreign nations, an amendment authorizing a contribution to the United Nations International Atomic Energy Agency to be used for nuclear missile inspections, and amending a law which provided foreign economic assistance was held to be not germane.

During consideration of the International Security Assistance Act of 1976⁽³⁾ in the Committee of the Whole on Mar. 3, 1976,⁽⁴⁾ Chairman Frank E. Evans, of Colorado, sustained a point of order

3. H.R. 11963.

4. 122 CONG. REC. 5226, 94th Cong. 2d Sess.

against an amendment authorizing contributions to an international agency for nuclear missile inspections holding that the amendment was not germane to the bill which had as its fundamental purpose the authorization of military assistance programs to foreign nations. The proceedings were as follows:

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fraser: On page 59, after line 15, add the following new section:

AUTHORIZATION FOR INTERNATIONAL ATOMIC ENERGY AGENCY

Sec. 417. Section 313(a) of the International Development and Food Assistance Act of 1975 (P.L. 94-161) is amended by striking the "and" at the end of paragraph (3); striking the period at the end of paragraph (4) and inserting in lieu thereof, ", and"; and inserting the following new paragraph immediately after paragraph (4):

(5) by adding a new subsection (i) to read as follows:

"(i) In addition to amounts otherwise available under this section, there are authorized to be appropriated for fiscal year 1976 and to remain available until expended \$1,000,000 to be available only for the International Atomic Energy Agency to be used for the purpose of strengthening safeguards and inspections relating to nuclear missile facilities and materials." . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: . . . Mr. Chairman, this amendment authorizes funds for the

International Atomic Energy Agency. This is a subject of a different bill, not the one before the House at this time.

The amendment, in my opinion, exceeds the scope of the bill before us and it is not germane. . . .

THE CHAIRMAN: In the opinion of the Chair, the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) are correct.

The amendment offered by the gentleman from Minnesota (Mr. Fraser) is not germane to the main purposes of the bill, and for that reason the point of order is sustained.

Admission of Displaced Persons—Amendment Affecting Immigration Laws in Other Respects

§ 42.53 To a bill providing for temporary admission into the United States of certain displaced persons in Europe, an amendment affecting the immigration laws in matters not related to the question of displaced persons was held not germane.

In the 80th Congress, the Committee of the Whole had under consideration a bill⁽⁵⁾ to authorize admission into the United States of certain displaced persons. The bill stated in part:⁽⁶⁾

5. 5. H.R. 6396 (Committee on the Judiciary).

6. 94 CONG. REC. 7763, 80th Cong. 2d Sess., June 10, 1948.

Be it enacted, etc., That this act may be cited as the "Emergency Displaced Persons Admission Act."

Sec. 2. When used in this act, the term "displaced person" means—

(a) a person who was on April 21, 1947, and is upon the effective date of this act in Italy or the United States, British, or French zones or sectors in Germany or Austria and who during World War II bore arms against enemies of the United States and is unable or unwilling to return to the country of which he is a national because of persecution or his fear of persecution on account of race, religion, or political opinions; or

(b) a person who is registered by the International Refugee Organization, according to the definitions of displaced persons and refugees set forth in annex I to the constitution of the International Refugee Organization, except clause (b), paragraph 1, section A, part I thereof, to which the United States has adhered (Public Law 146, 80th Cong.), and who entered Italy or the United States, British, or French zones or sectors in Germany or Austria, on or before April 21, 1947, midnight;

(c) the term "displaced person" shall not include any person who is or has been a member of, or participated in, any movement which is or has been hostile to the United States or the form of government of the United States.

An amendment was offered:⁽⁷⁾

Amendment offered by Mr. [Robert Tripp] Ross [of New York]:

Under section 2 add the following as subsection (c):

"(c) a person who is a native of Italy and who would have been eligible for admission to the United States under all United States immi-

7. 94 CONG. REC. 7870, 80th Cong. 2d Sess., June 11, 1948.

gration laws at any time during the 10-year period prior to June 30, 1948, under the accumulated unused Italian quota for that period: *Provided* That the provisions of section 3, section 5 and section 6 of this act shall not be applicable to displaced persons as defined in this subsection: *Provided further*, That the number of immigration visas issued under this subsection shall be divided equally between the fiscal years 1949 and 1950.”

Subsection (c) shall become subsection (d).

Mr. Ross explained the purpose of the amendment:

MR. ROSS: Mr. Chairman, this amendment (would admit) to the United States during the next 2 years 34,275 Italians who were unable to come to this country during the years when Italian immigration was suspended. Its approval (would in no way alter) our basic Italian quota. It would just pick up that number which could not come to this country during the war years. . . .

Mr. Frank Fellows, of Maine, made the point of order that, “(the amendment) is not germane to the bill or to the section under consideration.”

The Chairman,⁽⁸⁾ in ruling on the point of order, stated:

The Chair is of the opinion that the amendment offered does not affect the question of displaced persons as described in the bill but does direct attention to the immigration laws. The Chair therefore sustains the point of order.

