

consideration is by a point of order being made against it.

THE CHAIRMAN: The Chair understood that the gentleman from Missouri made the point of order that if (the Rees amendment) was a substitute it was not germane to the Ramspeck amendment and that, therefore, the Ramspeck amendment would have to be disposed of first before the gentleman from Kansas could offer his amendment.

### ***Pro Forma Amendment***

#### **§ 20.8 A pro forma amendment to “strike out the last word” is germane.<sup>(19)</sup>**

#### **§ 21. Substitute Amendment; Amendment in Nature of Substitute; Amendment to Amendment**

An amendment offered to an amendment must be germane to that amendment.<sup>(20)</sup> Accordingly, where an amendment is offered to one part of a bill, a substitute amendment which relates to a different part of the bill is not germane to the original amendment.<sup>(21)</sup>

**19.** See § 17.2, *supra*.

**20.** See, for example, §§ 33.5, 33.6, 36.3, *infra*.

**21.** See the ruling of Chairman George A. Dondero (Mich.) at 94 CONG. REC. 7768, 80th Cong. 2d Sess., June 10, 1948. Under consideration was H.R. 6396 (Committee on the Judiciary), relating to admission into the United States of certain displaced persons.

A substitute must be germane to the amendment for which offered and must relate to the same portion of the bill being amended by the amendment.<sup>(1)</sup>

Perfecting amendments to amendments in the nature of a substitute or to substitute amendments need to be germane to the inserted language contained in said substitutes, it being irrelevant whether or not the perfecting amendment might be germane to the underlying (perhaps broader) bill which said substitute seeks to strike out and replace. The language of the underlying bill proposed to be stricken is not taken into consideration when determining the germaneness of a second degree amendment to a substitute proposing to insert other language. It is only the pending text under immediate consideration against which the germaneness of proposed amendments thereto is judged. This test of germaneness is consistent with Rule XIX governing the permissible degree of amendments in the House (see Ch. 27, Amendments, *supra*). At this stage the House has not finally adopted any version of a

**1.** See the proceedings of Oct. 8, 1975, relating to H.J. Res. 683, a bill to implement the United States proposal for an early-warning system in the Sinai, discussed in § 3.47, *supra*.

House-passed bill and is free to reject the pending amendment(s) and proceed to other differently drafted amendments which may present another test of germaneness to the bill as a whole.

Of course, an amendment in the nature of a substitute is normally an amendment in the first degree for an entire bill and its germaneness is measured by its relationship to the underlying bill, whereas a substitute amendment is an alternative for a first degree amendment already pending.

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***Substitute Must Be Germane to Amendment for Which Offered***

**§ 21.1 The test of the germaneness of a substitute amendment is its relationship to the amendment for which offered and not its relationship to the pending bill; thus, for an amendment establishing a termination date for the Federal Energy Administration, a substitute not dealing with the date of termination but providing instead a reorganization plan for that agency was ruled out as not germane.**

On June 1, 1976,<sup>(2)</sup> during consideration of a bill<sup>(3)</sup> extending the Federal Energy Administration Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:

"Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,

"Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or

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2. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.  
3. H.R. 12169.

offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program." . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan. . . .

THE CHAIRMAN:<sup>(4)</sup> The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentle-

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4. William H. Natcher (Ky.).

man's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

**§ 21.2 A substitute amendment must be germane to the amendment for which offered, it not being sufficient that it relates to a different portion of the bill being amended; thus, to an amendment to add a word to a section of a bill (with the effect of prohibiting indirect as well as direct aid to certain countries), a substitute to add another word in a different portion of the section (with the effect of adding another country to which direct aid was prohibited) was held not germane.**

During consideration of the foreign assistance appropriations for fiscal 1978<sup>(5)</sup> in the Committee of the Whole on June 22, 1977,<sup>(6)</sup> the Chair sustained a point of order against the following amendment:

THE CHAIRMAN:<sup>(7)</sup> The Clerk will read.

The Clerk read as follows:

Sec. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obli-

5. H.R. 7797.

6. 123 CONG. REC. 20235, 20236, 95th Cong. 1st Sess.

7. Abraham Kazen, Jr. (Tex.).

gated or expended to finance directly any assistance to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam.

MR. [C. W.] YOUNG of Florida: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Florida: On page 11, line 17, after the word "directly" add "or indirectly".

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Conte as a substitute for the amendment offered by Mr. Young of Florida: On page 11, line 18, strike out "or" and add after "Vietnam" "or Cuba". . . .

MR. YOUNG of Florida: Mr. Chairman, I make the point of order that under the rules of germaneness this amendment is out of order inasmuch as it relates to the bill but not to the amendment pending. . . .

THE CHAIRMAN: The Chair will state that this is not a proper substitute because it goes to a different subject. The point of order is, respectfully, sustained.

**§ 21.3 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill; accordingly, where an amendment denied eligibility for certain higher education assistance benefits to persons refusing**

**to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.**

On July 28, 1982,<sup>(8)</sup> during consideration of H.R. 6030 (military procurement authorization for fiscal 1983), Chairman Les AuCoin, of Oregon, held that to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others was germane:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment which is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 26, after line 22, add the following new section:

**ENFORCEMENT OF MILITARY  
SELECTIVE SERVICE ACT**

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

“(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under

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8. 128 CONG. REC. 18355–58, 18361, 97th Cong. 2d Sess.

title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3. . . .

“(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

“(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

“(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

“(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon as a substitute for the amendment

offered by Mr. Solomon: At the end of the bill add the following new section:

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"(A) submit to the institution of higher education which the person intends to attend, or is attending, proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under section 3, and for collecting statements described in paragraph (1)(C) from such institutions."

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning on or after July 1, 1983.

MR. SOLOMON: Mr. Chairman, I raise a point of order. . . .

[T]he amendment which I offered and was printed in the Record was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. Simon) is offering, in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that. . . .

MR. SIMON: . . . Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

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

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is ger-

mane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

***Substitute Changing Different or Lesser Portion of Pending Section***

**§ 21.4 A substitute for a pending amendment may be offered to change a different or lesser portion of the pending section if it relates to the same subject matter as the amendment; thus, for a perfecting amendment making several changes in a pending section, a substitute adding language at the end of the section rather than striking and inserting within the section was held in order since relating to the same subject as the amendment.**

During consideration of the Foreign Aid Authorization for fiscal year 1979,<sup>(9)</sup> the Chair overruled a point of order against the amendment described above. The proceedings in the Committee of the Whole on Aug. 1, 1978,<sup>(10)</sup> were as follows:

MR. [EDWARD J.] DERWINSKI [of Illinois]: Mr. Chairman, I offer an amend-

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9. H.R. 12514.

