The Chair feels that the situation presented by this amendment is analogous to that presented when a bill amendatory of existing law in one particular is sought to be amended by a repeal of the law. In those cases, decisions are uniform to the effect that the amendments are not considered germane—volume [Cannon's Precedents] VIII, sections 2948–2949.

The Chair does not feel that the amendment is within the scope of the bill before the Committee of the Whole. It relates to a subject not under consideration at this time. The Chair therefore sustains the point of order.

§ 5. Fundamental Purpose of Amendment as Test

In determining whether an amendment is germane, it is often useful—especially when the amendment is in the nature of a substitute for the pending text—to consider whether its fundamental purpose is related to the fundamental purpose of the bill to which offered.

The Speaker or Chairman considers the stated purposes of a bill and the amendment, although not the motive or intent of the proponent of the amendment which circumstances might suggest, in ruling on the germaneness of a proposed amendment.[25] If the purpose or objective of an amendment is different from that of the bill to which it is offered, the amendment may be held not to be germane. For example, it is generally held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.[26] An amendment offered to a revenue bill is not germane if it proposes a tax for any other purpose than that of raising revenue.[27] Moreover, to a bill relating to the minting and issuance of public currency, amendments providing for minting a coin for a private purpose[28] or for a commemorative or collector's coin[29] have been held to be not germane.

On the other hand, the fact that a provision in a bill and a proffered amendment to that provision have a common purpose or objective is not conclusive as to the amendment's germaneness, especially where the two approaches are dissimilar.[30]

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25. See § 3.45, supra, and § 5.5, infra. See also, generally, § 6, infra, which discusses amendments that contemplate methods different from those of the bill to be used in achieving the objectives of the bill.

26. See § 5.29, infra.

27. See § 5.11, infra.

28. See § 5.27, infra.

29. See § 5.28, infra.

30. See § 5.8, infra, and § 6, generally.

Amendment Elaborating on Methods of Accomplishing Results Contemplated by Bill, and Adding Incidental Conditions or Exceptions

§ 5.1 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute which was more detailed in its provisions but which sought to achieve the same result was held germane, where the additional provisions not contained in the original bill were construed to be merely incidental conditions or exceptions that were related to the fundamental purpose of the bill.

The proceedings of Aug. 2, 1973, which related to H.R. 9130 (the trans-Alaska pipeline authorization) are discussed in § 30.36, infra.

Bill Requiring Preservation of Election Returns—Amendment To Provide for Court Appointment of Voting Referees

§ 5.2 To a bill to enforce constitutional voting rights by requiring preservation of federal election returns, an amendment to provide for court appointment of voting referees to insure protection of voters' rights was held to be germane.(1)

Bill To Enforce Right to Vote—Amendment To Protect First Amendment Rights That Might Affect Voting Rights

§ 5.3 To a bill to enforce the right to vote as guaranteed by the 15th Amendment to the Constitution, an amendment to protect freedom of speech and other First Amendment rights whose abridgment might affect exercise of voting rights, was held germane.

In the 89th Congress, during consideration of the Voting Rights Act of 1965,(2) the following amendment was offered:(3)

> (b) Whenever any person acting under color of law has engaged . . . in any . . . practice that . . . threatens . . . the exercise by any other person, in connection with voting, of his right of freedom of speech or of the press, or his right peaceably to assemble . . . the Attorney General may institute . . . a civil action . . . for preventive relief. . . .

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1. See § 45.11, infra.

2. H.R. 6400 (Committee on the Judiciary).

3. 111 CONG. REC. 16263, 89th Cong. 1st Sess., July 9, 1965.

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

MR. [EMANUEL] CELLER [of New York]: . . . Mr. Speaker, the subject matter of H.R. 6400 deals exclusively with voting rights. The amendment proposed deals with rights under the first amendment to the Constitution. . . . It is very obvious that this violates the rule of germaneness. Although we are dealing with constitutional rights, specifically the right to vote under H.R. 6400, the rule is that one individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

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

The Chair calls attention to language in the amendment offered by the gentleman from New York [Mr. Lindsay] under paragraph (b) where it is made quite clear by the phrase "in connection with voting" that the purpose of this amendment deals only with the voting aspect. In other words, with the 15th amendment.

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

Bill Establishing Commission To Study Voting Rights—Amendment Creating Human Resettlement Commission

§ 5.4 To a bill establishing a commission to study deprivation of voting rights and granting authority to the Attorney General to institute legal proceedings to protect such rights, an amendment creating a Commission on Human Resettlement, with authority to aid those who wish to emigrate from any state that practices segregation, was held to be not germane.

In the 85th Congress, during consideration of a bill[5] as described above, the following amendment was offered:[6]

Amendment offered by Mr. [George W.] Andrews [of Alabama]: On page 1, strike out all after the enacting clause and insert the following:

ESTABLISHMENT OF COMMISSION ON HUMAN RESETTLEMENT

Sec. 8. (a) The Commission is authorized, upon application therefor, to grant a relocation loan in accordance with this Act to any Negro living in any State in which racial segregation is practiced, to enable such Negro to move to any State in which racial segregation is not practiced.

Mr. Emanuel Celler, of New York, made the point of order that the amendment was not germane.[7] The Chairman,[8] in ruling on the point of order, stated:

4. Richard W. Bolling (Mo.).

5. H.R. 6127 (Committee on the Judiciary). See the proceedings at 103 CONG. REC. 8838 et seq., 85th Cong. 1st Sess., June 11, 1957.

6. *Id.* at pp. 8860, 8861.

7. *Id.* at p. 8861.

8. Aime J. Forand (R.I.).

The Chair finds that the bill under consideration provides for the securing and protecting of the civil rights, whereas the amendment offered by the gentleman from Alabama provides for the creation of a Commission on Human Resettlement which deals more with economic benefits than with civil rights.

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

Bill Extending Civil Rights Commission—Amendment Authorizing Relocation Loans for Those Wishing To Emigrate From State Practicing Secregation

§ Sec. 5.5 To that title of a civil rights bill extending the life of the Civil Rights Commission and further delineating its duties with respect to the investigation of violations of constitutional rights, an amendment authorizing the Commission to make relocation loans to those who wish to emigrate from any state that practices segregation was held to be not germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[9] Mr. George W. Andrews, of Alabama, offered an amendment whose purpose he explained as follows:[10]

> The bill that I introduced which now is before us in the form of an amendment to the Civil Rights Commission would simply provide that if any Negro living in a State where local laws . . . and traditions made him unhappy, he would be entitled to receive, from a Human Resettlement Commission that my bill would have created, a . . . Government loan, in an amount sufficient to permit him and the members of his family to move to any State of his choice. And it would be the duty of that Commission—and under my amendment the duty of the Civil Rights Commission—to assist him. . . .

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make a point of order that the amendment . . . is not germane to the title under consideration. This title concerns the investigators, the factfinding body called the Civil Rights Commission.

The Chairman, Eugene J. Keogh, of New York, viewing the amendment as one "that would have for its purpose the setting up of what might be described generally as a Human Resettlement Commission," sustained the point of order.[11] He relied in part on a

9. H.R. 7152 (Committee on the Judiciary).

10. 110 CONG. REC. 2298, 88th Cong. 2d Sess., Feb. 6, 1964.

11. *Id.* at p. 2299.

prior similar ruling,[12] which he described as follows:

> It has been called to the Chair's attention that on June 11, 1957, the Chairman of the Committee of the Whole, Mr. Forand, of Rhode Island, in ruling on a similar amendment to a bill providing for establishing a Commission to study deprivation of voting rights and granting authority to the Attorney General to institute or intervene in legal proceedings to protect voting rights, an amendment providing for creating a Commission on Human Resettlement, similar to the pending amendment of the gentleman from Alabama, with authority to make loans to Negro citizens for emigration from any State practicing segregation, was held by that chairman not to be germane.

Bill Requiring Balanced Budgets To Be Submitted by President and Voted on by Congress—Amendment Requiring Joint Resolutions Rather Than Concurrent Resolutions in Other Phases of Budget Process

§ 5.6 To a bill requiring balanced budgets to be submitted by the President and voted upon by the Congress as alternatives to deficit budget concurrent resolutions, a motion to recommit converting the entire budget process from a concurrent resolution to a joint resolution, thereby changing the Congressional budget resolution to a law requiring the signature of the President for all purposes of enforcement of the Budget Act was held not germane as having a broader fundamental purpose, requiring Executive Branch approval of all budget resolutions and not merely those submitted in balance.

During consideration of the Balanced Budget Act of 1990[13] in the House on July 18, 1990,[14] it was held that to a proposition changing procedures relating to one aspect of the Congressional budget process to require consideration of balanced budgets, an amendment changing other procedures to require Presidential approval of any budget resolution, thereby involving the Executive Branch in enforcement of all Budget Act procedures and sanctions, went beyond the fundamental purpose of the proposition to which offered. The proceedings were as follows:

> MR. [BUTLER] DERRICK [of South Carolina]: Mr. Speaker, I call up the bill (H.R. 5258) to require that the President transmit to Congress, that

12. See § 5.4, supra.

13. H.R. 5258.

14. 136 CONG. REC. p.—, 101st Cong. 2d Sess.

the congressional Budget Committees report, and that the Congress consider a balanced budget for each fiscal year, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5258 is as follows:

H.R. 5258

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

TITLE I—AMENDMENT TO TITLE 31, UNITED STATES CODE

SEC. 101. SUBMISSION OF BALANCED BUDGET BY THE PRESIDENT.

Section 1105 of title 31, United States Code, is amended by inserting at the end the following new subsection:

"(g)(1) Except as provided by paragraph (2), any budget submitted to Congress pursuant to subsection (a) for the ensuing fiscal year shall not be in deficit.

"(2) For any fiscal year with respect to which the President determines that it is infeasible to submit a budget in compliance with paragraph (1), the President shall submit on the same day two budgets, one of which shall be in compliance with paragraph (1), together with written reasons in support of that determination.".

TITLE II—AMENDMENT TO CONGRESSIONAL BUDGET ACT OF 1974

SEC. 201. REPORTING OF BALANCED BUDGETS BY COMMITTEES ON THE BUDGET OF THE HOUSE OF REPRESENTATIVES AND SENATE.

Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end the following new subsection:

"(j) Reporting of Balanced Budgets.—

"(1) Except as provided by paragraph (2), the concurrent resolution on the budget for a fiscal year referred to in subsection (a) as reported by the Committee on the Budget of each House shall not be in deficit. . . .

SEC. 202. PROCEDURE IN THE HOUSE OF REPRESENTATIVES.

Section 305(a) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(8)(A) If the Committee on Rules of the House of Representatives reports any rule or order providing for the consideration of any concurrent resolution on the budget for a fiscal year, then it shall also, within the same rule or order, provide for—

"(i) the consideration of the text of any concurrent resolution on the budget for that fiscal year reported by the Committee on the Budget of the House of Representatives pursuant to section 301(j); and

"(ii) the consideration of the text of each concurrent resolution on the budget as introduced by the Majority Leader pursuant to subparagraph (B);

and such rule or order shall assure that a separate vote occurs on each such budget.

"(B) The Majority Leader of the House of Representatives shall introduce a concurrent resolution on the budget reflecting, without substantive revision, each budget submitted by the President pursuant to section 1105(g) of title 31, United States Code, as soon as practicable after its submission.".

SEC. 203. PROCEDURE IN THE SENATE.

Section 305(b) of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"(7) Notwithstanding any other rule, it shall always be in order in the Senate to consider an amendment to a concurrent resolution on the budget for a fiscal year comprising the text of any budget submitted by the President for that fiscal year as described in section 1105(g)(1) of title 31, United States Code, and, whenever applicable, an amendment comprising the text of any other budget submitted by the President for that fiscal year as described in section 1105(g)(2) of title 31, United States Code.". . . .

MR. [WILLIS D.] GRADISON [Jr., of Ohio]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER PRO TEMPORE:[15] The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Gradison moves to recommit the bill (H.R. 5258)) to the Committee on Rules and the Committee on Government Operations with instructions to report the same to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 101. AMENDMENTS CHANGING "CONCURRENT" TO "JOINT" RESOLUTIONS.

(a) The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "concurrent" in the items relating to sections 301, 303, and 304 and inserting "joint".

(b) Paragraph (4) of section 3 of such Act is amended to read as follows:

"(4) The term "joint resolution on the budget" means—

"(A) a joint resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301; and

"(B) any other joint resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.".

(c) Sections 300, 301, 302, 304, 305, 308, 310, 311, and 401 of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) are amended by striking "concurrent resolution" each place it appears and inserting "joint resolution". . . .