8. George A. Dondero (Mich.).

Amendment Addressing Relationship of Bill to Existing Law as Germane Where Bill Contains “Disclaimer” as to Its Effect on Existing Law

§ 42.54 While ordinarily the inclusion of language in a bill “disclaiming” any substantive effect of the bill upon other provisions of law, would not render germane amendments which did affect other law, where disclaimer language in a bill is accompanied by other provisions actually changing a category of law cited in the disclaimer, an amendment further addressing the relationship between the bill and laws cited in the disclaimer may be germane; thus, where a bill required that a certain percentage of automobiles sold in the United States be manufactured domestically, and “disclaimed” any purpose to amend international agreements or to confer new federal court jurisdiction over conflicts arising under international agreements, but which actually conferred new federal court jurisdiction over adjudication of penalties assessed under the bill, an amendment prohib-

iting implementation of the bill if it resulted in a violation by the United States of existing international agreements and also conferring additional federal court jurisdiction to resolve conflicts under those agreements, was held germane as relating to a subject (the relationship of the bill to other law) already comprehensively contained in the bill.

During consideration of H.R. 1234⁽⁹⁾ in the Committee of the Whole on Nov. 2, 1983,⁽¹⁰⁾ the Chair overruled a point of order against an amendment to the following sections of the bill:

(c) Congressional Disclaimers.—It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to automotive products entered for sale and distribution in interstate commerce and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed to confer jurisdiction upon any court of the United States to consider and resolve such

9. The Fair Practices and Procedures in Automobile Products Act of 1983.

10. 129 CONG. REC. 30525, 30527, 30542, 30545-47, 98th Cong. 1st Sess.

conflicts, or (2) to alter or amend any law existing on the date of enactment of this Act which may confer such jurisdiction in such courts. . . .

SEC. 7. ENFORCEMENT

(a) Penalty for Failure to Meet Domestic Content Ratios.—(1) In furtherance of the purpose of this Act, it is unlawful for a vehicle manufacturer to fail to meet for any model year the applicable minimum domestic content ratio required under section 5(a). . . .

(4) Any person against whom an order is issued under paragraph (2) may, within sixty calendar days after the date of the order, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceedings to the Secretary for such further action as the court may direct. . . .

MR. [DAN R.] COATS [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Coats: Page 36, after line 3, insert the following:

SEC. 11. INEFFECTIVENESS OF ACT IN CASE OF COMPENSATION BY, OR RETALIATION AGAINST, UNITED STATES AGRICULTURAL OR OTHER INDUSTRIES

Notwithstanding any other provision of law, neither the Secretary nor any other party shall take any action under this act if the implementation of any provision of this Act either—

(1) would violate the obligations of the United States under the General Agreement on Tariffs and Trade and

could therefore result in retaliation by another country; or

(2) would entitle any other country to compensation from the United States in the form of reduced restrictions on imports of agricultural, industrial or other products from other countries or to retaliation against the United States in the form of increased restrictions against exports of agricultural, industrial or other products from the United States.

Notwithstanding any other provision of this Act, the United States district court for the appropriate judicial district shall have jurisdiction to resolve disputes arising under this section. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make the point of order that the amendment is not germane.

Mr. Chairman, it is within the rules of the House and the interpretation of the rule of germaneness that the amendment must relate to the purposes of the legislation before the House.

I would observe that the purposes of the legislation before the House are to assure that automobiles will have a certain percentage of domestic content in automobiles which are sold inside the United States. The legislation before the House at this time deals with automobiles and the trade in automobiles inside the boundaries of the United States. The legislation before the House sets up no new causes of action.

There are provisions in the legislation which are essentially disclaimers. The Chair will note that on page 15, in line 5, there is language which relates to disclaimers of an intention to violate GATT and which do not confer any

new jurisdiction upon any court in the United States to consider or to resolve conflicts related to GATT or "to alter or amend any law existing on the date of enactment . . ."

I would observe that the amendment is much more broad, and I would like the attention of the Chair with regard to a number of points.

First of all, in the last four lines of the amendment, the language is:

Notwithstanding any other provision of this Act, the United States district court for the appropriate judicial district shall have jurisdiction to resolve disputes arising under this section.

That is a very broad conferral of jurisdiction upon all of the Federal courts of the United States in their respective judicial districts to deal with disputes. That kind of an amendment would necessarily have either gone initially or sequentially to the Judiciary Committee because of the jurisdiction of that committee relative to disputes and causes of action. I would refer the Chair to the letter which relates to this matter as written by Chairman Rodino on judicial matters.

Mr. Chairman, there are some other points I would like to make concerning the scope and the sweep of this matter. First of all, the jurisdiction conferred upon U.S. district courts would be to determine whether the Secretary had carried out his responsibilities under lines 4 through 7 of the amendment, as to whether the Secretary or any other party had taken any other action under the act if the implementation of any provision of this act—and then it goes on to say this—"would violate the obligations of the United States under the General Agreement on Tariffs and Trade . . .".

So that question would be reviewable. The question would also be reviewable as to whether or not the action of the Secretary would result in retaliation by another country. I would observe that an amendment which is contingent upon some future indeterminate action is also violative of the rules on germaneness.

Beyond this, the question would be placed before the courts upon action by any citizen feeling aggrieved, under the last four lines, lines 19 through 22, as to whether any other country would be entitled to compensation from the United States in the form of reduced restrictions on imports of agricultural, industrial, or other products.

This section confers jurisdiction relative to actions which would be taken in other countries regarding a whole series of other commodities, agricultural, industrial, and whatever they might happen to otherwise be. . . .

I would point out further that the amendment says, Chairman, that the Secretary may not take action to implement the law if it violates GATT. It also says, if it would entitle any other country to compensation from the United States.

Now, in Cannon's, VIII, 3029, it states that an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when the fact to be ascertained relates solely to the subject matter of the bill.