10. 124 CONG. REC. 23732, 95th Cong.  
2d Sess.

ment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Derwinski as a substitute for the amendment offered by Mr. Stratton: Page 18, immediately after line 4, insert the following new subsection:

(e) It is the sense of the Congress that further withdrawal of ground forces of the United States from the Republic of Korea may seriously risk upsetting the military balance in that region and requires full advance consultation with the Congress. Prior to any further withdrawal the President should report to the Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; the reaction anticipated from North Korea; a consideration of the effect of the plan on increasing incentives for the Republic of Korea to develop an independent nuclear deterrent . . . and the possible implications of any proposed withdrawal on the Soviet-Chinese military situation.

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, a point of order.

. . .

Mr. Chairman, unless I am mistaken, the gentleman has not bothered to look at my amendment. My amendment makes specific changes in the text on section 19. I am not clear where the gentleman's amendment would come in section 19. He cannot substitute a straight wording, as I understand it, for something that has a series of changes in 3 pages of a particular section.

MR. DERWINSKI: Mr. Chairman, my amendment would come at the end of section 19.

THE CHAIRMAN:<sup>(11)</sup> The Chair might inform the gentleman from New York

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11. Don Fuqua (Fla.).

that it is a proper substitute amendment. Both the proposed amendment and the substitute are perfecting amendments to the section and deal with the same subject.

***Perfecting Amendment—Substitute Perfecting Lesser Portion of Same Text***

**§ 21.5 For an amendment perfecting a bill, an amendment germane thereto perfecting a lesser portion of the same text is in order as a substitute; thus, for an amendment dealing with the role of an agency in regulating commercial diving activities on the Outer Continental Shelf by promulgation of interim and final standards, a substitute relating only to the role of that agency in issuing interim regulations was held in order as germane.**

On Feb. 1, 1978,<sup>(12)</sup> during consideration of the Outer Continental Shelf Lands Act amendments (H.R. 1614), the Chair overruled a point of order against the amendment described above. The proceedings in the Committee of the Whole were as follows:

MR. [HAMILTON] FISH [Jr., of New York]: Mr. Chairman, I offer an amendment.

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12. 124 CONG. REC. 1816–18, 95th Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Fish:  
Page 192, lines 15 and 16, strike out  
“the Secretary of Labor.”

Page 193, line 10, strike out  
“achievable” and insert in lieu thereof  
of “feasible”.

Page 193, line 15, strike out “(1)”.

Page 193, strike out lines 16 through 22, and insert in lieu thereof  
“of this section, the Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to diving activities in the waters above the Outer Continental Shelf, and to other unregulated hazardous working conditions for which he determines such”.

Page 194, strike out lines 3 through 10.

Page 197, line —, strike out “Secretary of Labor” and insert in lieu thereof “Secretary of the Department in which the Coast Guard is operating”. . .

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York as a substitute for the amendment offered by Mr. Fish:  
On page 193, strike lines 15 to 24 and on page 194 strike lines 1 to 3 and insert: “(c) Notwithstanding section 4(b)(1) of the Occupa-”.

MR. FISH: Mr. Chairman, I reserve a point of order against the amendment.

I do so because I was not exactly sure which amendment the gentleman was going to offer, and I still have not got it in front of me, but if indeed his amendment strikes or is an amendment to a provision which I strike, I do not think it is in order. . . .

THE CHAIRMAN:<sup>(13)</sup> Does the gentleman from New York (Mr. Fish) insist on his point of order?

MR. FISH: Mr. Chairman, I just want a clarification here. If I understand the gentleman here, the gentleman is striking out lines 15 through 24 on page 193 and lines 1 and 2 on page 194. . . .

Well, now, Mr. Chairman, this language in my amendment calls for some revision of that language, but does not strike out several of the lines, the lines that are the subject of the gentleman's offered substitute. I just was not aware that that would be in order in the light of the part of my amendment that deals with pages 193 and 194.

THE CHAIRMAN: Does the gentleman from New York (Mr. Fish) insist on his point of order?

MR. FISH: Yes, Mr. Chairman. . . .

MR. MURPHY of New York: . . . Mr. Chairman, I would say that the substitute strikes a portion of the language; that the amendment of the gentleman clearly strikes a much larger area and, accordingly, would be in order. . . .

MR. FISH: . . . Mr. Chairman, this has been characterized as a substitute to my amendment. I understood if that be the case, it would have to be substantially the same.

I direct the Chairman's attention to the fact that my amendment addresses itself to the lines on pages 192 and 193 in three places and pages 194 and 197; so I do not see how the gentleman from New York can be offering a substitute that is narrow in focus and dealing with only one of the several

issues that is covered by my amendment.

THE CHAIRMAN: The Chair is ready to rule. In the opinion of the Chair, the substitute amendment offered by the gentleman from New York (Mr. Murphy) deals with a lesser portion of the bill that the gentleman from New York (Mr. Fish) desires to perfect, and as conceded by the gentleman from New York (Mr. Fish) in a more restricted fashion. The Murphy substitute deals only with interim regulations, while the Fish amendment deals with OSHA's role in promulgating both interim and final regulations.

Therefore, the Chair overrules the point of order and holds the substitute to be in order.

***Perfecting Amendment to Section or Subsection—Motion To Strike Not Proper Substitute***

**§ 21.6 For a perfecting amendment to a subsection striking out one activity from those covered by a provision of existing law, a substitute striking out the entire subsection, thereby eliminating the applicability of existing law to a number of activities, was held more general in scope and not germane.**

On Aug. 18, 1982,<sup>(14)</sup> during consideration of H.R. 5540, the Defense Industrial Base Revital-

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13. William H. Natcher (Ky.).

14. 128 CONG. REC. 21967, 21968, 97th Cong. 2d Sess.

ization Act, in the Committee of the Whole, the Chair made the following statement:

THE CHAIRMAN:<sup>(15)</sup> All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.

The Clerk read as follows:

H.R. 5540

. . . Sec. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:

"Sec. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.

"(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war. . . .

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

**15.** Wyche Fowler, Jr. (Ga.).

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports. . . .