MR. DERRICK: Mr. Speaker, I have a point of order. . . .

Mr. Speaker, the motion of the gentleman from Ohio [Mr. Gradison] is out of order. It goes beyond the scope of the Budget Act. It is entirely out of the scope of what we are dealing with. It requires a complete revision of the Budget Act in that we ask the President to sign it. . . .

MR. GRADISON: . . . Mr. Speaker, the motion to recommit the bill, H.R. 5258 with instructions to amend the bill by striking out all after the enacting clause and inserting language changing the concurrent budget resolution to a joint resolution in the Budget Act, is a germane amendment to the underlying bill. For an amendment to be germane it must be akin to or relevant to the subject matter of the bill. An amendment must not be on a subject different from the bill under consideration.

Mr. Speaker, H.R. 5258 amends the 1974 Congressional Budget Act in several instances. The bill required reporting by the Committee on the Budget of balanced budgets unless a report is made stating why a balanced budget is not possible. The bill further changes

15. David E. Skaggs (Colo.).

the procedure by which budget resolutions are considered in the House, requiring the Committee on Rules to make in order the President's budget for a vote in the same rule providing for consideration of the budget resolution reported by the Committee on the Budget.

Mr. Speaker, amending the Budget Act to require that the concurrent budget resolution be made a joint resolution, as provided in this motion to recommit, is relevant to the Budget Act changes made by the underlying bill. The bill itself changes consideration of the budget resolution to include a vote on the President's budget. The amendment made in my motion to recommit with instructions would provide additional changes to the Budget Act to further bring the President into the existing procedures. . . .

MR. [JOHN] CONYERS [Jr., of Michigan]: Mr. Speaker, if I may be heard on my point of order, I believe that the motion of the gentleman from Ohio (Mr. Gradison) is not germane because it amends the table of contents to make it a joint resolution. This is the only way it can be done, and in effect it affects all budget resolutions, not just the Balanced Budget Act, H.R. 5258. . . .

MR. GRADISON: Mr. Speaker, I would like to pursue, with the Chair's indulgence, the point just made.

Mr. Speaker, my understanding is that the bill before us amends all budget resolutions and that it requires the Committee on Rules, in bringing any budget resolution to the floor, to include four choices which may be in addition to other budget resolutions which may be brought to the floor for consideration. So, I frankly am confused by the point raised by the gentleman from Michigan (Mr. Conyers) because it seems that the criticism which he is levying against my motion to recommit would apply equally to the measure before us.

THE SPEAKER PRO TEMPORE: The Chair will apply the fundamental purpose test of germaneness to this motion. The underlying legislation is described primarily in the second paragraph of page 2 of the Rules Committee report filed with the bill.

The intention of the motion to recommit and the instructions contained therein would, in the opinion of the Chair, change fundamentally the purpose of the bill before the House to include the President, as well as the Congress, in the entire congressional budget process, including all procedures and sanctions resulting therefrom.

For that reason it fails the test of germaneness, and the point of order is sustained.

Bill To Provide Temporary Increase in Statutory Debt Ceiling—Amendment Construed as Temporary Rather Than Permanent Change in Law

§ 5.7 Although the Chair will not ordinarily look behind the text of a bill and consider the probable effects of its provisions, or amendments thereto, in determining issues of germaneness, the Chair has ruled that an amendment which in form

amounted to a permanent change in law could in fact be understood to be a temporary change in law, in light of prior legislative treatment of the subject in question (the statutory ceiling on public debt), and thus could properly be offered to a bill whose fundamental purpose was to provide a temporary increase in the statutory ceiling on the debt.

The proceedings of May 13, 1987, relating to H.R. 2360, extension of the public debt limit, are discussed in §46.7, infra.

Bill To Increase Debt Limit—Amendment Authorizing Issuance of Non-Interest-Bearing Obligations and Directing Purchase Thereof

§5.8 To that section of a bill repealing certain provisions of law and amending the Second Liberty Bond Act to increase the debt limit, an amendment authorizing the Secretary of the Treasury to issue non-interest-bearing obligations and directing the Board of Governors of the Federal Reserve banks to purchase such obligations at par value was held to be not germane.

On Feb. 10, 1941, the Public Debt Act of 1941[16] was under consideration. The bill stated in part:[17]

> Sec. 2. (a) Section 21 of the Second Liberty Bond Act, as amended, is further amended to read as follows:
>
> Sec. 21. The face amount of obligations issued under the authority of this act shall not exceed in the aggregate $65,000,000,000 outstanding at any one time.
>
> (b) The authority granted in the following provisions of law to issue obligations is terminated:
>
> (1) Section 32 of the act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, as amended (U.S.C., 1934 ed., title 31, sec. 756). . . .
>
> (c) Section 301 of title III of the Revenue Act of 1940 (54 Stat. 526) creating a special fund for the retirement of defense obligations) is repealed.

An amendment was offered[18] as described above. The proponent then stated as follows:

> MR. [WRIGHT] PATMAN [of Texas]: . . . This amendment is prepared in a way that will allow the Secretary of the Treasury to issue non-interest-bearing obligations and turn them over to the Federal Reserve Banking System and receive in return therefor credit which is used today in the same

16. H.R. 2959 (Committee on Ways and Means).
17. See 87 CONG. REC. 875, 77th Cong. 1st Sess.
18. *Id.* at p. 877.

way and manner as the interest-bearing bonds are issued.

A point of order was raised against the amendment, as follows: (19)

> MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make a point of order against the amendment . . . on the ground it is not germane. . . . I concede the first part of the amendment . . . would be in order, but [the principle is well established] that if any part of the amendment is subject to a point of order . . . the entire amendment is subject to a point of order.
>
> . . . [The latter part of the amendment] clearly places upon the Federal Reserve bank a mandatory duty and responsibility which is not embraced within the provisions of the bill. . . . Indeed, such a provision as that should properly, and would have to, come from the Banking and Currency Committee. It would not be within the jurisdiction of the Committee on Ways and Means.

The Chairman,(20) in ruling on the point of order, stated:

> The fact that an amendment and the provision in the bill to which the amendment is offered have a common purpose and are directed toward the same objective is not conclusive.
>
> The amendment proposed by the gentleman deals with a subject to which there is no reference in the text to which offered, and is, therefore, not germane to the bill.

19. *Id.* at p. 878.

20. Clarence A. Cannon (Mo.).

Provision Extending for One Year Authorization for Revenue-Sharing—Amendment Extending Revenue-Sharing Program for Three Years

§ 5.9 To a proposition to appropriate or to authorize appropriations for only one year (and containing no provisions extending beyond that year) an amendment to extend the appropriation or authorization to another year is not germane; thus, to an amendment in the nature of a substitute extending for one year the entitlement authorization for revenue-sharing during fiscal year 1981 and containing conforming changes in the law which would not effectively extend beyond that year, an amendment extending the revenue-sharing program for three years was held broader in scope and not germane.

During consideration of the State and Local Fiscal Assistance Act Amendments of 1980 (1) in the Committee of the Whole on Nov. 13, 1980, (2) it was demonstrated that the test of germaneness of a perfecting amendment to an

1. H.R. 7112.

2. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill. The proceedings were as follows:

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Horton: Strike out everything after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund $4,566,700,000 to pay the entitlements of units of local government hereinafter provided for the entitlement period beginning October 1, 1980, and ending September 30, 1981.". . .

An amendment was offered:

The Clerk read as follows:

Amendment offered by Mr. Wydler to the amendment in the nature of a substitute offered by Mr. Horton: On page 1 of the amendment of the gentleman from New York, strike out section 2 and insert in lieu thereof the following:

SEC. 2. EXTENSION OF PROGRAM.

(a) Authorization of Appropriations for Local Share.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.". . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against nongermane amendments. The Horton substitute is limited to an extension of this legislation in 1981 only. The amendment, however, seeks to add language dealing with fiscal years 1982 and 1983. This is a different subject from that of the Horton substitute and does not conform to the rule. The Horton substitute was very carefully drafted and restricted to units of local government for the entitlement period beginning October 1, 1980, and ending September 30, 1981.

The proposed amendment is a different subject matter, dealing with State governments for a different period of time.

The rule is quite clear on this matter. To admit such an amendment would cause great confusion in the legislative process of the House. It should be ruled out of order, Mr. Chairman. . . .

MR. [JOHN W.] WYDLER [of New York]: Mr. Chairman, the amendment to the amendment that I have offered deals with exactly the same subject matter as in the amendment that has been offered by the gentleman from New York (Mr. Horton). It does deal with a longer time period, but it is the same time period exactly that is con-

tained in the legislation. It deals with other matters which are contained in the general legislation, so I feel it is well within the parameters of the bill it is trying to be substituted for.

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

In the opinion of the Chair, the fundamental purpose of the amendment offered by the gentleman from New York (Mr. Horton), in the nature of a substitute, is to extend for 1 year the entitlement authorization for revenue-sharing payments to local governments during fiscal year 1981.

Any amendment offered thereto must be germane to the Horton amendment. It will not be sufficient that the amendment be germane to the committee bill. Under the precedents, to a proposition to appropriate for only 1 year, an amendment to extend the appropriation to another year, is not germane; Cannon's Precedents, volume 8, section 2913.

In the opinion of the Chair, the Horton amendment and the conforming changes therein have as their fundamental purpose the extension of local entitlements for only 1 year and do not thereby open up the amendment to permanent or multiyear changes in the revenue-sharing law.

For that reason, the Chair sustains the point of order.

Formula for Allotment of Funds to States for School Construction—Amendment Proposing Different Formula

§ 5.10 To a bill authorizing appropriations for allotment to the states, under a specific formula, for school construction, an amendment proposing a different formula was held to be germane.

In the 84th Congress, during consideration of a bill[4] to authorize federal assistance to states and local communities in financing school construction, the following amendment was offered:[5]

> Amendment offered by Mr. [Ralph W.] Gwinn [of New York]: Beginning on page 3, line 1, strike out everything through line 6 on page 10 and insert in lieu thereof the following:
>
> AUTHORIZATION OF APPROPRIATIONS
>
> Sec. 101. There is hereby authorized to be appropriated for the fiscal year beginning July 1, 1956, and for each of the three succeeding fiscal years, an amount equal to 1 percent of the total of all income taxes collected . . . which shall be paid by the Secretary of the Treasury . . . to the respective States . . . in amounts equal to 1 percent of the amount of such revenue collected in each such State or Territory, to be used for public schoolroom construction as prescribed by the law of each State. . . .

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

> MR. [AUGUSTINE B.] KELLEY [of Pennsylvania]: Mr. Chairman, I make

3. Gerry E. Studds (Mass.).

4. H.R. 7535 (Committee on Education and Labor).

5. 102 CONG. REC. 11859, 84th Cong. 2d Sess., July 5, 1956.

the point of order that the amendment is not germane; that it involves a taxation problem, and is not germane to this legislation.

The Chairman,[6] noting that the amendment merely provided another formula for apportionment of funds for schools, overruled the point of order.[7]

Revenue Bill—Amendment To Permit States To Tax Federal Incomes

§ 5.11 To a bill to raise revenue for the federal treasury, an amendment permitting states to tax federal incomes was held to be not germane.

On Mar. 8, 1938, during consideration of the Revenue Bill of 1938,[8] an amendment was offered[9] as described above. Mr. Jere Cooper, of Tennessee, made the point of order that the amendment was not germane to the bill. The Chairman, Clifton A. Woodrum, of Virginia, in ruling on the point of order, stated:[10]

> The purpose of the pending bill is to raise revenue for the Federal Treasury. Section (b) of the amendment . . . has for its purpose conferring upon States the right to tax Federal incomes for the purpose of raising revenue for the State.

Citing the principle that, "an amendment offered to a revenue bill proposing a tax for any other purpose than that of raising revenue is not germane," the Chairman sustained the point of order.

Omnibus Surface Transportation Authorization Bill—Amendment Authorizing Funds for Highway Project With Ancillary Purpose of Facilitating Completion of Flood-Control Project

§ 5.12 In determining the fundamental purpose of a bill and of an amendment offered thereto, the Chair may examine the broad scope of the bill and the stated purpose of the amendment and need not be bound by ancillary purposes suggested by the amendment; thus, to an omnibus surface transportation authorization bill, including highway-related projects as well as roadways, an amend-

6. Jere Cooper (Tenn.).

7. For a similar ruling with respect to another amendment to the same bill, see 102 CONG. REC. 11756, 84th Cong. 2d Sess., July 3, 1956 (ruling of Chairman Francis E. Walter [Pa.] on the germaneness of an amendment offered by Mr. Antonio N. Sadlak [Conn.]).