Here the condition to be ascertained, whether the act violates GATT or would entitle another country to compensation, is not germane. . . .

Mr. Chairman, the bill also creates a broad new jurisdiction in the U.S. dis-

trict court, a form of judicial relief to determine if the act violates GATT. That is, of course, an entirely new provision relating to commodities, agricultural, industrial, or other, which is far more broad than that in the bill.

While this bill does allow the district court to enforce the bill, this is an entirely new form of review and confers a cause of action far more broad than any found anywhere else in the legislation.

Mr. Chairman, I would point out that this would confer broad jurisdiction on private persons to enter the courts of the United States. A provision of this sort would necessarily involve jurisdiction of the committee having jurisdiction over that matter, and that is, of course, the Judiciary Committee. . . .

MR. COATS: Mr. Chairman, the committee report issued by the Committee on Energy and Commerce chaired by the gentleman from Michigan (Mr. Dingell) specifically states in section 2(c), which was an amendment to the bill adopted by the committee, that:

It is the intent of Congress that this act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement. . . .

That alone expands the jurisdiction of the bill beyond specific auto content.

Second, we also adopted an amendment which directed the Secretary of Transportation and the Federal Trade Commission, in fact it mandated a study as to the impact on agriculture. That again expands the jurisdiction beyond what the gentleman claimed in his point of order, that it is auto-specific. It is broader than auto-specific

because the bill itself as adopted by the committee contains a direction that a study be conducted of the impact on agriculture and that goes directly to the heart of the amendment that I am offering.

In addition, let me just make a couple of comments about the jurisdiction of the courts. In the Energy and Commerce Committee, the bill's proponents offered language which would in effect strip the U.S. courts of jurisdiction to hear disputes under the act. After lengthy debate on this issue, some of that language was withdrawn and the bill now purports to be neutral on jurisdiction.

This language in the amendment simply makes clear that as is the normal case in any other case, U.S. courts would have jurisdiction under this section to resolve disputes. These matters of conflict between U.S. international obligations and U.S. statutes should be decided by U.S. tribunals and not left solely to international machinery.

So I think it is clear that the amendment before us clearly fits within the bill that we are taking up, that the jurisdiction is broader than just an auto-specific content, as stated by the congressional findings, purpose, and disclaimer, section 2(c) and as stated in section 8(G) on page 33, which mandates a study as to the effect on agriculture by the Secretary of Transportation and the Federal Trade Commission. . . .

MR. DINGELL: Mr. Chairman, I would just observe that my good friend, the gentleman from Minnesota, has been reading the language of a disclaimer. Never, I believe, in the history of the House has a disclaimer been

used to expand the jurisdiction or to expand the purposes or the scope of legislation for purposes of defining whether or not a matter is germane.

Now, if the Chair will refer to the report of the committee, the Chair will find that the disclaimer is constructed, and it says how the disclaimer is to be constructed, and the disclaimer says as follows:

The subsection also contains a disclaimer that the Act should not be construed to confer new jurisdiction on any Federal court to consider and resolve such conflicts. In short, it states that the Act is not to be construed to confer jurisdiction where none presently exists. At the same time, it declares that the Act does not alter or amend any law existing on the date of enactment of this Act which may confer such jurisdictions on the courts. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, under the General Agreement on Tariff and Trade, there is an elaborate procedure that is prescribed with respect to complaints under that act. There is no jurisdiction in the Federal courts at the present time that somebody can go in and seek to enforce the provisions of GATT in our courts.

What the bill says on page 15 is that nothing in this act shall be construed to confer jurisdiction.

Were we to have gone ahead and sought to confer jurisdiction, it clearly would have been beyond the jurisdiction of our committee. It would have had to go to the Judiciary Committee.

The disclaimer was put in to protect that at the express request of Chairman Rodino.

Therefore, since this amendment does seek to confer jurisdiction which

presently is not there, and that is a matter not within the jurisdiction of the bill, I urge that the Chair sustain the point of order.

THE CHAIRMAN:⁽¹¹⁾ Are there any further arguments with regard to the point of order?

If not, the Chair is prepared to rule.

First of all, the Chair would note that the bill before the House at the present time differs from the bill that was before the House in the last session.

In the legislation that is currently before the House, the committee dealt with the issue of the relationship between this legislation and other law in section 2(c) which states:

It is the intent of Congress that this Act shall not be deemed to modify or amend the terms or conditions of any international treaty, convention, or agreement that may be applicable to automotive products entered for sale and distribution in interstate commerce and to which the United States, on the date of the enactment of this Act, is a party, including, but not limited to, the terms or conditions of any such treaty, convention, or agreement which provide for the resolution of conflicts between the parties thereto. Nothing in this Act shall be construed (1) to confer jurisdiction upon any court of the United States to consider and resolve such conflicts, or (2) to alter or amend any law existing on the date of enactment of this Act which may confer such jurisdiction in such courts.

Section 2(c) therefore addresses the issue of interpretation of the bill as it applies to treaties, conventions, and other agreements applicable to automotive products.

The amendment that has been offered by the gentleman from Indiana deals specifically with the actions of the Secretary in the implementation of provisions that may relate to treaties, specifically the General Agreement on Tariffs and Trade.

It would appear, therefore, that the amendment does relate to subject matter that has already been introduced in the bill by virtue of section 2(c).