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

When consideration of H.R. 5540 resumed on Sept. 23, 1982,<sup>(16)</sup> an amendment was offered by Mr. Bruce F. Vento, of

**16.** 128 CONG. REC. 24963, 24964, 97th Cong. 2d Sess.

Minnesota, and proceedings ensued as follows:

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

The Clerk read as follows:

Amendment offered by Mr. Vento:  
Page 41, line 24, strike out ", or the installation of equipment".

Page 42, beginning on line 15, strike out ", or the installation of equipment". . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Erlenborn as a substitute for the amendment offered by Mr. Vento: Beginning on page 41, line 22, strike all of subsection (m) through page 43, line 2.

MR. VENTO: Mr. Chairman, I make a point of order against the amendment offered as a substitute by the gentleman from Illinois (Mr. Erlenborn). . . .

Mr. Chairman, the substitute offered by the gentleman is clearly not in order. Under rule 19, Cannon's Procedure VIII, section 2879, the precedents provide that "to qualify as a substitute an amendment must treat in the same manner the same subject carried by the amendment for which it is offered."

My amendment would remove language from the committee bill and limit the applicability of the Davis-Bacon Act in terms of one type of activity. The gentleman's substitute would strike the entire section of the committee bill which my amendment seeks to perfect and thereby eliminate the

Davis-Bacon provisions of this legislation.

In this case, the amendment offered by the gentleman clearly does not treat the subject in the same manner which my amendment does. Also, under Deschler's Procedure, chapter 27, section 14.1, decisions made by the Chair on August 12, 1963, December 16, 1963, and June 5, 1974, a motion to strike out a section or paragraph is not in order while a perfecting amendment is pending. In addition, the decisions of the Chair of December 16, 1963, and June 5, 1974, and contained in Deschler's Procedure, chapter 27, section 14.4, provides that a provision must be perfected before the question is put on striking it out. A motion to strike out a paragraph or section may not be offered as a substitute for pending motion to perfect a paragraph or section by a motion to strike and insert. The gentleman's amendment attempts to accomplish indirectly something that he is precluded from doing directly. . . .

MR. ERLENBORN: . . . It does appear to me from what the gentleman has said in support of his point of order that he is claiming that my substitute would treat a different matter or in a different manner the same matter as the amendment offered by the gentleman.

The language to which both amendments are directed is language in the bill that is applying the Davis-Bacon Act to activities under the bill in question. The amendment offered by the gentleman is reducing the extent of that coverage by taking out the installation of equipment.

My substitute also reduces that by eliminating the language so there

would be no extension of Davis-Bacon to the activities beyond the present coverage of Davis-Bacon.

So the amendment that has been offered by the gentleman from Minnesota (Mr. Vento) is affecting Davis-Bacon by reducing its coverage. Mine also would affect the reduction of Davis-Bacon, only in a broader manner; and I, therefore, believe the amendment is in order.

**THE CHAIRMAN:** The Chair is prepared to rule.

The Chair sustains the point of order of the gentleman from Minnesota (Mr. Vento) for the reasons advocated by the gentleman from Minnesota that the substitute is too broad in its scope in its striking the whole of subsection (m).

The Chair would say to the gentleman from Illinois (Mr. Erlenborn) it would be appropriate as a separate amendment but it is not in order as a substitute because of the scope of the amendment.

The point of order of the gentleman from Minnesota is sustained.

**Parliamentarian's Note:** As the above proceedings indicate, a motion to strike out an entire subsection of a bill is not, in any event, a proper substitute for a perfecting amendment to the subsection, since it is broader in scope, but may be offered after disposition of the perfecting amendment.

#### **§ 21.7 For an amendment inserting an additional labor standard to those contained**

**in a section of a bill, a motion to strike out the entire section was ruled out as not a proper substitute for the perfecting amendment, and not germane in that it had the effect of enlarging the scope of the perfecting amendment.**

During consideration of H.R. 14747 (amending the Sugar Act of 1948) in the Committee of the Whole on June 5, 1974,<sup>(17)</sup> it was demonstrated that a motion to strike out a section is not in order as a substitute for a perfecting amendment to that section. The proceedings were as follows:

MR. [JAMES G.] O'HARA [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Hara: Page 18, after line 5, insert:

(5) That the producer who compensates workers on a piece-rate basis shall have paid, at a minimum, the established minimum hourly wage.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara).

The Clerk read as follows:

Amendment offered by Mr. Symms as a substitute for the amendment offered by Mr. O'Hara: In lieu of the

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17. 120 CONG. REC. 17868, 17869, 93d Cong. 2d Sess.

amendment offered by the gentleman from Michigan insert the following: "Section 11 of the bill, page 15, strike out all of line 11 through line 6 of page 17 and renumbering the '(3)' on line 7, page 17 as '(1)', and strike out line 15 on page 17 through line 5 on page 18." . . .

MR. O'HARA: Mr. Chairman, I make a point of order against the amendment in that it is not germane to the provisions of my amendment. It deals with different parts of section 11. . . .

MR. SYMMS: . . . Mr. Chairman, this amendment is germane to the gentleman's amendment. It strikes it and all the labor provisions from the bill.

THE CHAIRMAN:<sup>(18)</sup> It is the ruling of the Chair that the amendment offered by the gentleman from Idaho (Mr.

Symms) as a substitute for the amendment offered by the gentleman from Michigan (Mr. O'Hara) is not a proper substitute. The substitute would strike portions of section 11 not affected by the pending amendment. And, the substitute is broader in scope than the amendment to which offered and is not germane thereto. The Chair sustains the point of order.

***Amendment to House Rule To Provide for Selection of Acting Committee Chairman—Substitute Amending Different Rule***

**§ 21.8 To an amendment modifying a rule of the House to provide for selection of an acting committee chairman during the disability of the**

18. James A. Burke (Mass.).

**permanent chairman, a substitute amendment was held to be not germane which sought to amend a different rule of the House and to modify methods of selecting the committee chairmen and vice chairmen at the commencement of a Congress.**

During consideration of that part of the Legislative Reorganization Act of 1970<sup>(19)</sup> which related to the calling of committee meetings, an amendment was offered as follows:

Amendment offered by Mr. [Dante B.] Fascell [of Florida]: Section 102 of title 1 is amended by adding a new subsection on page 8 after line 19:

(f) Whenever the chairman of any standing committee is unable to discharge his responsibilities, the committee by majority vote shall designate a member with full authority to act as chairman until such time as the chairman is able to resume his responsibilities.