8. H.R. 9682 (Committee on Ways and Means).

9. 83 CONG. REC. 3048, 75th Cong. 3d Sess.

10. *Id.* at p. 3049.

ment authorizing funds for construction of those portions of highway projects in a certain area necessary to permit completion of a related flood-control project was held germane since by its terms it was limited to roadway authorization and not separately extended to flood control projects.

During consideration of H.R. 11733 in the Committee of the Whole on Sept. 27, 1978,[11] the Chair overruled a point of order against the following amendment:

MR. [ALLEN E.] ERTEL [of Pennsylvania]: Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ertel: Page 119, after line 23, insert the following:

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially-zoned area containing not less than 70 commercial and industrial establishments which is authorized under Section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. . . .

MR. [WILLIAM H.] HARSHA [of Ohio]: Madam Chairman, the amendment the gentleman offers is in violation of House rule XVI, clause 7, which prohibits nongermane amendments.

The amendment seeks to provide moneys for the completion of a flood control project by way of amending the bill providing for an increase in the Federal share for highway construction projects under the Appalachian Regional Development Act.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. The obvious fundamental purpose of the gentleman's amendment is to permit completion of a flood control project for a certain city in Pennsylvania.

The fundamental purpose of the bill is to make authorizations for highway construction, highway safety, and mass transportation. Flood control projects are in no way within the ambit of this legislation.

Clearly, the amendment does not relate to the subject matter under consideration. I would direct the Chair's attention to a precedent contained in the Congressional Record July 3, 1968, on pages H11926 through H11927. The bill being read in that case was the Federal-Aid Highway Act to which a Member offered an amendment allowing any Governor of a State to permit the diversion of funds apportioned to a State from highway construction to urban mass transit.

The Chair in that case held such an amendment was not germane.

11. 124 CONG. REC. 32050, 32051, 95th Cong. 2d Sess.

A basic rule of germaneness is that an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill.

Even assuming that the basic purpose of the gentleman's amendment is to actually complete the highway, this test is not met, because an ancillary purpose is to complete this flood control project. This is not closely allied to the method encompassed in the bill, which is simply highway construction, unrelated to any flood walls or levees.

A further reason this amendment does not meet the test of germaneness is that it creates a new class by providing relief for a different group of people. Those aided by this bill are motorists in need of good highways, while the gentleman's amendment instead is aimed at providing flood control relief to the citizens of a particular borough in Pennsylvania. Clearly, it violates the rule. These beneficiaries are clearly not in the same class and would rarely if ever be the same people.

The gentleman's amendment broadens the scope of the original bill by providing a general purpose which is not germane to the specific subjects of the original bill. This legislation builds bridges, highways, and mass transit systems; the gentleman's amendment builds flood control levees. . . .

MR. ERTEL: Madam Chairman, this is an amendment to complete the Appalachian Development Highway on the Federal-aid primary system, and it is clearly germane to the bill.

It is true that this is to complete final sections of that highway, and that is the purpose: To build the base for the highway.

That is the purpose of this amendment, and any flood control project or any flood control benefit which might result has already been appropriated and is incidental. The primary purpose of this is to complete the Appalachian highway regional system in order to connect regional highways together. . . .

MR. [ROBERT A.] ROE [of New Jersey]: . . . I wish to speak against this point of order.

For the benefit of the Members of the House . . . let me say that I inspected this area myself on behalf of the committee, and I want to report that the Appalachian development highway program and the regional program are part of this program, and this particular link that is to be connected in Pennsylvania is an integral part of the highway program. It had to be approved by the Environmental Protection Agency, and it is part of the comprehensive planning of the Appalachian program.

Now, the question is whether or not the roadbed per se is a matter of flood control versus a highway.

You could not complete this program without putting this highway on about a 52-foot fill. It happens to be because the elevation and the terrain is in that direction. Therefore, Madam Chairman, it is obvious that, whether it serves as an ancillary purpose and does benefit the flood situation in the area, you could not complete this highway without building it on the 52-foot fill. Therefore, I would respectfully suggest to the Chairman that this is not, in my judgment, nongermane and the point of order should be defeated.

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

The gentleman from Pennsylvania (Mr. Ertel) has offered an amendment to section 125 of the bill, the section entitled "Appalachian Development Highways."

The gentleman from Ohio (Mr. Harsha) argues that the amendment offered by the gentleman from Pennsylvania (Mr. Ertel) is not germane because it is violative of the fundamental purpose of the bill, which is to build highways and not to engage in flood control.

The fundamental purpose of the bill is not only to build roadways. This is a surface transportation bill. There are a number of ancillary highway-related activities and projects which are authorized under the terms of the bill.

The gentleman from New Jersey (Mr. Roe), in arguing in opposition to the point of order, has contended that it would be impossible to complete a certain highway without the construction contemplated in this amendment. That the roadbed will be part of a flood control project is ancillary to the main thrust of the amendment. The completion of a highway is apparently its fundamental purpose, since the highway could not be completed without going into a flood control area and completing the highway with the authorization provided in the amendment.

Consequently, the Chair overrules the point of order raised by the gentleman from Ohio (Mr. Harsha).

12. Barbara Jordan (Tex.).

Bill Authorizing Federal Energy Research and Development Administration To Conduct Environmental Research—Amendment Authorizing Council on Environmental Quality to Evaluate Environmental Effects of Energy Technology

§ 5.13 To a proposition to accomplish a result by one method (regulation by a governmental agency), an amendment to achieve the same fundamental purpose by another closely related method (use of another governmental agency) is germane; thus, to a bill authorizing the Federal Energy Research and Development Administration to conduct a broad range of programs involving energy sources, including environmental research related to the development of energy sources, an amendment authorizing the Council on Environmental Quality to evaluate environmental effects of energy technology was held germane.

During consideration of the Energy Reorganization Act of 1973[13] in the Committee of the

13. H.R. 11510.

Whole on Dec. 19, 1973,[14] the Chair, overruling a point of order, held the following amendment to be germane:

MR. [JOHN R.] DELLENBACK [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dellenback: Page 55, line 8, insert a new section 308 to read as follows:

"Sec. 308. (a) The Council on Environmental Quality is authorized and directed to carry out a continuing analysis of the conduct of research and development of energy technologies to evaluate—

"(1) the adequacy of attention to the probable environmental effects of the application of energy technology, and

"(2) the adequacy of attention to environmental protection in connection with energy processes.

"(b) The Council on Environmental Quality, in carrying out the provisions of this section, may employ consultants or contractors and may by fund transfer employ the services of other Federal agencies for the conduct of studies and investigations.

"(c) The Council on Environmental Quality shall hold annual public hearings on the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology, and the transcript of the hearings shall be published and made available to the public.

"(d) The Council on Environmental Quality shall make such reports to the President, the Administrator, and the Congress as it deems appropriate concerning the conduct of energy research and development, and the President as a part of the annual Environmental Policy Report shall set forth the findings of the Council on Environmental Quality concerning the conduct of energy research and development and the probable environmental consequences of trends in the application of energy technology."

Renumber the subsequent sections. . . .

MR. [CRAIG] HOSMER [of California]: Mr. Chairman, I make a point of order against the amendment on the ground that it goes beyond the authority of this committee and goes to the authority of other committees.

It seeks to authorize money, and it goes beyond the committee's authority.

I do not have the amendment in front of me, but I was listening to it as the gentleman was reading it. There are a number of things in it relative to the duties of the Council on Environmental Quality, pending the authorization for the funding of the Council on Environmental Quality, the hiring of consultants by the Council on Environmental Quality, as well as others.

It ranges all over the jurisdiction of almost every Member's committee in this Congress besides the one that is handling the bill here, and, therefore, the amendment should be stricken down as nongermane. . . .

MR. DELLENBACK: . . . As the Chairman is aware, the bill which is before us deals expressly with the question of the responsibilities of the Administrator engaging in and supporting environmental and other research related to the development of energy sources and utilization technologies.

I submit to the Chairman that this particular amendment, while it does, of

14. 119 CONG. REC. 42618, 42619, 93d Cong. 1st Sess.

course, on its face deal with the responsibilities of the Council on Environmental Quality, is dealing with this critically important field of environmental research, and it is within the scope of the bill. . . .

If we are going to open up the field of environmental research, as this bill does open it up, we should be able to deal with it in this way and insure that that which is done is analyzed, researched, and reported back to the Congress.

THE CHAIRMAN:[15] The Chair is prepared to rule.

The Chair feels that the language on page 33 of the bill beginning at line 16, covers this point. It reads:

> (4) engaging in and supporting environmental, biomedical, physical, and safety research related to the development of energy sources and utilization technologies;

The bill thus authorizes the Administrator of ERDA to engage in precisely the type of environmental research which the amendment would confer upon the Council.

The Chair would like to cite from the House Manual, page 445:

> To a proposition to accomplish a certain purpose by one method, an amendment to achieve the same fundamental purpose by another closely related method may be germane. Thus, to a bill proposing to regulate certain activities through the use of a governmental agency, an amendment proposing to regulate such activities by another governmental agency is germane (Dec. 15, 1937, pp. 1572–89; June 9, 1941, p. 4905).

The Chair overrules the point of order.

15 Dan Rostenkowski (Ill.).

Bill Granting Powers to Government Agency Relating to Use and Conservation of Electrical Power—Amendment Creating Government Corporation To Perform Similar Functions

§ 5.14 The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill; thus, for a bill proposing to accomplish a result by methods comprehensive in scope, an amendment in the nature of a substitute seeking to achieve the same result is germane where the methods contemplated are closely related, and where additional provisions not contained in the original bill are merely incidental conditions or exceptions related to the fundamental purposes of the bill.

During consideration of the Pacific Northwest Electric Power Planning and Conservation Act[16] in the Committee of the Whole on

16. S. 885.

Sept. 29, 1980,[17] it was held that to a proposition to accomplish a result by one method (regulation by a government agency), an amendment to achieve the same fundamental purpose by another closely related method (another type of government entity) is germane. The proceedings were as follows:

The bill reads as follows:

H.R. 8157

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

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act.". . .

Sec. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and . . .

RATES

Sec. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. . . .

Amendment in the nature of a substitute offered by Mr. (James) Weaver

17. 126 CONG. REC. 27832–52, 96th Cong. 2d Sess.

(of Oregon): Page 1, strike all after the enacting clause and insert in lieu thereof:

Section 1. This Act, together with the following table of contents, may be cited as the "Columbia Basin Energy Corporation Act of 1980". . . .

There is created a body corporate by the name of the "Columbia Basin Energy Corporation". The Board of Directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from date of the first meeting of the Board. . . .

FUND

Sec. 22. (a) There is hereby established in the Treasury of the United States a Columbia Basin Energy Corporation Administration Fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Corporation in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Board, (3) any appropriations made by the Congress for the fund, and (4) the following which are hereby transferred to the Corporation: (A) all moneys in the Bonneville Power Administration Fund established by the Federal Columbia River Transmission System Act of October 18, 1974, (B) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Corporation, acting by and through the Board, as authorized in this Act and other Acts relating to the Columbia Basin Energy Corporation system, subject to such limitations as may be prescribed by any applicable appropriation Act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Corporation. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the bill before us is one which arranges to deal with the Pacific Northwest power problems through giving certain power to the administrator of BPA, by arranging for the backing of the funding of construction by use of the rate of all the facilities in the area. It sets up a council relating to the planning for energy and for commercial fisheries and it deals with the use of conservation as a mechanism for substituting for the production of new power.

The gentleman's amendment, on the other hand, is violative of the rule of germaneness because it sets up a mechanism which goes beyond and is not related to the fundamental purpose of the legislation and which, in going toward the fundamental purpose of the legislation, uses mechanisms not authorized and not contemplated and not of the same character as the functions of the basic legislation.

The amendment offered by the gentleman is different in a number of noteworthy sections. For one thing, it sets up a corporation which would be appointed with the board of directors, two to be appointed by the President and a number of others to be appointed by the several States. Apart from the constitutional questions that this raises, the proposal would have a board which would essentially be a corporate body, there being no corporation in the legislation which is before the Committee at this time but, rather, only an advisory council. This board would have sweeping powers roughly equivalent to those of the Tennessee

Valley Authority and which are, therefore, much more sweeping in character. The board would be able to function without regard to the civil service laws at page 10 section 5.