With regard to the court jurisdiction argument, that issue is addressed within the bill, specifically on page 30, relating to appropriate judicial circuits for judicial review and other provisions that relate to the jurisdiction of Federal courts. So the Chair feels that the issue of court jurisdiction has, in fact, been presented within the legislation.

With regard to the disclaimer argument, it is the position of the Chair that if the provision in the bill was merely a narrow and technical disclaimer, then the argument of the gentleman from Michigan might prevail; but since it can be read as an overall provision that relates to the broad interpretation of the bill as it applies to trade agreements, and since the test the Chair must apply is the relationship of the amendment to the bill as a whole, it is the position of the Chair that the point of order should not be sustained.

Congressional Budget Process

§ 42.55 To a second concurrent resolution on the budget containing diverse provisions which addressed congressional actions on the budget, an amendment expressing

11. Leon E. Panetta (Calif.).

the sense of Congress that language repealing the Impoundment Control Act should be included in any continuing appropriation bill, thereby addressing issues of Presidential authority was conceded to be not germane.

During consideration of House Concurrent Resolution 448 in the Committee of the Whole on Nov. 18, 1980,⁽¹²⁾ a point of order was conceded and sustained against the following amendment:

Amendment offered by Mr. Latta: Insert after section 5 the following new section:

Sec. 6. It is the sense of the Congress that the appropriate committees of the House of Representatives and the Senate make in order as part of any continuing appropriation bill for fiscal year 1981 language providing for the repeal of provisions of title X of Public Law 93-344, the Congressional Budget and Impoundment Control Act, effective upon enactment of such continuing appropriation and to continue no later than September 30, 1981. . . .

MR. [JAMES M.] FROST [of Texas]: Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Ohio is not germane to House Concurrent Resolution 448, revising the congressional budget for the U.S. Government for the fiscal years 1981, 1982, and 1983.

This amendment would make it the sense of the Congress that any con-

tinuing appropriation bill for fiscal year 1981 contain language that would repeal for 1 year the impoundment provisions of the Congressional Budget and Impoundment Control Act of 1974.

The concurrent resolution implements certain directives of the Congressional Budget and Impoundment Control Act. The provisions establishing the concurrent budget resolution procedure are contained in the first nine titles of the act which are cited in Public Law 93-344 as the Congressional Budget Act of 1974. They have no relation to, nor are they derived from, title X, which is cited as the Impoundment Control Act of 1974.

It would seem clear, then, that the intent of the act was for concurrent resolutions on the budget to address the internal budget process of the Congress rather than addressing the impoundment process to be followed between the executive and the legislative branches as established by statute.

To include directives concerning impoundment in a concurrent budget resolution, then, would be outside the intent of the statute and beyond the scope of the resolution, thus rendering them nongermane.

While the specific language of the Latta amendment would not amend the Congressional Budget and Impoundment Control Act, the ultimate effect would be to do so. The Latta amendment would require, as a sense of the Congress, that a continuing appropriation bill contain language repealing for 1 year the impoundment provisions of title X of the Congressional Budget and Impoundment Act. In all likelihood, any amendment to such a continuing appropriation bill

12. 126 CONG. REC. 30026, 30027, 96th Cong. 2d Sess.

would be nongermane. Further, if a continuing appropriation bill were introduced with such language, it would be subject to referral to the Committee on Rules, which has jurisdiction over amendments to the Budget Act.

While jurisdiction over a legislative matter is not the sole test of germaneness, it is an important consideration. For example, Deschler's Procedure at chapter 28, section 4.26, states:

To a bill reported from the Committee on Ways and Means providing for a temporary increase in the public debt ceiling for the current fiscal year (not directly amending the Second Liberty Bond Act), an amendment proposing permanent changes in that act and also affecting budget and appropriations procedures (matters within the jurisdiction of other House committees) was held not germane.

It may be argued that an amendment directing the offering of a nongermane amendment in and of itself could be considered nongermane. Argument has been proposed that section 4 of House Concurrent Resolution 448 provides a basis of germaneness for the Latta amendment. Section 4 contains sense of the Congress language stating that, "A full-scale review of the Budget Act and the congressional budget process should be undertaken without delay." This language does not require any specific action to be taken to change the budget process or to amend the Budget Act. The Latta amendment would extend the scope of the sense of the Congress language in section 4 to require that a specific amendment repealing the impoundment provisions of the Budget Act be adopted.

The precedents indicate such action would be nongermane. For example,

Deschler's Procedure at chapter 28, section 33.23, states:

An amendment requiring the availability of funds "under this or any other Act" for certain humanitarian assistance was held to go beyond the scope of the pending bill and was ruled out as not germane, affecting funds in other provisions of law.

I would contend, Mr. Chairman, that the Latta amendment is nongermane. . . .

MR. [DELBERT L.] LATTA [of Ohio]: . . . This resolution contains no reconciliation instruction which could force the committees of the Congress to come up with the spending cuts of \$17 billion. Likewise, it gives the President no power whatsoever to accomplish these cuts by executive direction. This amendment would address this deficiency if it were allowed without the point of order. It provides that it is the sense of the Congress that when it takes up the continuing resolution for the 1981 appropriations, it will include language which suspends, for the remainder of fiscal year 1981 only, the anti-impoundment provisions of the Budget Act. What it would do, then, is give the President-elect the ability to keep Federal spending within the ceiling established in this budget resolution should the Congress be unable to do so. . . .

Mr. Chairman, I concede the point of order.