To such amendment, an amendment was offered<sup>(20)</sup> stating in part:

Substitute amendment offered by Mr. [Bertram L.] Podell [of New York] for the amendment offered by Mr. Fascell: On page 8, after line 19, insert the following:

(c) Clause 3 of Rule X of the Rules of the House of Representatives is amended to read:

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19. H.R. 17654 (Committee on Rules). 116 CONG. REC. 24036, 91st Cong. 2d Sess., July 14, 1970.

20. *Id.* at p. 24037.

(3) At the commencement of each Congress, each standing committee shall elect a chairman and a vice-chairman from among its members; in the temporary absence of the chairman, the vice-chairman shall act as chairman. . . .

On page 8, delete lines 14 through 17 and insert the following:

(d) If the chairman of any standing committee is not present at any . . . meeting of the committee, the vice-chairman shall preside. . . . If neither the chairman nor the vice-chairman is present, the committee shall then designate a Member of the committee to serve as chairman temporarily. . . .

Mr. Bernice F. Sisk, of California, raised the point of order that the amendment was not germane.<sup>(1)</sup>

Mr. H. Allen Smith, of California, in support of the point of order, stated:<sup>(2)</sup>

. . . Mr. Chairman, this amendment, in my opinion, is definitely subject to a point of order under the provisions which the Chair first announced inasmuch as it applies to chairmen and the election of chairmen of committees, and we are now considering a section of the bill which has to do only with committee meetings.

The Chairman,<sup>(3)</sup> in ruling on the point of order, stated:

. . . The amendment offered by the gentleman from New York goes beyond the amendment offered by the gen-

tleman from Florida. It is not germane to the amendment offered. But the Chair would like to inform the gentleman from New York that a portion of the amendment could be germane following section 118, as a new section.

***Amendment Requiring Vessels in Bill Be Constructed From American Steel—Substitute To Require All Materials in Vessels Be American***

**§ 21.9 To an amendment requiring that merchant marine vessels constructed pursuant to the bill under consideration be constructed of steel produced in the United States, a substitute amending another portion of the bill to require all materials used in such construction to be produced in the United States, unless certain findings were made, was held not germane as beyond the scope of the amendment to which offered.**

During consideration of the Energy Transportation Security Act of 1977<sup>(4)</sup> in the Committee of the Whole, a point of order against the amendment described above was sustained, demonstrating that the test of germaneness of a substitute for a pending amendment is the relationship between the substitute and the amend-

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1. *Id.* at pp. 24037, 24038.

2. *Id.* at p. 24038.

3. William H. Natcher (Ky.).

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4. H.R. 1037.

ment (and not between the substitute and the bill to which the amendment has been offered). The proceedings of Oct. 19, 1977,<sup>(5)</sup> were as follows:

MR. [JOHN E.] CUNNINGHAM [III, of Washington]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cunningham: On page 9, line 24 after the word "constructed" insert the following: "of steel produced in the United States". . . .

MR. [JOHN M.] MURPHY of New York: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Murphy of New York as a substitute for the amendment offered by Mr. Cunningham:

That H.R. 1037 be amended by inserting on page 10, line 2, after the word "subsidy", the following: "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States as defined in paragraph K of section 401 of the Tariff Act of 1930; Provided however, That with respect to other than major components of the hull, superstructure, and any material used in the construction thereof, (1) if the Secretary of Commerce determines that the requirements of this sentence will unreasonably delay completion of any vessel beyond its contract delivery date, and (2) if such determination includes or is ac-

companied by a concise explanation of the basis therefor, then the Secretary of Commerce may waive such requirements to the extent necessary."

MR. [SAM] GIBBONS [of Florida]: Mr. Chairman, I have a point of order against the substitute amendment. . . .

Mr. Chairman, the chairman of the Committee on Merchant Marine and Fisheries is attempting to amend the Smoot-Hawley Tariff Act of 1930 by expanding the definition of the material that was included in the Smoot-Hawley Tariff Act. The Smoot-Hawley Tariff Act under the rules of the House was confined exclusively to the Committee on Ways and Means and not to the Committee on Merchant Marine and Fisheries, and I think it is not germane to this bill. It is a matter that is wholly within the jurisdiction of the Committee on Ways and Means. Mr. Chairman, we have lived long enough with the Smoot-Hawley Tariff Act without having to resurrect that buzzard. . . .

MR. MURPHY of New York: . . . The language of the substitute amendment is direct language taken from the Merchant Marine Act of 1970. It is, of course, language that came from the committee. It is language that we feel is germane to the precise bill because it goes to the construction standards of the vessels that will be constructed under the act. Therefore, I would hope that the Chair would overrule the point of order. . . .

MR. [BILL] FRENZEL [of Minnesota]: . . . It seems to me that the question here is whether the amendment offered by the gentleman from New York (Mr. Murphy) is germane to the

5. 123 CONG. REC. 34217, 34218, 95th Cong. 1st Sess.

amendment offered by the gentleman from Washington (Mr. Cunningham). Mr. Chairman, I think that it is clearly a violation of our rules of germaneness because it does go to the Smoot-Hawley Tariff Act of 1930 and far expands on the amendment which was submitted by the gentleman from Washington.

The title of the bill, which is to require that a percentage of the U.S. oil imports be carried on U.S.-flag ships, does not contain tariff references, nor does it give the sweeping power to the Secretary of Commerce that is included in the amendment offered by the gentleman from New York, nor does the amendment offered by the gentleman from New York really modify the amendment of the gentleman from Washington because it is far greater in scope and effect.

Mr. Chairman, in my judgment the amendment is clearly nongermane and the point of order should be sustained.

THE CHAIRMAN:<sup>(6)</sup> The Chair is prepared to rule.

The gentleman from Washington offers an amendment on page 9, line 24, to insert the words "of steel produced in the United States" after the word "constructed". To that amendment the gentleman from New York (Mr. Murphy) offers a substitute which provides that:

In all such construction the shipbuilder, subcontractors, material men, or suppliers shall use, so far as practicable, only articles, materials, and supplies of the growth, production, or manufacture of the United States . . .

The narrow question before the Chair is whether the substitute

amendment offered by the gentleman from New York (Mr. Murphy) is germane to the amendment offered by the gentleman from Washington (Mr. Cunningham). The Chair would observe certainly of the proposed substitute that it is far broader than the item of steel referred to in the base amendment and refers to "articles, materials, and supplies" and so on. Therefore the Chair would have to rule that the substitute offered by the gentleman from New York (Mr. Murphy) is not germane and the point of order by the gentleman from Florida is sustained.