Furthermore, the legislation confers upon the Secretary of Labor the power to determine wage rates and so forth, and compensation, something which is not included in the legislation before us, Mr. Chairman.

Furthermore, it provides for removal of board members by a prescribed mechanism and requires that the activities of the board be nonpolitical in character. It provides for the acquisition of generating facilities, retail distribution systems, and affords to the board the right of eminent domain, something which is not included in the legislation before us. . . .

Mr. [ABRAHAM] KAZEN [Jr., of Texas]: Mr. Chairman, another point, let me also say the amendment is not germane to the bill in that it sets up a Government corporation, a Government corporation, and none is provided for in the basic legislation. Therefore, it is not germane to the main legislation. . . .

MR. WEAVER: . . . The bill before us sets up a council in which one provision is appointed by the Secretary of Energy, that is the so-called fallback provision, but, nevertheless, it is in the bill that the council, which, by the way, is not an advisory council, it has vast powers, vast powers, to approve the plan and projects, is nominated by the Secretary of Energy, and mine is nominated by the President. So the rule says that the fundamental purpose of the amendment must be the same. I maintain the fundamental purpose of the amendment is the same because both the bill and the substitute are trying to solve the energy problems by creating a mechanism, energy problems in the Northwest, by creating a mechanism.

Mine sets up the Columbia Basin Authority which is quite similar to the TVA. I think my substitute is very bad, you understand. It is just that the bill is much worse. It sets up a halfway TVA.

I support very strongly something else. But if you are going to have a TVA, I offer my substitute, Mr. Chairman, as a complete TVA.

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

The Chair would cite section 798(b) of the House Rules and Manual relating to the fundamental purpose as a test of germaneness which says in part:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill. Thus for a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute seeking to achieve the same result was held germane where it was shown that the methods contemplated were closely related and that additional provisions not contained in the original bill were merely incidental conditions or exceptions which were related to the fundamental purpose of the bill.

The Chair would further cite chapter 28, section 2.22 of Deschler's Procedure, and I quote:

> The test of germaneness of an amendment in the nature of a sub-

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

stitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which, if offered separately, might not be germane to the portion of the bill to which offered.

Finally the Chair would note on page 209 in Cannon's Procedure in the 75th Congress, that to a proposal to create a bureau to administer a program a substitute was held germane which established a board rather than a bureau to administer the program.

The bill under consideration utilizes the Bonneville Power Administration and a planning council, while the amendment creates a corporation.

Therefore, on the basis of the precedents cited, the Chair would overrule the point of order.

Bill Addressing Formulation by Agencies of Policies of Energy Conservation—Amendment Prohibiting Use of Fuel for School Busing and Imposing Criminal Penalties

§ 5.15 To a title of a bill designed to enable agencies of the government to formulate policies of energy conservation, an amendment prohibiting certain uses of fuel (for school busing) by any person and imposing criminal penalties for such use was held not germane to the fundamental purpose of the title.

On Sept. 17, 1975,[19] it was demonstrated that the test of the germaneness of an amendment in the form of a new section to a title of a bill being read by titles is the relationship between the amendment and the pending title. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[20] in the Committee of the Whole were as follows:

The Clerk read as follows:

Amendment offered by Mr. Collins of Texas: Page 273, insert after line 4 the following new section:

ENERGY CONSERVATION THROUGH PROHIBITION OF UNNECESSARY TRANSPORTATION

Sec. 450. (a)(1) No person may use gasoline or diesel fuel for the transportation of any public school student to a school farther than the public school which is closest to his home offering educational courses for the grade level and course of study of the student and which is within the boundaries of the school attendance district wherein the student resides.

(2) Any person who violates subsection (1) of this section shall be fined not more than $5,000 or imprisoned not more than one year, or both, for each violation of such subsection. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I make a point of order against the amendment. . . .

[T]his is clearly beyond the scope of the matters that are dealt with in this

19. 121 CONG. REC. 28925–27, 94th Cong. 1st Sess.

20. H.R. 7014.

title of the bill. It would very substantially introduce administrative duties that are not provided for in any way in the bill, and it is clearly beyond the jurisdiction of this committee. . . .

MR. [JAMES M.] COLLINS of Texas: Mr. Chairman, we have had a similar amendment in conservation bills before which have passed the House before, and in this particular bill. It comes in conjunction with sections on energy conservation through van pooling arrangements, through the use of car pools. It is an identical type of conservation measure as the limitation of limousines we discussed earlier, and the conservation of gasoline.

This is very much consistent because what we are talking about here in conservation, the unnecessary and unneeded uses of transportation. Also, we have the jurisdiction over the FEA, and it seems to me that we would be concerned with this. . . .

THE CHAIRMAN:[1] The gentleman from New York makes a point of order against the amendment offered by the gentleman from Texas (Mr. Collins) on grounds that it is not germane to title IV. The gentleman from Texas, in responding to the point of order, has cited certain amendments that have been adopted to the bill during debate, and the Chair is not clear as to whether he is talking only about this bill or about earlier bills.

MR. COLLINS of Texas: Mr. Chairman, I understand that specifically this bill itself, in this particular bill itself on page 270, we have a section of this bill which says, "Energy Conservation Through Van Pooling Arrangements."

On page 271, we have a section called "Use of Carpools." We just adopted the Santini amendment, which is related to it. We talked about limousines. We have been talking about transportation and vehicles. Here we are talking about conservation, and we could conserve a great deal of gasoline and diesel fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan]: . . . I would point out that the bill before us relates to allocation of gasoline. It relates to the conservation of energy. But this amendment adds a criteria category and purpose to the bill which is above, apart and different from anything else found anywhere else in the bill, and that is a specific prohibition of the use of fuels for a particular purpose, which carries us beyond the purposes of the bill.

Again, Mr. Chairman, I would cite to the Chair that the nature of the amendment must be such as to notify the House that it might reasonably anticipate it and might be related for the purposes of which the bill is drawn.

Mr. Chairman, I might add further that the amendment adds criminal sections, imposing, for example, penalties on bus drivers of school buses, and goes well beyond the allocation powers or the conservation powers which are vested in the Federal Government, adding, essentially, a new criminal section of the bill which was not previously before us and which is not in the bill. . . .

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I would like to call the attention of the Chair to title VI of the bill, particularly section 605, where we have a section that prohibits the use of natural gas as boiler fuel for the generation of electricity.

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1. Richard Bolling (Mo.).

It would seem to me that here we have a similar type of fuel—gasoline—and the gentleman from Texas (Mr. Collins) by his amendment would prohibit the use of that fuel in transporting school children. . . .

MR. COLLINS of Texas: Mr. Chairman, there is one further thing I wish to say. We have talked about whether there were penalties or not provided in this bill.

In the bill itself, in previous sections, violations were set out and there were penalties of $5,000. There are several sections in the FEA sections that provide for penalties. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair would like to state at the outset that the point of order made by the gentleman from New York (Mr. Ottinger) against the amendment offered by the gentleman from Texas (Mr. Collins) is on the ground that the amendment is not germane to title IV, and we are in effect limited in our consideration to the matters contained in title IV.

As will be clear in the statement which the Chair will make, the ruling that the present occupant of the Chair made under seemingly similar circumstances on an earlier bill is different.

The amendment would prohibit the use by any person—and that is the key to the ruling of the Chair—of gasoline or diesel fuel for certain transportation of public school students, and would establish a criminal penalty for violation of the amendment's provisions. The Chair has noted the Chair's ruling, cited in Deschler's Procedures, chapter 28, section 26.9, that an amendment restricting the regulatory authority of the President, who was authorized by the bill to establish priorities among users of petroleum products, was germane where the amendment required the product so allocated be used only for certain transportation of public school students.

It appears to the Chair that the ruling on that occasion was specifically directed to the fact that the bill conferred certain regulatory authority upon the President, and that the amendment placed a specific limitation and direction on the power so delegated. The amendment now in question does not address itself to the authority of an agency of Government, except in its last subsection relating to certain determinations by the Administrator of the Federal Energy Administration. But the direct thrust of the amendment is to prohibit certain uses of fuel by any person.

It is true that the title to which the amendment is offered deals with the subject of the conservation of energy, but the provisions of title IV address the goal of conservation through actions and encouragement by an agency of Government, not through prohibitions on the use of fuel by any person.

The Chair is unable to discover in title IV or in the basic act being amended criminal prohibitions applicable to any person using the fuel in a certain way.

The Chair, therefore, finds that the amendment is not germane to the fundamental purposes of the title to which offered and sustains the point of order.

Provisions To Deregulate Primarily Interstate Sales of Natural Gas—Substitute Addressing More Aspects of Regulation of Intrastate Sales and Differentiating Among Large and Small Producers

§ 5.16 While the methods to accomplish a general purpose in a bill and amendment thereto must be closely related for the amendment to be germane, where the bill contains a comprehensive and diverse methodology, a substitute changing the emphasis to be placed upon various suggested regulatory methods may be germane; thus, for an amendment comprehensively amending the Natural Gas Act to deregulate interstate sales of new natural gas and to regulate certain aspects of intrastate natural gas use, a substitute providing regulatory authority for both interstate and intrastate natural gas sales of large producers was held germane.

On Feb. 4, 1976,[2] during consideration of H.R. 9464 (the Natural Gas Emergency Act of 1974) in the Committee of the Whole, Chairman Richard Bolling, of Missouri, overruled a point of order and held the following amendment to be germane:

> MR. [NEAL] SMITH of Iowa: Mr. Chairman, I offer an amendment as a substitute for the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Smith of Iowa as a substitute for the amendment in the nature of a substitute offered by Mr. Krueger: . . .
>
> In lieu of the matter proposed to be inserted by the amendment offered by Mr. Krueger, insert the following: That, this Act may be cited as the "Natural Gas Act Amendments of 1976". . . .
>
> Sec. 4. (a) Section 2 of the Natural Gas Act is amended by redesignating paragraphs (7) through (9) as paragraphs (15) through (17), respectively, and by inserting the following new paragraphs. . . .
>
> "(13) 'Independent producer' means a natural gas producer whose aggregate marketed production of natural gas in the preceding calendar year, together with the marketed production during that year of any affiliate of such producer, does not exceed 100,000,000 Mcf., but such term does not include any natural gas producer whose annual gross revenue, together with the annual gross revenue of any affiliate of such person, from the operation of a pipeline for the transportation or sale for resale of natural gas in interstate commerce or the distribution of natural gas does not exceed 10 percent of the total annual gross revenues of the person or of the affiliate of such person.
>
> "(14) 'Exempt independent producer sale' means a sale of new natural gas that is produced by an independent producer and a sale in

2. 122 CONG. REC. 2387–91, 94th Cong. 2d Sess.

which (A) no natural gas producer (other than an independent producer) has any interest in the proceeds or profits other than a royalty interest and (B) the aggregate of royalty interests of natural gas producers (other than independent producers) does not exceed 20 percent of such proceeds or such profits. The term 'exempt independent producer sale' does not include a sale of new natural gas that is produced from acreage in which the independent producer acquired an interest after January 1, 1976; if, prior to the acquisition by the independent producer, a discovery well had been drilled into the reservoir from which the natural gas is produced at a distance from the well from which the natural gas is produced of two statute miles for areas on the outer continental shelf and one statute mile for other areas of the United States. . . .

"Sec. 24. (a)(1) Not later than the first day of the third full calendar month following the effective date of this section, the Commission shall, by rule, promulgated in accordance with section 553 of title 5, United States Code, establish a national ceiling price applicable to any sale of new natural gas in interstate and intrastate commerce by a producer who is not an independent producer. For the purposes of this section, a sale of new natural gas in intrastate commerce means any sale of natural gas pursuant to a contract entered into on or after the effective date of the rule required to be promulgated pursuant to this subsection.

"(2) In establishing such national ceiling price, the Commission shall take into account the following:

"(A) the recovery of costs, including prospective costs; and

"(B) a reasonable rate of return which will provide incentive adequate to attract capital investment and to provide incentive for further exploration for, development of, and production of, new natural gas.

"(3) The Commission may, by rule, establish a higher ceiling price in excess of the national ceiling price established under paragraph (1) if the Commission finds that such higher ceiling is necessary to provide special relief to meet extraordinary expenses for deep vertical drilling or other high-cost or high-risk production of natural gas and limits such higher ceiling price to only those persons incurring such additional costs or risks.