THE CHAIRMAN:⁽¹³⁾ The point of order is conceded. The point of order is sustained. . . .

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

13. William H. Natcher (Ky.).

The Clerk read as follows:

Amendment offered by Mr. Latta: At the end of the concurrent resolution, add the following new section:

“Sec. 6. It is the sense of the 96th Congress that the appropriate committees of the House of Representatives and the Senate make in order on an appropriate legislative vehicle, language providing for the enactment of a ceiling on spending in fiscal year 1981 at the levels established by this resolution. Such ceiling on fiscal year 1981 expenditures should also direct the President to reserve such amounts as may be necessary to remain within the ceiling, provided that such reservations are applied equitably in order to retain the important spending priorities adopted by Congress.”

Parliamentarian's Note: The resolution did state the sense of Congress that a review of the Budget Act and congressional budget process should be undertaken. But the term “congressional budget process” is used in the Budget Act to refer to a timetable only for congressional actions on the budget, not executive branch actions; whereas the amendment addressed the issue of executive powers. Moreover, the resolution suggested a review of the Act and process but only in general terms, while the amendment suggested a specific change in a statute affecting the executive, to be accomplished on specified legislation in a manner requiring waivers of House rules. The second amendment, above, offered by Mr. Latta would not have

been subject to a similar point of order. It was more general in its terms, did not suggest a repeal of existing law, and merely directed such executive action as would insure that expenditures remain at or below the ceiling contemplated within the terms of the bill itself.

Organizational Restrictions

§ 42.56 To a title of a bill restricting the authority of a new organizational entity to exercise control over institutions for which it is to administer funding under existing laws, an amendment curtailing the authority of that agency to provide funds to those institutions for certain reasons was held to be not germane, in that it addressed funding authority rather than organizational controls.

On June 12, 1979,⁽¹⁴⁾ the Committee of the Whole had under consideration a bill⁽¹⁵⁾ establishing a new Department of Education. The title of the bill being amended contained findings and purposes, and restricted the authority of the new Department, under laws administered by it, to

14. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

15. H.R. 2444, the Department of Education Organization Act of 1979.

exercise federal control over education. An amendment was offered denying the use of funds under federal programs to assist the teaching or counselling of the use of abortion. The amendment was ruled not to be germane, in that it was unrelated to the fundamental purpose of the title to organizationally restrict federal control over public education and curricula. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [of Ohio]:
Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mr.
Ashbrook: On page 57, after line 7
insert new section:

PROHIBITION AGAINST ABORTION
EDUCATIONAL EXPENDITURE

Sec. 104. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counselling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85-864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80-10), as amended; the Higher Education Act of 1965 (P.L. 89-329), as amended; the Adult Education Act (P.L. 89-750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment under rule 16, clause VII. . . .

[The rule] requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not. . . .

Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this

amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute.

The last phrase of this amendment appears to be a very artfully drawn one but, in fact, is meaningless and should not be used as a vehicle to gain consideration of a matter on the floor that is otherwise not in order, one that makes a mockery of the House rules on germaneness. . . .

MR. ASHBROOK: . . . I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted, under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1976 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the last days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

THE CHAIRMAN:⁽¹⁶⁾ The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on

16. Lucien N. Nedzi (Mich.).

the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

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

Amendments Retrenching Expenditures in General Appropriation Bills

§ 42.57 To a bill making appropriations for the current fiscal year, an amendment permanently changing existing law was held not germane to the bill, and thus was not in order as a "retrenchment" of expenditures even though it tended to reduce expenditures for that year.

In the 91st Congress, a bill⁽¹⁷⁾ was under consideration making supplemental appropriations for the fiscal year, including funds to cover increased pay costs resulting from the implementation of the report of the Commission on Executive, Judicial, and Legislative Salaries. The following amendment was offered to the bill:⁽¹⁸⁾

Amendment offered by Mr. Hall: On page 61, after line 4 insert the following:

GENERAL PROVISIONS

The Commission on Executive, Judicial, and Legislative Salaries established under Public Law 90-206 is hereby abolished. The salary increases recommended by the President as a result of the actions of said Commission are hereby rescinded.

Mr. George H. Mahon, of Texas, pointing out that the bill under consideration was a supplemental appropriation bill, objected to the amendment on two grounds, first, that it constituted legislation on an appropriation bill, and, second, that it was not germane to the bill.⁽¹⁹⁾ In defending the amendment, Mr. Durward G. Hall, of Missouri, stated in part:

Now, of course, under the restrictions or rescindments or actions under

17. H.R. 11400, Supplemental Appropriations, fiscal 1970 (Committee on Appropriations).
18. 115 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969.
19. *Id.* at p. 13270.

rule XXI and the “Holman rule,” we can, in an appropriation bill, take action by the act of the House to eliminate anything that costs additional expense from the General Treasury and that has been acted on previously.

I think that the amendment is in order. Certainly it is germane. Certainly it is a retrenchment on its face.

The Chairman,⁽²⁰⁾ however, ruled that the amendment was not in order. He stated:

. . . The Chair has examined the amendment and the precedents, and would call attention of the House to Cannon’s Precedents, volume 8, page 480, section 2914, which reads as follows: “to a section proposing legislation for the current year an amendment rendering such legislation permanent was held not to be germane.”

Then, in section 2915: “to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment proposing to make the provision permanent legislation was held not to be germane.”

The Chair therefore rules that the amendment offered by the gentleman from Missouri is not germane and therefore not in order; and the Chair sustains the point of order.