***Income Ceiling for Occupants of Housing Projects—Substitute Authorizing President To Set Maximum Wage Levels for Public Housing Occupants***

**§ 21.10 For a proposed amendment requiring that an applicant for admission to a low-rent housing project not have income exceeding \$2,000 per annum, a substitute amendment authorizing instead the President to set from time to time the maximum annual wage level for occupants of public housing units was held to be germane.**

In the 83d Congress, during consideration of the Housing Act of 1954,<sup>(7)</sup> the following proposal,

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7. H.R. 7839 (Committee on Banking and Currency).

6. Morris K. Udall (Ariz.).

in the form of an amendment offered by Mr. O. Clark Fisher, of Texas,<sup>(8)</sup> was under consideration.

Sec.— Section 15(8)(a) of the United States Housing Act of 1937, as amended, is hereby amended by adding a proviso as follows: “*Provided*, That maximum income limits for admission to such low-rent housing project may not exceed \$2,000 per annum, and for continued occupancy may not exceed \$2,300 per annum”.

To such amendment, a substitute amendment was offered:<sup>(9)</sup>

Substitute amendment offered by Mr. Holifield for the amendment offered by Mr. Fisher: “*Provided further*, That the President shall from time to time set the annual maximum wage level for occupants of public housing units, taking into consideration the number of persons in each family, the current purchasing power of the dollar in relation to the cost of living and wage levels of each locality.”

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

MR. FISHER: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the amendment which the gentleman from Texas offered, and which is now pending.

MR. [CHET] HOLIFIELD [of California]: Mr. Chairman, I have offered it

**8.** See 100 CONG. REC. 4479, 4480, 83d Cong. 2d Sess., Apr. 2, 1954.

**9.** *Id.* at p. 4480.

as a substitute amendment. I do not offer this amendment as an amendment to the gentleman’s amendment.

MR. FISHER: It is not germane to the bill. . . .

It relates to wages and has no reference to rents. It is not germane to the subject matter covered in the pending bill nor to the amendment offered by the gentleman from Texas.

THE CHAIRMAN:<sup>(10)</sup> . . . Both amendments would appear to deal with the financial income of the applicants for occupancy in these facilities. One amendment fixes income limits. The other delegates authority for the income to be fixed. Both amendments seem to deal with the same subject matter. The Chair holds that the amendment is germane and overrules the point of order.

***Amendment to War Powers Bill Relating to Wages and Hours—Substitute Imposing Penalties for Causing Strike***

**§ 21.11 Where a pending amendment to the Second War Powers Bill related to the question of hours or days of labor and compensation therefor, an amendment offered as a substitute which sought to impose penalties for causing a strike or lock-out was held to be not germane to the pending amendment.**

In the 77th Congress, during proceedings related to the Second

**10.** B. Carroll Reece (Tenn.).

War Powers Bill of 1952,<sup>(11)</sup> a proposition was under consideration as described above.<sup>(12)</sup> An amendment was offered, as follows:<sup>(13)</sup>

Mr. Folger offers the following amendment as a substitute for the Smith amendment: Amend title IV of S. 2208, by adding after the period in line 11, the following:

Whoever, during the period of this war and while the United States is engaged therein shall order . . . or cause any strike, walk-out, or lock-out of workers (a strike, walk-out, or lock-out resulting) in any plant . . . or other place engaged in defense or war production work, shall be guilty of a felony. . . .

Mr. Joseph E. Casey, of Massachusetts, made the point of order that the amendment was not germane. In response, Mr. Alonzo D. Folger, of North Carolina, stated:<sup>(14)</sup>

As the Chair observed yesterday this is an unusual bill in that it deals with many subjects, but at the same time is designed and intended to expedite and to prevent interference with war production in this country. I submit, Mr. Chairman, that this strikes at the very root of interference with and therefore tends to expedite the war production in this country. . . .

- 11.** S. 2208 (Committee on the Judiciary).
- 12.** The amendment described had been offered by Mr. Howard W. Smith (Va.).
- 13.** 88 CONG. REC. 1736, 77th Cong. 2d Sess., Feb. 27, 1942.
- 14.** *Id.* at p. 1737.

The Chairman<sup>(15)</sup> made the following observation with respect to the point at issue:

. . . The question here presented is whether the amendment offered by the gentleman from North Carolina is germane to the pending amendment—not to the pending bill.

Subsequently, in ruling on the point of order, he stated:

. . . Of course, the Chair does not now undertake to pass upon the question of whether the amendment offered by the gentleman from North Carolina would be in order if offered as an amendment seeking to include a new title in the pending bill.

. . . The Chair invites attention to the fact that the amendment offered by the gentleman from Virginia relates only to the question of hours, days, or weeks of labor and compensation therefor . . .

The amendment offered by the gentleman from North Carolina, among other things, deals with strikes, walk-outs, lock-outs, and imposes penalties. The amendment offered by the gentleman from Virginia does not go nearly that far and does not undertake to impose penalties. The Chair is therefore of the opinion that the amendment offered by the gentleman from North Carolina is much broader than the amendment offered by the gentleman from Virginia and is not therefore germane.

- 15.** Jere Cooper (Tenn.).

***Amendment Barring Induction  
Into Armed Services Unless  
Voluntary Enlistments Insuf-  
ficient—Substitute To Create  
Joint Committee To Inves-  
tigate Voluntary Enlistment  
Campaign***

**§ 21.12 For an amendment pro-  
viding that no person be in-  
ducted into the armed serv-  
ices until the President pro-  
claims that a sufficient num-  
ber of persons cannot be at-  
tained by voluntary enlist-  
ment to meet military re-  
quirements, a substitute pro-  
posing to create a joint con-  
gressional committee to con-  
duct an investigation of the  
voluntary enlistment cam-  
paign was held to be not ger-  
mane.**

In the 80th Congress, during proceedings relating to the Selective Services Act of 1948,<sup>(16)</sup> an amendment was under consideration as described above. The following amendment was offered:<sup>(17)</sup>

Substitute amendment offered by Mr. [Paul W.] Shafer [of Michigan] for the committee amendment: . . .

Sec. —. (a) There is hereby created a joint congressional committee to be

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16. H.R. 6401 (Committee on Armed Services).  
17. 94 CONG. REC. 8509, 80th Cong. 2d Sess., June 16, 1948.

known as the Joint Committee on Voluntary Enlistments. . . .