"(b) The Commission shall amend rules required to be promulgated under subsection (a) from time to time as may be necessary to take into account inflation or any change in circumstances related to the factors specified in subsection (a) to be given consideration in establishing such rate. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, my point of order lodges against the amendment offered by the gentleman from Iowa (Mr. Smith) on the basis that it is not germane to the basic legislation and it is not germane to the amendment offered by the gentleman from Texas (Mr. Krueger) in that while it may seek to accomplish the same end as the Krueger amendment here, even the same end as the basic piece of legislation, it does not contemplate a method of achieving that end that is closely allied to the method encompassed in the bill and in the Krueger amendment.

I cite Deschler's Procedure in the House of Representatives, page 374, paragraph 6, "Amendment Accomplishing Result of Bill by Different Method," paragraph 6.1 and then again in paragraph 6.17:

To a proposition seeking to accomplish a result by one general method,

> an amendment which might indirectly achieve that result but by an unrelated method not contemplated in the original proposition is not germane.

In both of these instances the germaneness issue goes to the method by which deregulation is to be undertaken. In the Krueger amendment there is no regulation currently of intrastate natural gas, but there is in the amendment offered by the gentleman from Iowa (Mr. Smith). In section 24 of that amendment, in the seventh line, there is specific reference to the regulation of intrastate natural gas, and there is a difference in procedure of the method by which deregulation is accomplished in that the amendment offered by the gentleman from Texas (Mr. Krueger) achieves deregulation by the source and the type of the gas, whereas the amendment offered by the gentleman from Iowa (Mr. Smith) attempts to achieve deregulation based on the size of the producer of the gas and, therefore, undertakes an entirely different method.

Mr. Chairman, on the basis of the two citations I gave, paragraph 6.1, of which says:

> In order to be germane, an amendment must not only have the same end as the matter sought to be amended, but must contemplate a method of achieving that end that is closely allied to the method encompassed in the bill or other matter sought to be amended.

I do not think that the method undertaken by the gentleman from Iowa (Mr. Smith) is either a method achieving that end closely allied to the method encompassed in the bill or in the amendment offered by the gentleman from Texas (Mr. Krueger). . . .

Mr. Chairman, in the fear that I did not make myself clear about what is in the amendment of the gentleman from Iowa (Mr. Smith), as I had a chance to read it, the Smith amendment deals with intrastate gas, regulating intrastate gas with regard to the large producers, which neither the Krueger amendment nor the basic legislation do.

Second, the Smith amendment seeks to deregulate on the basis of the size of the producer, as opposed to the definition of the source and the type of item to be deregulated. Therefore, it is not closely allied and attempts to address the issue, but in ways and by methods that are entirely different than exists either in the basic legislation or in the Krueger amendment.

That, Mr. Chairman, is my point. . . .

MR. [JOE D.] WAGGONNER [Jr., of Louisiana]: . . . I insist that the point of order is valid, specifically because the Smith substitute amendment provides for new natural gas regulation in the instance of intrastate gas.

The title of section 24 states, ''New natural gas sales of regulated producers.''

Section 24(a)(1): Not later than the first day of the third full calendar month following the effective date of this section, the Commission shall, by rule, promulgated in accordance with section 553 of title 5, United States Code, establish a national ceiling price applicable to any sale of new natural gas in interstate and intrastate commerce by a producer who is not an independent producer.

That goes well beyond the scope, speaks to a question that the Krueger

substitute is silent on, and the point of order should prevail. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, very simply, both the Krueger amendment and the Smith substitute amendment define the scope of FPC price regulatory authority through amendment to section C of the Natural Gas Act. Both deal with deregulated gas and with regulated gas. The section of the Krueger amendment that deals with OCS gas creates regulation in that area.

Both purport to achieve a method by which encouragement of production would come by deregulation, and at the same time purport to keep certain restraints on price by maintaining some gas, some quantity of gas, under regulation, under restriction.

The two bills in fact come out with almost the same results, in that OCS gas is generally under regulation, under the Krueger amendment, and since it is largely produced by majors, it is also under regulation under the Smith amendment.

Mr. Chairman, the whole thrust of both bills is an attempt to alter and to define the scope of the FPC, both with respect to certain gas which is presently interstate and certain gas which is intrastate.

The agricultural priority provisions of section 25, oil and gas provisions under section 26 of the Krueger amendment, deal with both interstate and intrastate gas and indeed the original bill deals with both. But the important thing is that, since the Krueger amendment is made in order to a bill, an amendment to the Krueger amendment which is germane to the Krueger amendment is also germane at this time.

THE CHAIRMAN: The Chair is ready to rule. The Chair has had some opportunity prior to the offering of this substitute to examine into the problem raised by the substitute and by the point of order made by the gentleman from Ohio (Mr. Brown).

Essentially, in line with the line of reasoning stated by the gentleman from Michigan and Texas, the Chair has a statement which he would like to read.

The gentleman from Ohio makes the point of order that the substitute offered by the gentleman from Iowa (Mr. Smith) is not germane to the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Krueger). The Krueger amendment is comprehensive in scope. Title I of the amendment authorizes the Federal Power Commission to permit a temporary emergency purchase by interstate pipelines of natural gas to meet the needs of their high priority customers, free from the restrictions of the Natural Gas Act.

Title I also mandates, in its perfected form, short-term allocation and price control of propane whether in interstate or in intrastate commerce. Title II of the Krueger amendment comprehensively amends the Natural Gas Act to deregulate interstate sales of new natural gas, to establish a statutory priority for essential agricultural and industrial uses in interstate commerce, to ban the use of new gas affecting commerce generally for boiler fuel use, to permit intrastate transportation of new natural gas through interstate facilities under certain conditions, and to provide for a study of the entire natural gas industry, both interstate and intrastate, by the Federal Power Commission.

The Smith substitute distinguishes in its regulatory approach between new and old types of gas and also regulates intrastate gas sales of large producers after a price ceiling has been established pursuant to the provisions of section 8 of the substitute.

The substitute also contains provisions relating to conservation of natural gas for boiler fuel use, priorities for agricultural and other public service purposes, and emergency allocations which are similar to those contained in the Krueger amendment.

Volume 8, Cannon's Precedents, section 2964 and volume 5, Hinds' Precedents, section 5841, appear to indicate that to a bill relating to interstate commerce an amendment relating to intrastate commerce is not germane. Those precedents deal however with a situation where a narrow bill or section of a bill directed towards interstate commerce is attempted to be amended by an equally narrow provision broadening that section to address intrastate commerce as well.

The decisions of the Chair on those instances were founded on the principle that an amendment relating to one designated class is not in order to a bill dealing with another designated and clearly defined class, and have little applicability to the situation now pending, where a comprehensive substitute is offered to a broad measure amending existing law.

The Chair has already noted that the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. Krueger) does not only address itself to interstate commerce. The amendment affects natural gas in intrastate commerce in substantial ways both through free-standing provisions of law and through amendments to the existing Natural Gas Act. Furthermore section 203 of the Krueger amendment would amend section 717 of the Natural Gas Act, which section defines the coverage of the Natural Gas Act in relation to natural gas in intrastate commerce.

It is well established in the precedents that to a measure amending in many respects an existing law, an amendment is germane to further modify the law in another respect germane to the law. For example, to an amendment in the nature of a substitute comprehensively amending several sections of the Clean Air Act with respect to the impact of energy shortages, an amendment to another section of that act suspending the authority of the Environmental Protection Agency to control automobile emissions was held germane. Chapter 28, Deschler's Precedents, section 28.44.

It is the opinion of the Chair that the Krueger amendment substantially changes the powers of the Federal Power Commission under the Natural Gas Act, incorporates within the act various authorities dealing with natural gas in intrastate commerce, and so vitally affects the scope of the act as to allow a substitute to be offered which proposes alternative revisions of the policy directives and specific regulatory powers of the Federal Power Commission under the Natural Gas Act, in order to achieve adequate supplies of natural gas.

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

Bill Authorizing Establishment of Petroleum Reserves and Exploration at Certain Sites for Oil and Gas—Amendment To Require Study of Uses of Public Lands in Reserve for Recreational, Scenic and Subsistence Purposes

§ 5.17 For a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on naval petroleum reserve number 4 with annual reports to Congress, an amendment in the nature of a substitute containing similar provisions and also requiring a task force study of the values and best uses for subsistence, scenic, historical, and recreational purposes, and for fish and wildlife, of the public lands in that naval petroleum reserve was held germane despite the inclusion of that incidental portion which, if considered separately, might not have been germane.

On July 8, 1975,[3] during consideration of H.R. 49 in the Committee of the Whole, Chairman Neal Smith, of Iowa, held that the test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which if offered separately, might not be germane to the portion of the bill to which offered. The proceedings were as follows:

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

The Clerk read as follows:

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

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

3. 121 CONG. REC. 21631–34, 94th Cong. 1st Sess.

Alaska other than those in Naval Petroleum Reserve Numbered 4). . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided* That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve: *Provided* further, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish & Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years, submit to Congress his recommendations for such designation of areas of those lands as may be appropriate and, *Provided further,* That oil and gas exploration within the Utukok River and Teheshepuk Lake areas and others containing significant subsistence, recreational, fish and wildlife, historical or scenic values, shall be conducted in a manner so as to preserve such surface values.

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

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

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

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

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

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

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

authorize a study of the kind that is set forth here in the amendment.

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

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

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

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

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

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

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

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

THE CHAIRMAN: The Chair is prepared to rule.

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

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

The Chair therefore overrules the point of order.

Bill To Promote Energy Conservation, Including Energy Efficiency Labeling of Consumer Products—Amendment Relating to Energy Use in Production of Beverage Containers

§ 5.18 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new

title dealing with energy use in the production of certain non-energy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate energy production requirements of such products.

On Sept. 18, 1975,[4] during consideration of the Energy Conservation and Oil Policy Act of 1975[5]) in the Committee of the Whole, the Chair overruled a point of order against an amendment in the form of a new title to the bill. The proceedings were as follows:

TITLE V—IMPROVING ENERGY EFFICIENCY OF CONSUMER PRODUCTS

PART A—AUTOMOBILE FUEL MILEAGE

Sec. 501. Definitions.

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

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

Sec. 551. Definitions and coverage.

Sec. 552. Test procedures.

Sec. 553. Labeling.

Sec. 554. Energy efficiency standards. . . .

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

The Clerk read as follows:

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

TITLE VI—ENERGY LABELING AND EFFICIENCY STANDARDS FOR BEVERAGE CONTAINERS

DEFINITIONS AND COVERAGE

Sec. 601.—For purposes of this part—

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

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

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

LABELING

Sec. 603. The provisions of section 553, except paragraph (B) of subsection (a)(1), shall be applicable to beverage containers as defined in section 601. In addition, if the Commissioner determines that a beverage container achieves the energy efficiency target described in section

4. 121 CONG. REC. 29322–25, 94th Cong. 1st Sess.

5. H.R. 7014.

604, then no labeling requirement under this section may be promulgated or remain in effect with respect to such type. . . .

REQUIREMENTS OF MANUFACTURERS AND PRIVATE LABELERS

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

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

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

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

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

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

Mr. Chairman, the nature of the new subject in this legislation, it seems to me, is embraced in section 604 of the amendment as submitted by the gentleman from Vermont (Mr. Jeffords), in which we are not dealing with the set of standards of the operation of appliances as we were in the appliance section, or automobiles, as we were in the automobile standards section; but rather in the design of a nonenergy consuming product which the author of the amendment seeks to prohibit with reference to its possibilities of reuse. It gives the authority to the Secretary to prohibit a product on the basis of its design. So we are, in effect, impacting on the product with reference to the manufacture of the product in some mechanical or energy-consuming way. That, it seems to me, is a new direction or a new subject under the rule of germaneness, as opposed to the other approaches which the bill as reported

out of the committee has taken. It is an area which I rather doubt comes under the purview of our committee, in that the purview of the committee relates to the consumption of energy as such and the licensing of that energy and the pricing of it and so forth. . . .

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

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

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

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

Let us get to the argument made by many, and that is it is different because we are talking about energy consumed in the production of the consumer product rather than the consumer himself.

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

THE CHAIRMAN:[6] The Chair is ready to rule.

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

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

The amendment offered would add a new title to the bill relating to energy

6. Richard Bolling (Mo.).

conservation in the production of beverage containers.

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

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

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

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

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

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

The Chair, therefore, believes that the bill is sufficiently broad in scope to admit as germane an amendment in the form of a new title which is drafted in the form presented by incorporating by reference certain standards in the bill, and which relates to the conservation of energy by an industry engaged in the production of a consumer product, specifically, beverage containers.

The Chair, therefore, overrules the point of order.