Parliamentarian’s Note: This precedent, based on 8 Cannon’s Precedents §2915, represents the current practice under the germaneness requirement of the Holman rule; it effectively overrules an earlier line of precedents which stood for the proposition that it is

20. Chet Holifield (Calif.).

in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition is to reduce funds contained in the bill, even though the language may provide permanent law, there being no distinction in the Holman rule itself between permanent and temporary legislation. The present practice and the earlier rulings are discussed in the introduction to Sec. 15, supra.

Rescission of Disaster Relief Funds Appropriated in Other Acts

§ 42.58 To an appropriation bill, an amendment providing a rescission of “disaster relief” funds appropriated in other acts was held to be not germane and to be legislation on an appropriation bill.

On Mar. 19, 1952, during consideration of the Independent Offices Appropriations Bill of 1953,⁽¹⁾ the following amendment was offered:⁽²⁾

Amendment offered by Mr. [Tom] Pickett [of Texas]: On page 3, after line 14, insert a new heading and the following language:

1. H.R. 7072 (Committee on Appropriations).
2. 98 CONG. REC. 2543, 82d Cong. 2d Sess.

DISASTER RELIEF

The unobligated balances at the end of June 30, 1952, of appropriations heretofore made for Disaster Relief under the act of September 30, 1950 (Public Law 875); the Independent Offices Appropriation Act of 1952; act of July 18, 1951 (Public Law 80); and the act of October 24, 1951 (Public Law 202), shall, to the extent that they exceed in the aggregate \$5,000,000, not be available for obligation after June 30, 1952, and shall be recovered to the Treasury as miscellaneous receipts.

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

MR. [CLARENCE] CANNON [of Missouri]: Mr. Chairman, I make the point of order, first, that the amendment is not germane to the bill. It has no relation to any item in the bill.

Second, it is legislation on an appropriation bill. . . .

The Chairman,⁽³⁾ in ruling on the point of order, stated:

. . . The amendment does not, as the Chair understands, apply to funds contained in the pending bill H.R. 7072, but has reference to funds which have been made available by the Congress in other legislation. Therefore, the amendment is not germane and is clearly legislation on an appropriation bill. The Chair is constrained to sustain the point of order.

3. Wilbur D. Mills (Ark.).

Senate Amendment Changing Appropriation for Agency for One Year—Amendment Permanently Amending Law

§ 42.59 To a Senate amendment pertaining only to an appropriation amount for an agency for one year, an amendment not only changing that figure but also adding language having the effect of permanent law is not germane; thus, to a Senate amendment, reported from conference in disagreement, only striking the fiscal year 1984 appropriation for the Congressional Research Service and inserting in lieu thereof a new figure, an amendment proposed in a motion to recede and concur with an amendment, permanently amending the Legislative Reorganization Act to require the Congressional Research Service to submit budget estimates for inclusion in the United States Budget, was conceded to be not germane and was ruled out on a point of order.

During consideration of H.R. 3135⁽⁴⁾ in the House on June 29,

4. Legislative Branch Appropriations for fiscal 1984.

1983,⁽⁵⁾ Speaker Pro Tempore Abraham Kazen, Jr., of Texas, sustained a point of order in the circumstances described above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE: The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment number 17: Page 16, line 15, strike out "\$35,543,550" and insert "\$37,700,000".

MR. [VIC] FAZIO [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Fazio moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "\$36,620,000 to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), and section 203(g) of such act is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government." . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment embodied in the motion offered by the distinguished gentleman from California is not germane to the Senate amendment

presently under consideration, and therefore that the gentleman's motion is in violation of clause 7 of rule XVI.

The gentleman's amendment has the effect of amending the Legislative Reorganization Act of 1970, and, for this reason, goes far beyond the scope of the Senate amendment and introduces a completely new subject. The amendment clearly is not germane.

It is equally clear, Mr. Speaker, that the germaneness test is applicable in the present parliamentary circumstances. In chapter 28, the most recent edition of Procedures in the House, it is stated in section 21 that:

Where a motion is offered to concur in a Senate amendment with an amendment, the proposed amendment must be germane to the Senate amendment. The rule of germaneness also applies to motions to recede and concur in a Senate amendment with an amendment.

Moreover, in the same section:

When considering a Senate amendment reported in disagreement by conferees, a proposal to amend must be germane to the Senate amendment.

Mr. Speaker, the germaneness test clearly applies and the amendment clearly is not germane. I ask that my point of order be sustained. . . .

MR. FAZIO: . . . I do concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is conceded and sustained.

Joint Resolution Amending National Cultural Center Act—Amendment Repealing Act and Redirecting Funds

§ 42.60 To a joint resolution amending the National Cul-

5. 129 CONG. REC. 18129, 18130, 98th Cong. 1st Sess.

tural Center Act to rename the National Cultural Center as the John F. Kennedy Center for the Performing Arts and authorizing an appropriation for such Center, an amendment repealing that Act and redirecting funds received under the Act to the Smithsonian Board of Regents for the use of the National Portrait Gallery and making acquired land available for the National Capital park and playground system was held to be not germane.

In the 88th Congress, a proposition was under consideration to rename the National Cultural Center as the John F. Kennedy Center for the Performing Arts.⁽⁶⁾ The Joint Resolution stated in part:

Whereas the late John Fitzgerald Kennedy served with distinction as President of the United States, and as a Member of the Senate and House of Representatives; and . . .