(b) The joint committee shall conduct a thorough study and investigation of the voluntary enlistment campaign required by section 23 of this act and shall report to the Senate and the House of Representatives the results of its study and investigation. . . .

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

MR. [W. STERLING] COLE [of New York]: Mr. Chairman, I make the point of order against the amendment offered by the gentleman from Michigan that it is not germane to the amendment for which it is offered as a substitute. It very obviously contains subject matter the provisions of which are not even contemplated by the bill, let alone the committee amendment for which it seeks to serve as a substitute.

The Chairman,<sup>(18)</sup> in sustaining the point of order, stated:<sup>(19)</sup>

. . . The Chair invites attention to the fact that the amendment offered by the gentleman from Michigan [Mr. Shafer] is offered as a substitute for an amendment offered by the gentleman from New York [Mr. Andrews]. The amendment for which it is offered as a substitute is limited to certain things. It relates wholly to the time of induction and the determination that a sufficient number cannot in the judgment of the President be obtained by voluntary enlistment and by voluntary requests for call to active duty. The

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

19. 94 CONG. REC. 8510, 80th Cong. 2d Sess., June 16, 1948.

amendment offered by the gentleman from Michigan [Mr. Shafer] goes far beyond the scope of the amendment offered by the gentleman from New York [Mr. Andrews] and proposes to create a joint congressional committee and deals with other matters beyond the scope of the amendment offered by the gentleman from New York.

The Chair is constrained to rule that the amendment offered by the gentleman from Michigan [Mr. Shafer] is not germane as a substitute for the amendment offered by the gentleman from New York [Mr. Andrews].

The Chair sustains the point of order.

***Amendment to Substitute Not Required To Affect Same Page and Line Numbers as Substitute.***

**§ 21.13 An amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute. Accordingly, to a substitute to require that certain emergency energy conservation plans (entailing the use of auto stickers indicating certain days an auto would not be operated) be established (1) only after consultation with state governors, and (2) only after consideration of**

**rural and suburban needs, an amendment striking out and inserting language elsewhere in the bill which also related to the use of auto stickers as part of the energy conservation plans, was held germane to the two diverse conditions already required by the substitute.**

During consideration of S. 1030<sup>(20)</sup> in the Committee of the Whole on Aug. 1, 1979,<sup>(1)</sup> Chairman Dante B. Fassell, of Florida, overruled a point of order against an amendment to a substitute and held that the amendment was germane to the substitute. The amendment and proceedings were as follows:

MR. [TOBY] MOFFETT [of Connecticut]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: Page 45, after line 9, insert the following new subsection:

“(d) Needs of Rural and Certain Other Areas.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in sub-

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20. Emergency Energy Conservation Act of 1979.  
1. 125 CONG. REC. 21939, 21944–47, 96th Cong. 1st Sess.

ban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. Maguire) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

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

MR. [JOHN D.] DINGELL [of Michigan]: I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. Maguire) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected. . . .

MR. MAGUIRE: Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions

on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

***Substitute Amendment to Concurrent Resolution on Budget—Amendment to Substitute as Enlarging Scope.***

**§ 21.14 To a substitute amendment to a concurrent resolution on the budget changing one functional category only, an amendment changing not only that category but several other categories of budget authority and outlays and covering an additional fiscal year was held to be more general in scope and therefore was ruled out as not germane.**

On May 2, 1979,<sup>(2)</sup> during consideration of House Concurrent Resolution 107 (first concurrent resolution on the budget, fiscal 1980), the Chair sustained a point of order against the amendment

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2. 125 CONG. REC. 9556, 9562–64, 96th Cong. 1st Sess.

described above, thus demonstrating that a specific proposition may not be amended by a proposition more general in scope. The amendment and proceedings were as follows:

Ms. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by \$8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by \$2,705 million;

In the matter relating to the amount of the deficit decrease the amount by \$2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by \$2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by \$3,351 million; and decrease the amount for outlays by \$1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by \$102 million; and decrease the amount for outlays by \$34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by \$75 million; and decrease the amount for outlays by \$25 million. . . .

MR. CHARLES H. WILSON of California: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Charles H. Wilson of California as a

substitute for the amendment offered by Ms. Holtzman: In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for new budget authority and insert in lieu thereof "\$137,808,000,000".

In the matter relating to National Defense for fiscal year 1980, strike out the amount specified for outlays and insert in lieu thereof "\$125,070,000,000".

Increase the aggregate amounts in the first section (other than the amount of the recommended level of Federal revenues and the amount by which the aggregate level of Federal revenues should be decreased) accordingly. . . .

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

THE CHAIRMAN: The Clerk will report the amendment to the amendment offered as a substitute. . . .

MR. JOHN L. BURTON: My amendment is an amendment to the amendment offered by the gentleman from California (Mr. Charles H. Wilson) as a substitute for the amendment. . . .

Amendment offered by Mr. John L. Burton to the amendment offered by Mr. Charles H. Wilson of California as a substitute for the amendment offered by Ms. Holtzman; Strike all after line 1 and insert:

*Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—*

(1) the recommended level of Federal revenues is \$510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero;

(2) the appropriate level of total new budget authority is \$586,255,609,000.

(3) the appropriate level of total budget outlays is \$510,567,609,000.

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is zero and . . .

Sec. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1979, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, \$112,974,000,000;

(B) Outlays, \$101,686,000,000.

(2) International Affairs (150):

(A) New budget authority, \$12,932,000,000;

(B) Outlays, \$8,223,000,000. . . .

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows:

(a)—

(1) the recommended level of Federal revenues is \$458,485,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is \$15,000,000;

(2) the appropriate level of total new budget authority is \$555,659,000,000;

(3) the appropriate level of total budget outlays is \$492,820,000,000.

MR. [ROBERT N.] GAIMO [of Connecticut]: . . . I raise the point of order

against the amendment on the ground that it is not germane to the Wilson amendment, which addresses itself to one function, national defense, and this addresses itself far beyond that; and, therefore, it is not germane. . . .

MR. JOHN L. BURTON: . . . It is my understanding that the Charles H. Wilson amendment although it only addressed itself to defense, it, by the language, inferred all that was in the amendment of the gentlewoman from New York, by striking that. It struck every section of the Holtzman amendment.

If I am not germane here, certainly I am germane to the Holtzman amendment and will offer my amendment to the Holtzman amendment in the nature of an amendment to the Holtzman amendment, if that be the necessary case.