Bill To Authorize National Drinking Water Standards—Amendment Requiring Enforcement of Agreements on International Drinking Water Standards

§ 5.19 To a bill reported from the Committee on Interstate and Foreign Commerce, authorizing the promulgation of national drinking water standards to protect public health from contaminants, an amendment requiring the negotiation and enforcement of international agreements to accomplish that purpose was held to be not germane, since it proposed a method not closely related to that prescribed in the bill and involved a subject within the jurisdiction of another committee.

The proceedings of Nov. 19, 1974, relating to H.R. 13002, the Safe Drinking Water Act, are discussed in § 6.25, infra.

Bill Amending Reclamation Law Primarily With Respect To Eligibility for Irrigation Water—Amendment To Require Review of Audit Reports on Water Resource Projects Including Specified Projects To Provide Hydro-electric Power

§ 5.20 While ordinarily a bill having a specific fundamental purpose may not be amended by a proposal broader in scope, an amendment in the form of a new title may be germane to a bill as a whole where that bill contains additional provisions not necessarily confined to the primary purpose and where the amendment is within the overall parameters of the bill; thus, to a bill amending several provisions of reclamation law relating primarily to the question of eligibility of water users for increased irrigation water supply, but also containing miscellaneous provisions relating to the status of persons and entities affected by reclamation laws generally, an amendment adding a new title to require the Inspector General of the Department of the Interior to review audit reports pertaining to Bureau of Reclamation water resource projects, including specified multi-purpose projects to provide hydro-electric power as well as water for irrigation, was held germane, based upon the inclusion of diverse provisions in the bill not exclusively related to irrigation eligibility.

During consideration of the Federal Reclamation Law amendments [7] in the Committee of the Whole on May 6, 1982,[8] the Chair overruled a point of order against the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Erlenborn: Page 26, after line 5, insert the following new title:

"TITLE III

"AUDIT COMPLIANCE

"Sec. 301. (a)(1) The Inspector General of the Department of the Interior shall undertake a review of all audit reports prepared by the Department of the Interior since January, 1977, pertaining to Bureau of Reclamation water resource projects, including, but not limited to,

"(A) 'Review of the Central Valley Project—Bureau of Reclamation", January 1978;

7. H.R. 5539.

8. 128 CONG. REC. 8933, 8934, 97th Cong. 2d Sess.

"(B) 'Review of Repayment Status of Pick-Sloan Missouri Basin Program and Individually Authorized Projects", July 1978;

"(C) 'Review of Municipal and Industrial Water Activities, Central Valley Project", September 1979; . . .

"(2) No later than 90 days after the date of enactment of this Act, the Inspector General shall prepare, and transmit to the Secretary of the Interior, and to the Congress, a list of recommendations based upon the review of audit reports which he has conducted pursuant to paragraph (1) of this subsection.

"(b) No later than 270 days after the date of enactment of this Act, the Secretary of the Interior shall implement all recommendations which have been made by the Inspector General pursuant to paragraph (a)(2) of this section, unless he earlier informs the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, of his detailed reasons for not implementing such recommendations.". . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . I make a point of order that the amendment now pending, offered by the gentleman from Illinois, is not germane to the bill.

This bill deals with irrigation policy. It is not so broad as to encompass all aspects of the reclamation program. We are not writing a comprehensive law to govern all features of reclamation projects.

The amendment is clearly not pertinent to irrigation. It places a new duty on the Inspector General that is not now a part of the Reclamation Act of 1902, or any act amending or supplementing any part of that 1902 legislation. . . .

MR. ERLENBORN: Briefly, Mr. Chairman, I would say that, in my opinion, the amendment is germane. The bill before us does address reclamation policy. Part of that is involved in the resolution of these audits that also have to do with reclamation policy and, more importantly, the implementation of that policy.

The Inspector General has already the general duties, as outlined in this amendment. The Inspector General, as a matter of fact, has made audits in the seven cases that are specifically mentioned in the amendment, and that is (A) through (G), the seven particular projects. Some or all of those have been subject to audit, and recommendations have been made.

The duty of the Inspector General is not a new duty. The Inspector General is supposed to make audits and make recommendations. This is no new duty whatsoever. And certainly the duty imposed on the Secretary of the Interior is not new, though the implementation and carrying out of that duty might appear to be new. That is the purpose of the amendment—to see that the duty of the Department of the Interior to respond to audit recommendations by the Inspector General is done in a prompt manner. . . .

MR. [ABRAHAM] KAZEN [Jr., of Texas]: If the Chair would allow me, within the duties of the Department of Reclamation also come water resources, power, and several other elements of energy and not only irrigation; water for municipal and industrial uses, water for recreation, flood control, and many other purposes, many other duties that the Department has besides irrigation.

THE CHAIRMAN PRO TEMPORE:[9] The Chair is concerned about the amend-

9. J. J. Pickle (Tex.).

ment, in that it is not clear what type of recommendations may be implemented as a result of this amendment. If it is a question between auditing power rates as opposed to irrigation rates, that would be a serious question.

But just on the question of germaneness . . . there are provisions in sections 205, 206, 210, and 213 of the bill that might go beyond irrigation policy continued in the reclamation laws. To the extent that this amendment is limited to irrigation recommendations, and since there are diverse provisions in the bill with respect to reclamation policy involving water uses for other than irrigation purposes, the Chair then will rule that the amendment is germane, as a new title, to the committee reported bill as a whole. The Chair overrules the point of order.

War Powers Bill—Amendment To Modify Civil Service Retirement Act

§ 5.21 To a bill conferring on the executive certain war powers for purposes of expediting prosecution of the war, an amendment proposing modification of the Civil Service Retirement Act with respect to provisions affecting retirement of employees was held to be not germane.

In the 77th Congress, during consideration of the Second War Powers Bill of 1942,[10] an amendment was offered[11] by Mr. Frederick C. Smith, of Ohio, who stated:[12]

> Perhaps the most germane part of this whole bill to its objective is title IV. This is specifically designed to preserve the credit of the Government. . . .
>
> Now, my amendment is also specifically designed to safeguard the credit of the Government. It seeks to save to the taxpayers, and therefore to the Treasury, $44,000,000 annually by repealing the provision in the Ramspeck Act which sets up pensions for 250,000 political job holders. . . .

A point of order having been raised by Mr. Charles F. McLaughlin, of Nebraska, the amendment was held not to be germane. The Chairman[13] stated:

> The amendment . . . has to do with the Civil Service Retirement Act of May 23, 1930, as amended, and would affect the domestic employees of the Government. Certainly there is nothing in the pending amendment to indicate to the Chair that it is related to the subject matter covered by the pending bill.

Citing a previous statement of the Chair that "the only proper and reasonable test that can be applied in a situation of this kind is the subject matter and the pur-

10. S. 2208 (Committee on the Judiciary).

11. 88 CONG. REC. 1758, 1759, 77th Cong. 2d Sess., Feb. 27, 1942.

12. *Id.* at p. 1759.

13. Jere Cooper (Tenn.).

pose covered by the pending bill and the pending amendment,'' the Chairman sustained the point of order.

Bill To Increase Strength of Armed Forces—Amendment To Allow Aliens To Enlist

§ 5.22 To a bill increasing the strength of the armed forces, an amendment permitting the armed forces to accept original enlistments from among qualified aliens and repealing existing law to the contrary, was held to be germane.

In the 80th Congress, during consideration of the Selective Service Act of 1948,(14) the following amendment was offered: (15)

> Amendment offered by Mr. [Leon H.] Gavin [of Pennsylvania]: On page 21 . . . insert the following new sections . . . .
>
> Sec. 6. (a) Under policies established by the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force are authorized to accept original enlistments . . . from among qualified aliens not less than 18 years of age for enlistment periods of not less than 3 years: Provided, That the total number of aliens who may be enlisted pursuant to this section shall not exceed 100,000 at any one time. . . .

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

> MR. [PAUL J.] KILDAY [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the bill. . . .
>
> The bill is the Selective Service Act of 1948, and does not contain any provisions similar to those contained in the amendment offered by the gentleman from Pennsylvania.

The Chairman,(16) in ruling on the point of order, stated:

> The Chair calls attention to the fact that the bill is entitled ''A bill to provide for the common defense by increasing the strength of the armed forces of the United States, and for other purposes.'' The bill carries sections relating to enlistments and other means of increasing the strength of the armed forces of the United States.
>
> The Chair has examined the amendment and believes that the amendment is clearly within the scope of the bill.
>
> The Chair therefore overrules the point of order.

Bill Authorizing Humanitarian and Evacuation Assistance—Amendment Authorizing Military Aid To Further Purposes of Bill

§ 5.23 To a bill reported from the Committee on Inter-

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

15. 94 CONG. REC. 8673, 80th Cong. 2d Sess., June 17, 1948.

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

national Relations authorizing funds to provide humanitarian and evacuation assistance and authorizing the use of United States troops to provide that assistance, an amendment authorizing funds for military aid to a foreign country (generally a subject within the jurisdiction of the Committee on Armed Services) to be used by that country to further the fundamental purpose of the bill was held germane and a point of order against the amendment was overruled.

On Apr. 23, 1975,[17] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[18] in the Committee of the Whole, the Chair overruled a point of order against an amendment as indicated below:

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Stratton to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar:

Page 1, line 6; strike out "$150,000,000" and insert "$300,000,000".

Page 2, line 2; delete the period at the end of the line, insert a semicolon and add the following: "*Provided* that $150,000,000 of such sum shall be available to the President solely for military aid to South Vietnam to provide such protection as he may deem necessary to insure the delivery of the humanitarian assistance and evacuation programs authorized in this section."

MR. [ROBERT L.] LEGGETT [of California]: Mr. Chairman, I make a point of order. . . .

Mr. Chairman, military aid to Vietnam is not included in the jurisdiction of the Committee on Foreign Affairs. It is under the jurisdiction of the Committee on Armed Services. It is under the MACV account and DAV account, and the attempt has been made in the past to vest this jurisdiction in the Committee on Foreign Affairs. The committee does not have jurisdiction over this subject matter and cannot give military aid. As a result, the amendment is not germane, and I make that point of order. . . .

MR. STRATTON: . . . This amendment is perfectly in order. This would provide additional funds to the President to use, in his discretion, to provide protection for the humanitarian assistance and evacuation provided in the bill.

I would invite the Chair's attention to the fact that section 3 of the amendment refers in considerable detail to the military appropriations and to military actions, and that section 2 of the substitute provides funds to the

17. 121 CONG. REC. 11509, 94th Cong. 1st Sess.

18. H.R. 6096.

President to be used notwithstanding any other provision of law on such terms and conditions as the President may deem appropriate.

The basic legislation and the Eckhardt substitute both refer to legislation that deals with military assistance to Vietnam, and therefore, this amendment is in order.

THE CHAIRMAN:[19] The Chair is prepared to rule.

There is within the bill the provision for humanitarian assistance and evacuation assistance. The amendment proposed by the gentleman from New York (Mr. Stratton) goes to aid, to provide for the delivery of military aid, to be sure, but it is to insure the delivery of humanitarian assistance and the evacuation programs, and in that form the amendment is germane to the substitute, and the point of order is overruled.

Bill Authorizing Operations of Coast Guard—Amendment To Require That Commercial Cargo Under Coast Guard Protection Be Transported on United States Vessels

§ 5.24 To a bill authorizing operations of the Coast Guard, an amendment directing the President to ensure that, where Coast Guard protection of commercial cargo is required, such cargo be transported on vessels of the United States which were never registered under the laws of a foreign country was held to be not germane, such matters relating to the subject of commercial shipping, which was within the jurisdiction of the Maritime Administration.

During consideration of the Coast Guard authorization for fiscal 1988[20] in the Committee of the Whole on July 8, 1987,[1] the Chair sustained a point of order against the following amendment:

MR. [JACK] DAVIS of Illinois: Mr. Chairman, I offer an amendment.

MR. [EARL] HUTTO [of Florida]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN:[2] The gentleman from Florida [MR. HUTTO] reserves a point of order against the amendment. . . .

The Clerk read as follows:

> Amendment offered by Mr. Davis of Illinois: Page 22, after line 11, add the following new section:
>
> Sec. 26. In any case where the President of the United States, after consultation with the Secretary of the Department in which the Coast Guard is operating, determines that neutral shipping requires the protection of the Coast Guard or other U.S. Armed Forces the President shall, if practicable cause the commercial cargo requiring Coast Guard or other Armed Forces protection, to be trans-

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

20. H.R. 2342.

1. 133 CONG. REC. 19013–16, 100th Cong. 1st Sess.