Whereas by his untimely death this Nation and the world has suffered a great loss; and . . .

Whereas the living memorial to be named in his honor by this joint resolution shall be the sole national monument to his memory within the city of Washington and its environs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assem-

6. 110 CONG. REC. 140, 88th Cong. 2d Sess., Jan. 8, 1964.

bled, That the National Cultural Center Act (Public Law 85-874; 72 Stat. 1698) is amended as follows:

(1) In section 1 by striking out "National Cultural Center Act" and inserting in lieu thereof "John F. Kennedy Center Act";

(2) By striking out "National Cultural Center" each place that it appears in such Act (including the title of such Act but excluding clauses (2) and (3) of subsection (b) of section 2 of such Act) and inserting in lieu thereof at each such place the following: "John F. Kennedy Center for the Performing Arts" . . .

(6) BY ADDING AT THE END THEREOF THE FOLLOWING NEW SECTIONS:

"APPROPRIATIONS

"Sec. 8. There is hereby authorized to be appropriated to the Board for use in accordance with this Act, amounts which in the aggregate will equal gifts, bequests, and devises of money, securities, and other property, held by the Board under this Act, except that not to exceed \$15,500,000 shall be appropriated pursuant to this section.

"BORROWING AUTHORITY

"Sec. 9. To finance necessary parking facilities for the Center, the Board may issue revenue bonds to the Secretary of the Treasury payable from revenues accruing to the Board. . . .

"GIFTS TO UNITED STATES

"Sec. 10. The Secretary of the Treasury is authorized to accept on behalf of the United States any gift to the United States which he finds has been contributed in honor of or in memory of the late President John F. Kennedy and to pay the money to such appropriation or other accounts, including the appropriation accounts established pursuant to appropriations authorized by this Act, as in

his judgment will best effectuate the intent of the donor. . . .

Sec. 2. In addition to the amendments made by the first section of this Act, any designation or reference to the National Cultural Center in any other law, map, regulation, document, record, or other paper of the United States shall be held to designate or refer to such Center as the John F. Kennedy Center for the Performing Arts.

The following amendment was offered:⁽⁷⁾

Amendment offered by Mr. Kyl: Strike out all after the resolving clause and insert in lieu thereof the following:

That the Secretary of the Interior shall construct within the District of Columbia . . . a center for the performing arts to be known as the "John F. Kennedy Center for the Performing Arts." . . .

Sec. 3. (a) The National Cultural Center Act is hereby repealed.

(b) All funds and property received under the National Cultural Center Act, and income therefrom, shall vest in the Board of Regents of the Smithsonian Institution and shall be used by the Board of Regents of the Smithsonian Institution to carry out the purposes of the Act entitled 'An Act to provide for the transfer of the Civil Service Commission Building in the District of Columbia to the Smithsonian Institution to house certain art collections of the Smithsonian Institution', approved March 28, 1958, and for the acquisition of works of art to be housed in the building referred to in such Act; except that such funds or property, and the income therefrom, shall rest in an organization designated by the donor of such funds or property at the time of the making of the donation thereof, at such time, such orga-

nization is described in section 501(c)(3) of the Internal Revenue Code of 1954 and is exempt under section 501(a) of such Code, and if, at such time, a contribution, bequest . . . or transfer to such organization is deductible under section 170, 2055, or 2106 of such Code.

(c) The National Capital Planning Commission shall make any land acquired under the National Cultural Center Act available for use in the National Capital park and playground system.

Amend the title of the joint resolution so as to read: "Joint Resolution authorizing the Secretary of the Interior to construct the John F. Kennedy Center for the Performing Arts, (authorizing) an appropriation therefor, and for other purposes."

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

MR. [ROBERT E.] JONES of Alabama: Mr. Chairman, I make a point of order against the amendment. It is not germane to the pending joint resolution. It would establish conditions which would not be akin to the various sections of the proposal now before the House. It would also set up an amendment to the Internal Revenue Code of 1954 and establish jurisdictions over and beyond those contained in the Reorganization Act of 1946, as amended.

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

MR. [JOHN H.] KYL [of Iowa]: . . . Mr. Chairman, this amendment follows both purposes of the original legislation. There is no new language in the joint resolution which was not included in the previous act passed by the Congress. The language which is used here

7. *Id.* at pp. 143, 144.

was merely taken from that act, which is to be amended by this amendment.

The Chairman,⁽⁸⁾ in ruling on the point of order stated:⁽⁹⁾

It is the opinion of the Chair that the point of order is well taken because the amendment refers to funds from certain other acts which are not incorporated in the joint resolution at all.

Modification of Salary Limitations in Price Stabilization Act—Amendment Imposing Supertax

§ 42.61 To an amendment relating to salary limitations contained in the Price Stabilization Act, an amendment undertaking to establish certain tax rates and schedules for the purpose of raising revenue was held to be not germane.