THE CHAIRMAN:<sup>(3)</sup> The Chair is ready to rule upon the point of order of the gentleman from Connecticut (Mr. Giaimo).

The substitute offered by the gentleman from California (Mr. Charles H. Wilson) deals only with the national defense functional category for fiscal 1980. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with defense but with several other functional categories and is more general in scope.

Therefore, the amendment of the gentleman from California (Mr. John L. Burton) is not germane and the point of order is sustained.

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3. William H. Natcher (Ky.).

***Provisions Affecting Standards for Compensation of Postal Workers at Levels Comparable to Private Sector—Amendment to Substitute***

**§ 21.15 To a proposition that postal employees receive compensation equal to that paid for comparable levels of work in the private sector and that such compensation be uniform in all areas of the Nation, an amendment providing for pay differentials between postal carriers or clerks and their supervisors was held to be germane.**

In the 91st Congress, during consideration of the Postal Reform Act of 1970,<sup>(4)</sup> amendments affecting the following language of the bill were offered:<sup>(5)</sup>

§ 205. Policy on compensation and benefits “It shall be the policy of the Postal Service to maintain for each wage area compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy in the corresponding wage area. The Postal Service, consistent with subchapter II of this chapter and collective bargaining agreements, shall define the boundaries of each wage

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- 4. H.R. 17070 (Committee on Post Office and Civil Service).
  - 5. 116 CONG. REC. 20211, 20212, 91st Cong. 2d Sess., June 17, 1970.

area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees.

An amendment was offered by Mr. Graham B. Purcell, Jr., of Texas:<sup>(6)</sup>

The Clerk read as follows:

Amendment offered by Mr. Purcell: On page 177, delete lines 19 to 24, and on page 178 delete lines 1 to 3. Insert beginning on line 19, page 177, the following:

"It shall be the policy of the Postal Service to maintain compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. Such policy may be applied on an area basis, in which event the Postal Service, consistent with subchapter II of this chapter and collective bargaining agreements, shall define the boundaries of any such wage area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees."

Subsequently, an amendment was offered by Mr. Sam M. Gibbons, of Florida:<sup>(7)</sup>

The Clerk read as follows:

Amendment offered by Mr. Gibbons as a substitute for the amendment offered by Mr. Purcell: On page

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6. 116 CONG. REC. 20432, 91st Cong. 2d Sess., June 18, 1970.

7. *Id.* at p. 20434.

177, strike out line 19 and all that follows down through the period in line 2 on page 178 and insert in lieu thereof the following:

"It shall be the policy of the Postal Service to maintain compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy; but there shall not be established, for any position or class of positions under the Postal Service situated in any specific area or location, a rate of compensation (including premium compensation) which is higher than the rate of compensation (including premium compensation) for the same position or class of positions in any other specific area or location."

On page 192, immediately after the period in line 9, insert the following: "No such agreement shall contain any provision which establishes, for any position or class of positions under the Postal Service situated in any specific area or location, a rate of compensation (including premium compensation) which is higher than the rate of compensation (including premium compensation) for the same position or class of position in any other specific area or location."

An amendment to such substitute amendment was offered by Mr. Fletcher Thompson, of Georgia:<sup>(8)</sup>

The Clerk read as follows:

Amendment offered by Mr. Thompson of Georgia to the substitute amendment offered by Mr. Gibbons: After the second paragraph insert: "It shall further be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in

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8. *Id.* at p. 20438.

the clerk and carrier grades in the line work force and supervisory and managerial employees. The Postal Service shall, in carrying out this policy, fix salary levels for the type of first line supervisors now in PFS 7 at a level which is not less than a level approximately as much higher as their rates of pay now exceed those in present grade PFS 5. There shall be appropriate and reasonable differentials between PFS 7 and 8 and between all higher grades similar to those in effect on the day immediately before the date of enactment of this section."

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

MR. GIBBONS: Mr. Chairman, a point of order. The gentleman is amending something in mine that mine does not touch at all. . . .

. . . [H]e is trying to amend my substitute with something that is not germane. . . .

MR. THOMPSON of Georgia: Mr. Chairman, the language that I inserted is the language which was in the original section which was stricken. It does not affect the area wage. It does provide that the supervisors will, in effect, be paid a greater wage than will the letter carriers or clerks because of their responsibilities.

Inasmuch as it was in the original section, it certainly should be germane to any amendment to the original section.

THE CHAIRMAN:<sup>(9)</sup> The Chair is ready to rule.

The Chair has read the language in the amendment and also in the substitute and the language deals exactly

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9. Charles M. Price (Ill.).

with the same section of the bill and touches on the same subjects.

Therefore, the Chair overrules the point of order.

*Parliamentarian's Note:* The section of the bill being amended (§ 205), and the Purcell amendment for which the Gibbons substitute was offered, both contained statements of policy similar to those contained in the Gibbons substitute as well as the additional statement of policy contained in the Thompson amendment. As explained in the introduction to this section, *supra*, the Chair does not normally look at language in the bill proposed to be stricken by the original amendment, but only at matter proposed to be inserted by the substitute, in measuring the germaneness of amendments to the substitute. Here, the substitute dealt with two compensation policies, and the addition of a third within the same class (compensation) was considered germane.

***Amendment in Nature of Substitute Must Be Germane to Bill as Whole—Incidental Portion of Amendment as Not Determining Germaneness***

**§ 21.16 The germaneness of an amendment in the nature of a substitute for a bill depends on 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.**

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

**§ 21.17 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 por-**

**tion which, if considered separately, would have been tested for germaneness only in relation to the portion of the bill to which offered.**

On July 8, 1975,<sup>(10)</sup> 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 Na-

10. 121 CONG. REC. 21631-34, 94th Cong. 1st Sess.

tional 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 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.

***Special Rule Permitting Point of Order Based on Germaneness To Be Made Against Portion of Amendment in Nature of Substitute***

**§ 21.18 Under the terms of a special rule, a point of order based on the germaneness of only a portion of an amendment to the original bill was permitted to be made against a section of an amendment in**

**the nature of a substitute being read as original text for amendment; the section of the amendment, which sought to make permanent changes in law, was held to be not germane to a proposition authorizing appropriations for one fiscal year.**

On May 24, 1978,<sup>(11)</sup> the Committee of the Whole had under consideration a bill (H.R. 10929) reported from the Committee on Armed Services authorizing appropriations and personnel strength for the armed forces for one fiscal year and containing minor conforming changes to existing law. An amendment in the nature of a substitute was, pursuant to a special rule, to be read as original text for amendment. A section of the amendment imposed permanent restrictions on troop withdrawals from the Republic of Korea, in part making reductions in troop strength contingent upon the conclusion of a peace agreement with North Korea. The terms of the special rule permitted a point of order based on the germaneness rule to be made against that section of the amendment. The special rule (H. Res. 1188) stated:<sup>(12)</sup>

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11. 124 CONG. REC. 15293–15295, 95th Cong. 2d Sess.
  12. See 124 CONG. REC. 15094, 15095, 95th Cong. 2d Sess., May 23, 1978.