2. Robert W. Kastenmeier (Wis.).

ported in vessels of the United States which were never registered under the laws of a foreign country.

Mr. Hutto made the point of order:

MR. HUTTO: . . . As I mentioned, it is a good amendment. Certainly we can associate ourselves with the remarks of the gentleman from Illinois but unfortunately it does not belong in this bill. It is not germane and is not made in order by the rule. . . .

MR. DAVIS OF ILLINOIS: . . . Mr. Chairman, this amendment is germane. This amendment has been drafted to include the Coast Guard and the Secretary which controls the Coast Guard and the President of the United States.

Let me just read this one sentence that I think makes it germane—in fact, the whole paragraph does. 'In any case, where the President of the United States, after consultation with the Secretary of the department in which the Coast Guard is operating, determines that neutral shipping requires the protection of the Coast Guard or other United States armed services' - now if that is not an appropriation item, I do not know what is. The U.S. Coast Guard, if called upon - and it does not just protect the continental United States - if called upon to use its vessels to protect reflagged or even chartered vessel bottoms of the United States, chartered to another country, that is going to require an expenditure of Coast Guard funds. I could have identified that line item, but I did not. . . .

MR. [HERBERT H.] BATEMAN [of Virginia]: . . . It seems to me there is a great distinction between the amendment now being offered by the gentleman from Illinois and the previous amendment which was ruled out of order on the point of order. The difference being that the previous amendment addressed in a specific context whether or not and under what circumstances Kuwaiti vessels proposed to be reflagged would be permitted to be reflagged.

The gentleman from Illinois' amendment does not relate to and in fact has nothing to do with that reflagging issue which the Rules Committee said would be determined on the basis only of the pending Bennett amendment and the pending Lowry amendment and a possible substitute amendment and that is what I understand the rule to be.

If I may have just 30 more seconds, this amendment deals prospectively and deals with reflagging generically in the future, not this reflagging which it does not reach but future reflagging. As such, why should we hold back from considering something which is of benefit and is a legitimate matter to be taken into consideration as this country, through the Department of Transportation, makes future reflagging decisions in general.

MR. HUTTO: Mr. Chairman, I would grant that it does not deal directly with the Kuwaiti reflagging issue. However, cargo is not determined by the Coast Guard.

In my view, it is not germane and would not pertain to the Coast Guard authorization bill.

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

The gentleman from Florida [Mr. Hutto] makes a point of order that the

amendment offered by the gentleman from Illinois [Mr. Davis] is not germane.

The primary purpose of the bill before the Committee, as amended, is to authorize funds for the Coast Guard for fiscal year 1988, as well as to address other provisions including the Biaggi amendment within the purview of the Coast Guard and its operations. The operative part of the pending amendment, in the opinion of the Chair, would suggest that the President cause commercial cargo requiring protection to be transported in vessels documented under the laws of the United States rather than in vessels previously registered in another country. This in effect would create a new form of "cargo preference" for U.S. vessels to be determined only by the President, an area of law currently administered by the Maritime Administration rather than the Coast Guard.

In the opinion of the Chair, the amendment goes beyond the fundamental purpose of the bill to address matters other than the Coast Guard and its operations. Therefore, the Chair sustains the point of order.

Bill To Stabilize Prices of Housing—Amendment Providing Aid to Veterans in Buying Houses

§ 5.25 To a bill to prevent speculation in housing and to insure availability of real estate for housing purposes at reasonable prices, an amendment providing that all discharged veterans of World War II desiring to build or buy a house be issued a certificate for $200 to be applied to the purchase price was held to be germane.

In the 79th Congress, a bill[3] was under consideration relating to housing stabilization. An amendment which contained provisions described above was offered by Mr. Emory H. Price, of Florida, and a point of order was raised against such amendment:[4]

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make a point of order against the amendment that it is not germane. It does not carry out the intended purposes of the proposed bill. It provides for the giving of bonuses to veterans to buy homes, at least to those who are fortunate enough to get homes. It provides for a bonus of $200. . . .
>
> Mr. Chairman, I do not believe that the proposal embodied in the gentleman's amendment would even be referred to the Committee on Banking and Currency.

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

> MR. PRICE [of Florida]: Mr. Chairman, I thought the purpose of this bill was to provide homes for veterans. I think this is in line with other amend-

3. H.R. 4761 (Committee on Banking and Currency).

4. 92 CONG. REC. 1983, 79th Cong. 2d Sess., Mar. 6, 1946.

ments which have been offered and is in keeping with the purposes set out in the bill.

The Chairman, Jere Cooper, of Tennessee, in ruling on the point of order, stated:

> . . . While a rather close question is involved, the amendment does seem to relate to housing for veterans, which is the subject matter of the pending bill in that it provides for a certificate for a certain amount of money to be applied on the purchase price of a new home or the purchase of materials to be used in building a home.
>
> Although it is a close question, the Chair is inclined to rule that it comes within the scope of the bill and overrules the point of order.

The following exchange then occurred: [5]

> MR. PATMAN: The amendment itself shows that it discriminates against a large group of veterans; that the one who is fortunate enough to get a home gets a bonus of $200, but the fellow who cannot purchase a home does not get the $200.
>
> THE CHAIRMAN: Of course, that question could not be considered in passing upon the point of order, that being a proper argument for the gentleman to make on the merits of the amendment.

—*Amendment Authorizing Establishment of Maximum Prices for Construction Materials*

§ 5.26 To a bill to insure availability of real estate for housing purposes at reasonable prices, and containing provisions authorizing priorities and allocations of materials for construction of homes, an amendment relating to the establishment of maximum prices of construction materials was held to be germane.

In the 79th Congress, during consideration of a bill [6] relating to housing stabilizations, the following amendment was offered: [7]

> Amendment offered by Mr. [Howard H.] Buffett [of Nebraska]: Page 12, after line 2, insert the following new section:
>
> In order to achieve maximum production of materials suitable for use in the construction of housing accommodations the Expediter is authorized and directed to issue a directive on policy to the Price Administrator requiring the Price Administrator to establish within 60 days after the date on which this title becomes effective a maximum price with respect to each such material. . . .

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

> MR. [A. S. Mike] MONRONEY [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment

5. *Id.* at p. 1984.

6. H.R. 4761 (Committee on Banking and Currency).

7. 92 CONG. REC. 1984, 79th Cong. 2d Sess., Mar. 6, 1946.

offered by the gentleman from Nebraska. The amendment he has offered is not germane to the pending bill. It is an amendment to the Price Control Act, which is not before the committee at the present time.

The Chairman,[8] in ruling on the point of order, stated:

. . . The Chair invites attention to the fact that the pending bill contains provisions authorizing priorities and allocations of materials for the construction of homes. The pending amendment provides for directives for the production of materials suitable for use in the construction of housing accommodations, and so forth.

The Chair is of the opinion that the amendment is within the scope of the pending bill and, therefore, overrules the point of order.

Bill Providing for Minting of Public Coinage—Amendment Providing for Minting of Commemorative Coin

§ 5.27 To a bill relating to the minting of new coins for public circulation as currency, an amendment providing for the minting of commemorative coins bearing the likeness of the late Speaker Rayburn for sale to the Rayburn Library was held to be not germane.

In the 91st Congress, during consideration of certain Coinage Act amendments,[9] an amendment was offered by Mr. Ray Roberts, of Texas, as described above.[10] A point of order was raised against the amendment, as follows:

MR. [WILLIAM A.] BARRETT [of Pennsylvania]: . . . The gentleman is talking about minting a coin and making a profit from it. The bill calls for making coins, putting them into circulation, and making no profit.

The Chairman,[11] in ruling on the point of order, stated:

The amendment . . . provides for the issuance of 500,000 half-dollar coins bearing the likeness of the late Speaker of the House, Sam Rayburn.

The amendment specifies that these coins are not to be put into general circulation but are to be sold to the Sam Rayburn Library for its use. These coins would be commemorative coins intended for sale by the library at a price above their face value, with the proceeds to be derived therefrom accruing to the library's benefit. The purpose of the bill before the committee relates to the issuance and minting of public currency and the disposal of certain previously minted coins withdrawn from circulation and now held by the Secretary of the Treasury.

The Chair does not think the issuance of coins which, although they might eventually find their way into public circulation, are designed and minted primarily for a private purpose is a subject that is germane to that under consideration. . . .

8. Jere Cooper (Tenn.).

9. H.R. 14127 (Committee on Banking and Currency).

10. 115 CONG. REC. 30101, 91st Cong. 1st Sess., Oct. 15, 1969.

11. Spark M. Matsunaga (Hawaii).

—Amendment Requiring Excess Silver To Be Retained for Later Use in Commemorative Coin

§ 5.28 To a bill providing for the minting of public coinage, an amendment requiring excess silver to be retained in the Treasury for use in a commemorative coin to be issued for the American bicentennial celebration was held to be not germane.

In the 91st Congress, during consideration of certain Coinage Act amendments,[12] the following amendment was offered:[13]

> Amendment offered by Mr. [James A.] McClure [of Idaho]: Page 5, immediately after line 9, add the following:
>
> Sec. 7. Any silver held by the Treasury in excess of that needed to complete the minting and issuing of any coin under this act shall be retained for use in a commemorative coin to be issued in conjunction with the bicentennial celebration of the United States in 1976.

Responding to a point of order made by Mr. William A. Barrett, of Pennsylvania, Mr. McClure stated:

> Mr. Chairman, there is a distinction between this amendment and the one that was just offered by the gentleman from Texas [Mr. Roberts] in that his called for the minting of a specific commemorative.[14] This amendment is designed to prevent the disposition of the silver by the Treasury Department. . . . This is not to authorize the minting of the coin but to direct the Treasury with respect to the disposition of this silver at the present time.

The Chairman,[15] in ruling on the point of order, stated:

> [The amendment] is not in keeping with the purpose of the bill before the committee and therefore the Chair sustains the point of order.

Bill Providing for Fair Labor Standards for Wages and Hours—Amendment To Establish Committee To Investigate Social and Other Factors Relevant To Labor Standards

§ 5.29 To a bill providing for the establishment of fair labor standards in industry by providing for minimum wages and maximum hours, an amendment in the nature of a substitute proposing that a joint executive and congressional committee be established to examine possible legislative remedies and to investigate social, economic and legal factors rel-

12. H.R. 14127 (Committee on Banking and Currency).

13. 115 CONG. REC. 30101, 91st Cong. 1st Sess., Oct. 15, 1969.

14. See the discussion of the Roberts amendment at § 5.27, supra.

15. Spark M. Matsunaga (Hawaii).

evant to establishment of labor standards was held to be not germane.

In the 75th Congress, during consideration of the Wages and Hours Bill,[16] an amendment in the nature of a substitute was offered which stated in part:[17]

> *Resolved,* etc., That a commission . . . is hereby . . . directed to be established, and it shall be the duty of the said commission to explore and examine all the fundamental aspects and the potential field of legislative regulation or remedy that may be available or attainable looking to the objective of abolishing or ameliorating excessive and oppressive hours of labor, [low] wages (and the like). . . .
>
> *Resolved,* That the said commission, in submitting its findings, shall include as exhaustive report as possible on the social, economic, and legal factors involved in the problem. . . .

Mr. Sam Rayburn, of Texas, raised the point of order that the amendment was not germane.[18] In defending the amendment, the proponent, Mr. Robert L. Bacon, of New York, stated:

> Mr. Chairman, the substitute which I have offered has the same objective as the pending bill. . . .

Mr. John J. O'Connor, of New York, stated, in response to Mr. Bacon:

> Of course, there is quite a lot of difference between the objective of a bill where you undertake legislation and the objective of an investigation which is preliminary to any legislation, if ever.

The Chairman,[19] in sustaining the point of order, cited the principle that "to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane."

Parliamentarian's Note: Two rulings during consideration of the same bill took a liberal view of the requirement of the germaneness rule with respect to amendments which use different approaches to the achievement of the objectives of the bill. On Dec. 15, 1937, it was held that, where a bill concerned the determination of minimum wages and maximum hours in industry by an independent board exercising broad discretionary powers, an amendment in the nature of a substitute which provided that such determination be made by a division newly established in the Department of Labor was germane; and a further substitute amendment proposing to fix minimum wages and maximum hours in specific terms without resort to the exercise of discretion by any agency

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16. S. 2475 (Committee on Labor).

17. 82 CONG. REC. 1679, 1680, 75th Cong. 2d Sess., Dec. 16, 1937.

18. *Id.* at p. 1680.