In the 78th Congress, during consideration of a bill⁽¹⁰⁾ to increase the debt limit of the United States and for other purposes, the following amendment was under consideration:⁽¹¹⁾

Amendment offered by Mr. [Howard W.] Smith of Virginia as a substitute

8. Albert Rains (Ala.).
9. 110 CONG. REC. 144, 88th Cong. 2d Sess., Jan. 8, 1964.
10. H.R. 1780 (Committee on Ways and Means).
11. 89 CONG. REC. 1954, 78th Cong. 1st Sess., Mar. 12, 1943.

for the amendment offered by Mr. [Bertrand W.] Gearhart [of California]: Strike out all of section 4 and insert the following:

Sec. 4. Effective as of October 2, 1942, section 5 of the act of October 2, 1942, entitled "An act to amend the Emergency Price Control Act of 1942, to aid in preventing inflation, and for other purposes," is amended by adding subsection (d) to section 5 as follows:

(d) No action shall be taken under authorization of this act or otherwise which will limit the payment of annual salaries to a maximum limit less than the annual amount of salary paid with respect to the particular work involved on December 7, 1941.

An amendment was offered which stated:⁽¹²⁾

Amendment offered by Mr. [Horace J.] Voorhis of California to the amendment offered by Mr. Smith of Virginia: At the end of the Smith amendment add the following:

Sec. 4. Supertax on individuals.

(a) The Internal Revenue Code is amended by inserting at the end of chapter 1 the following new subchapter:

SUBCHAPTER E—SUPERTAX ON INDIVIDUALS

Sec. 477. Imposition of tax.

There shall be levied, collected, and paid for each taxable year beginning after December 31, 1942, upon the supertax net income of the following individuals the supertax shown in the following table: . . .

The following exchange⁽¹³⁾ concerned a point of order raised against the Voorhis amendment:

12. *Id.* at p. 1957.
13. *Id.* at pp. 1957, 1958.

MR. [WESLEY E.] DISNEY [of Oklahoma]: Mr. Chairman, I reserve a point of order against the amendment.

MR. [JOHN M.] VORYS of Ohio: Mr. Chairman, I make the point of order against the amendment. . . .

The point of order is that this is an amendment in the third degree. It has nothing to do with the merits or the substance of the amendment to which it is offered.

MR. [JERE] COOPER [of Tennessee]: May I say, Mr. Chairman, that it is not in the third degree. It is an amendment to a substitute, and therefore is in order. . . .

MR. VOORHIS of California: . . . Mr. Chairman, we have before us a provision, the Disney amendment, which is brought before us by the Committee on Ways and Means, but which many Members contend should have come from the Committee on Banking and Currency. The amendment I propose to attach to this bill which is brought to us by the Committee on Ways and Means does cover a matter which is within the jurisdiction of the Committee on Ways and Means very directly and, if adopted, it would mean that Congress would be saying, "No, it is not possible to reduce salaries as they were on the date of Pearl Harbor, but we will adopt a tax program affecting incomes not only from salaries but from other sources which will recapture the greatest portion of those incomes in excess of \$25,000 net after taxes and thus make certain that nobody gets rich out of the war."

THE CHAIRMAN:⁽¹⁴⁾ Section 4 of the bill, the so-called Disney amendment, is in relation to the limitation on sala-

ries contained in the Price Stabilization Act. The amendment offered by the gentleman from California [Mr. Gearhart] and the substitute offered by the gentleman from Virginia [Mr. Smith], also refer strictly to the matter of salary limitations. The amendment offered by the gentleman from California is a taxing amendment which undertakes to set up rates and schedules for the purpose of raising revenue. It is clearly not germane to the substitute amendment to which it is offered. The Chair sustains the point of order.

Aircraft Flying Over National Parks—Amendment To Establish Standards for Aircraft Collision Avoidance Generally

§ 42.62 To a bill providing for a study of minimum altitude by aircraft flying over units of the national park system and regulating air traffic over a specific national park, an amendment to a law not amended by the bill establishing standards for aircraft collision avoidance not confined to overflights in the national parks was held to be not germane.

On Sept. 18, 1986,⁽¹⁵⁾ during consideration of H.R. 4430 in the Committee of the Whole, the

15. 132 CONG. REC. 24082-84, 99th Cong. 2d Sess.

14. Clifton A. Woodrum (Va.).

Chair sustained a point of order against the amendment described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope. The proceedings were as follows:

(a) Yosemite National Park.—During the applicable study and review period it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. . . .

SEC. 2. GRAND CANYON NATIONAL PARK.

(a) Noise associated with aircraft over-flight at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the Park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

[ROBERT K.] DORNAN of California: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Dornan of California: At the end of the bill add the following:

SEC. 4. COLLISION AVOIDANCE SYSTEM.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)), which relates to research and development, is amended by inserting "(1)" immediately after "(c)"

and by adding at the end thereof the following new paragraph:

"(2) In carrying out his functions, powers, and duties under this section pertaining to aviation safety, the Secretary of Transportation shall coordinate and take whatever steps necessary (including research and development) to promulgate standards for an airborne collision avoidance system for all United States aircraft, civil and military, to improve aviation safety. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, under the rule of germaneness, rule XVI, clause 7, no subject different from that under consideration shall be admitted under the color of an amendment. The amendment of the gentleman from California [Mr. Dornan] violates that rule and I must reluctantly insist on my point of order, Mr. Chairman. . . .

THE CHAIRMAN:⁽¹⁶⁾ The Chair is ready to rule.

The gentleman from California [Mr. Dornan] has offered an amendment adding a section 4 pertaining to the collision avoidance system.

The Chair has had an opportunity to examine the amendment and it is the opinion of the Chair that the amendment is not germane. The bill before us, H.R. 4430, is a narrow one addressing only overflights over certain national park areas.

The amendment goes to an unrelated subject amending an act not amended by the bill.

Therefore, the Chair sustains the point of order.

16. J. J. Pickle (Tex.).