19. John W. McCormack (Mass.).

was held to be germane to the amendment in the nature of a substitute. See the proceedings of Dec. 15, 1937, with respect to S. 2475, discussed in § 6.23, infra.

Provisions Requiring Registration and Disclosure by Lobbyists—Amendment Requiring Identification Tags

§ 5.30 To a proposition having as its fundamental purpose registration and public disclosure by lobbyists but not the regulation of their activities, an amendment requiring lobbyists within a certain distance of the House and Senate Chambers to wear tags displaying their names and affiliations was construed as a further information disclosure requirement and was held germane.

On Sept. 28, 1976,[20] during consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole, the following amendment to the pending amendment in the nature of a substitute was held germane:

> MR. [GARRY] BROWN of Michigan: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Brown of Michigan to the amendment in the nature of a substitute offered by Mr. Bennett: On page 5 line 20 strike the period and insert a colon. On page 5 following line 20, insert the following: *Provided however*, That any officer, agent or employee of an organization regulated as a lobbyist by this Act who influences, or attempts to influence, any Member of Congress with respect to any legislative matter, shall prominently display on his or her person an identification name tag, stating in clearly discernible print, his or her full name and the organization he or she represents; said name tag shall be printed in not less than 24 point type; *Provided further however*, This requirement shall only be applicable to those persons who influence, or attempt to influence, Members within 50 feet of any entrance to either Chamber of the Congress while such is in session. . . .
>
> MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I make a point of order against the amendment because I do not think it has any relevancy to the bill.
>
> The distance of how far away one is or whether he or she is wearing a badge of 24-point type has nothing to do with the bill. There are a lot of things it is pertinent to, but not that. . . .
>
> MR. BROWN of Michigan: . . . I respectfully disagree with the gentleman from Florida (Mr. Bennett).
>
> This is a disclosure bill. We require people to register and to identify themselves. It seems to me that if we are going to have a piece of disclosure legislation that is effective, we ought to be able to associate names and faces; and that is all that this amendment does.

20. 122 CONG. REC. 33082, 94th Cong. 2d Sess.

It just implements the disclosure requirements of this legislation. . . .

THE CHAIRMAN:[21] The Chair is ready to rule.

The Chair has examined this amendment, and it is not the same as the one on which the Chair ruled before.

The Chair would have to say that this amendment would seem to have as its purpose the disclosure of information by lobbyists and to come within the fundamental purposes of the amendment to which it has been offered.

Therefore, the Chair overrules the point of order.

—*Amendment Placing Ceiling on Contributions to Federal Officials*

§ 5.31 To an amendment requiring registration and public disclosure by lobbyists but not regulating or prohibiting their activities, an amendment placing a ceiling on their monetary contributions to federal officials is not germane.

On Sept. 28, 1976,[22] during consideration of the Public Disclosure of Lobbying Act of 1976[23] in the Committee of the Whole, it was demonstrated that the fundamental purpose of an amendment must relate to the fundamental purpose of the proposition to which it is offered when a point of order against the following amendment was sustained:

MR. [ABNER J.] MIKVA [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Mikva to the amendment in the nature of a substitute offered by Mr. Bennett: On page 20, immediately after line 13, insert the following new subsection:

"(e)(1)) No organization shall make expenditures reportable under section 6 to or for the benefit of any Federal officer or employee that exceed $100 in value in the aggregate in any calendar year: *Provided* That, for the purposes of this limitation all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization: *Provided further*, That this limitation shall not apply to any loan of money in the ordinary course of business on terms and conditions that are no more favorable than are generally available or to any honorarium within the meaning of section 328 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(i)).

"(2) Any organization which knowingly and willfully violates this subsection shall be fined not more than $10,000 for each such violation.". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order against the amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), lies, I think, because the gentleman's amendment violates the central purpose of the proposed

21. Richard Bolling (Mo.).

22. 122 CONG. REC. 33085, 94th Cong. 2d Sess.

23. H.R. 15.

24. Richard Bolling (Mo.).

legislation and that is to provide a method of lobbying disclosure and not in any wise, Mr. Chairman, regulating amounts or providing any ceiling or floor or anything else but disclosure.

The amendment offered by my friend, the gentleman from Illinois (Mr. Mikva), clearly violates the intent of the statute in that it imposes duties upon the Comptroller General that would not otherwise be imposed by this statute, or duties of a different kind.

It imposes a different penalty that would be imposed than otherwise in this statute. It is not clear whether it is a civil or a criminal penalty.

For all of these reasons, Mr. Chairman, I make a point of order against the amendment. . . .

MR. MIKVA: Mr. Chairman, I am not sure what my distinguished colleague on the Committee on the Judiciary is referring to, but there is nothing in this amendment that talks about the Comptroller General. He may be a little precipitous about something else. What this says, very simply, is that there ought to be a $100 limitation on the amount lobbyists can give as gifts. It excludes honoraria; it excludes political contributions; it excludes all of the nonreportable items. The rules now existing in this House of Representatives—already the Rules of this House—make it clear that no gifts of any substantial value shall be given by a lobbyist to a Member. What this does is define that substantial interest in terms of $100. It is put in the sanctions section, and it deals with the other sanctions that are already in the bill. . . .

MR. FLOWERS: Mr. Chairman, might I be heard one moment further here on the point of order?

Mr. Chairman, the gentleman extends the bill much further than it is already intended, in that he says:

That, for the purposes of this limitation—

> And again a limitation which is not a part of the purpose of the bill—
>
> —all reimbursed expenditures made by persons employed or retained by the organization shall be considered to have been made by the organization.

This is a concept not within the proposed legislation, and we think, Mr. Chairman, clearly that this does extend the purpose of the legislation far beyond that of the substitute or H.R. 15, as amended. We feel that the point of order ought to be sustained.

THE CHAIRMAN:[24] The Chair is ready to rule.

For the reason first stated by the gentleman from Alabama and by the Chair in an earlier ruling on the Ashbrook amendment, the point of order is sustained.

—*Amendment Prohibiting Lobbying Within Certain Distances of Congressional Chambers*

§ 5.32 To an amendment in the nature of a substitute whose fundamental purpose is to require registration and public disclosure by persons who lobby before Congress and the executive branch, but not seeking to regulate or prohibit their activities, an

24. Richard Bolling (Mo.).

amendment prohibiting lobbying within a certain distance of the Chambers of the House and Senate is not germane.

During consideration of the Public Disclosure of Lobbying Act of 1976 (H.R. 15) in the Committee of the Whole on Sept. 28, 1976,[25] a point of order against the following amendment was sustained:

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook to the amendment in the nature of a substitute offered by Mr. Bennett: On page 5, line 20 strike the period and insert a colon. On page 5, following line 20 insert the following new language: "*Provided however,* That no officer, agent, or employee of an organization defined as a lobbyist by this Act may lobby on any legislative matter within one hundred feet of either Chamber of the Congress when either body of said Congress is in session;". . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, I raise the point of order that the gentleman's amendment is not germane to the main purpose of the bill, which is public disclosure of public activities and not a prohibition of lobbying activities. I would also suggest to the Chair in raising my point of order to the gentleman's amendment that additional duties hereunder would be imposed on the Comptroller General than otherwise would be imposed upon him. For that purpose it ought to be also considered nongermane, and the point of order ought to be sustained. . . .

MR. ASHBROOK: . . . I fail to see how the amendment would add additional duties to the Comptroller General. The amendment is simply a statement of exception to the various provisions we have. I do not see it as broadening the coverage of the act. . . .

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

The Chairman would like to read from the report of the committee on the bill which the Chair believes properly characterizes the Bennett amendment as well. On page 8, in the middle of the page, under the title "Purpose," as the gentleman from Alabama (Mr. Flowers) indicated:

The purpose of H.R. 15, as amended—

And here the Chair would add the words "and of the Bennett amendment"—

is to replace the present lobbying disclosure law with a comprehensive new statute that specifies which organization must register as lobbyists and what information they must publicly disclose. It does not in any manner seek to regulate or prohibit lobbying itself.

The Chair agrees with the statement of purpose made in the report and in the statement of the gentleman from Alabama.

Therefore, the Chair thinks that the amendment offered by the gentleman

25. 122 CONG. REC. 33070, 33071, 94th Cong. 2d Sess.

1. Richard Bolling (Mo.).

from Ohio (Mr. Ashbrook) goes well beyond the fundamental purpose of the basic amendment in the nature of a substitute offered by the gentleman from Florida, and attempts to directly regulate lobbying activities. And the Chair sustains the point of order.

Bill To Prohibit Off-shore Gambling—Amendment To Prohibit Transportation of Gambling Devices in Interstate Commerce

§ 5.33 To a bill to prohibit offshore gambling establishments, a matter of admiralty and maritime jurisdiction, an amendment relating to transportation of gambling devices in interstate commerce was held to be not germane.

In the 76th Congress, during consideration of a bill[2] as described above, the following amendment was offered:[3]

> Amendment offered by Mr. [Lee E.] Geyer of California: . . .
>
> Page 2, after line 15, insert:
>
> Sec. 287B. Whoever shall knowingly transport . . . in interstate . . . commerce any . . . mechanical device designed . . . for the playing of any game of chance . . . shall be guilty of a felony. . . .

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Speaker, I make a point of order against the amendment on the ground that it is not germane. The bill under consideration concerns the admiralty and maritime jurisdiction of the United States, whereas the amendment deals with matters of interstate commerce, the transportation or carriage of so-called roulette wheels, marked dice, and other paraphernalia used in games of chance across State borders. For this reason it is not germane to the bill.
>
> The Speaker,[4] adopting the reasoning of Mr. Celler, sustained the point of order.

Provision Authorizing Funds for Research on Nuclear Winter—Amendment To Designate by Specified Senators' Names Any Science Scholarships Established Under Bill

§ 5.34 To an amendment to the Department of Defense authorization bill, authorizing funds for the Departments of Defense and Energy to conduct research on "nuclear winter" and to contract therefor with the National Academy of Sciences, an amendment designating by the names of specified Senators any science and mathematic scholarships or fellowship programs established during the 99th Con-

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2. H.R. 7235 (Committee on the Judiciary).

3. 84 CONG. REC. 11073, 76th Cong. 1st Sess., Aug. 4, 1939.

4. William B. Bankhead (Ala.).

gress under the bill was held not germane, as unrelated to the narrow scope of the primary amendment.

On Aug. 15, 1986,[5] during consideration of H.R. 4428 in the Committee of the Whole, the Chair sustained a point of order against an amendment, thus demonstrating that an individual proposition may not be amended by an unrelated individual proposition. The proceedings were as follows:

> Modification to the amendment offered by Mr. Wirth: Modify the amendment to read as follows: At the end of division C (page 353, after line 10), add the following new title: . . .
>
> SEC. 3302. NUCLEAR WINTER STUDY AND REPORT.
>
> (a) Study.—The Secretary of Defense shall conduct a comprehensive study on the atmospheric, climatic, biological, health, and environmental consequences of nuclear explosions and nuclear exchanges and the implications that such consequences have for the nuclear weapons, arms control, and civil defense policies of the United States.
>
> (b) Report.—Not later than November 1, 1987, the Secretary shall submit to the President and the Congress an unclassified report suitable for release to the public, with classified addenda if necessary, on the study conducted under subsection (a). . . .
>
> MR. [THOMAS S.] FOLEY [of Washington]: Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Foley to the amendment offered by Mr. Wirth, as modified, as amended:1
>
> SEC. 4005. NAME OF NEW SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM.
>
> Any program established by this Act during the 99th Congress to establish a foundation in the executive branch of the Government to award scholarships and fellowships for study in the fields of science and mathematics in order to further scholarship and excellence in education shall be named for Barry Goldwater, Senator from the State of Arizona, and Henry M. "Scoop" Jackson, late a Senator from the State of Washington. Any such foundation, and any board of trustees, fund, or other entity established in connection with such foundation, shall include in its name the names of Barry Goldwater and Henry M. "Scoop" Jackson. . . .
>
> MR. [WILLIAM L.] DICKINSON [of Alabama]: Mr. Chairman, I would insist on my point of order on the grounds stated, that it is beyond the scope and nongermane. I state my reluctance in insisting on this point of order, but I think it is proper. . . .
>
> THE CHAIRMAN PRO TEMPORE:[6] The Chair is constrained to observe that the pending amendment deals with nuclear winter research, and that the subject matter of the amendment offered by the gentleman from Washington has little relevancy to the pending amendment.
>
> For that reason, the Chair sustains the point of order of the gentleman from Alabama [Mr. Dickinson].

5. 132 CONG. REC. 22076, 99th Cong. 2d Sess.

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