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

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

THE CHAIRMAN:<sup>(13)</sup> When the Committee rose on Tuesday, May 23, 1978, all time for general debate on the bill had expired. Pursuant to the rule, the Clerk will now read by titles the committee amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

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

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

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

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

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

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

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

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

MR. [SAMUEL S.] STRATTON [of New York]: . . . Mr. Chairman, the gentleman from Wisconsin (Mr. Zablocki), makes the point of order that section 805 is not germane on the ground that it deals with a matter that is related to

13. Dan Rostenkowski (Ill.).

something that has been before his committee. As he indicated before the Committee on Rules, if this had been introduced as an original bill, it would have been referred sequentially to the Committee on International Relations as well as to the Committee on Armed Services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The subject matter of section 805 of the committee amendment is unrelated to H.R. 10929 as introduced. The strength levels prescribed in the bill are for 1 fiscal year only and deal with the overall strength of the Armed Forces, not with the location of Armed Forces personnel. As indicated in the argument of the gentleman from Wisconsin, the withdrawal of American Forces stationed abroad pursuant to an international agreement, and the relationship of that withdrawal to peace agreements between foreign nations and to the transfer of American military equipment to foreign powers, are

issues not only beyond the scope of the bill but also within the jurisdiction of the Committee on International Relations. Although committee jurisdiction over an amendment is not the sole test of germaneness, the Chair feels that it is a convincing argument in a case such as the present one where the test of germaneness is between a limited 1-year authorization bill and a permanent statement of policy contingent upon the administration of laws within the jurisdiction of another committee.

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

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

THE CHAIRMAN: The gentleman will state his parliamentary inquiry.

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

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

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

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

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

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

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

THE CHAIRMAN: The gentleman is correct.

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

***Joint Resolution Authorizing  
Loan Agreement With Britain—Amendment in Nature  
of Substitute Prohibiting  
Loans to Foreign Governments Until Budget Balanced***

**§ 21.19 To a joint resolution authorizing the Secretary of**

**the Treasury to carry out a certain loan agreement between the United States and the United Kingdom, an amendment in the nature of a substitute for the joint resolution providing that it shall be unlawful for the government or any department thereof to lend or give money to any foreign government until the budget is balanced was held not germane.**

In the 79th Congress, a bill<sup>(14)</sup> was under consideration to implement the purposes of the Bretton Woods Agreements Act by authorizing the Secretary of the Treasury to carry out an agreement with the United Kingdom. The bill stated:<sup>(15)</sup>

*Resolved, etc.*, That the Secretary of the Treasury, in consultation with the National Advisory Council on International Monetary and Financial Problems, is hereby authorized to carry out the agreement dated December 6, 1945, between the United States and the United Kingdom which was transmitted by the President to the Congress on January 30, 1946.

An amendment was offered<sup>(16)</sup> as described above. Mr. Wright Patman, of Texas, raised the point

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- 14. S.J. Res. 138 (Committee on Banking and Currency).
  - 15. See 92 CONG. REC. 8915, 79th Cong. 2d Sess., July 13, 1946.
  - 16. *Id.* at p. 8938.

of order that the amendment was not germane to the bill. The Chairman,<sup>(17)</sup> in ruling on the point of order, stated:

The gentleman from Texas makes the point of order that the amendment is not germane. The section now under consideration authorizes the carrying out of the agreement dated December 6, 1945. Section 2 provides for the implementing of or the financing or the carrying out of that agreement.

The pending amendment is not related to the subject matter and the Chair, therefore, sustains the point of order.

***Amendment in Nature of Substitute Striking Section of Bill***

**§ 21.20 To a bill consisting of two sections, an amendment in the nature of a substitute striking out all after the enacting clause and inserting language of the second and final section was held to be germane.**

In the 86th Congress, a bill<sup>(18)</sup> was under consideration which sought to provide rules for the judicial interpretation of acts of Congress. The following exchange<sup>(19)</sup> concerned a point of

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- 17. William M. Whittington (Miss.).
  - 18. H.R. 3 (Committee on the Judiciary).
  - 19. 105 CONG. REC. 11794, 11795, 86th Cong. 1st Sess., June 24, 1959.

order raised against a substitute amendment:

MR. [EDWIN E.] WILLIS [of Louisiana]: Mr. Chairman, I make a point of order to the amendment.

Mr. Chairman, I followed the reading of the amendment and it is word for word carrying section 2 of the bill after the enacting clause. It is really an amendment to strike out section 1 and all that this amendment does is simply to repeat what the Committee has just voted on. It comes too late, Mr. Chairman, because section 1 has already been read. . . .

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, this is a substitute amendment which, in effect, strikes out section 1. There is no reason why a Member cannot offer a substitute amendment changing the provisions of any section, either amending the section or striking it out in toto. That is what this amendment does. It is a substitute amendment substituting a new bill as it is, with the elimination of section 1.

THE CHAIRMAN:<sup>(20)</sup> . . . The only function of the Chair is to rule on the germaneness of the amendment in the nature of a substitute. The Chair believes the amendment is germane and, therefore, the point of order is overruled.

*Parliamentarian's Note:* This precedent demonstrates that while it may be too late to offer a perfecting (or striking) amendment to a section of the bill already passed in the reading for amendment, it may be permissible

**20.** Clark W. Thompson (Tex.).

to accomplish that result by an amendment in the nature of a substitute for the entire bill offered at the end of the reading.

***Amendment Rewriting Concurrent Resolution on Budget Not Germane to Perfecting Amendment Making More Limited Changes***

**§ 21.21 An amendment (in effect in the nature of a substitute) rewriting an entire concurrent resolution on the budget covering two fiscal years is not germane to a perfecting amendment proposing certain changes in figures for one of the years covered by the resolution.**

On May 2, 1979,<sup>(1)</sup> during consideration of the first concurrent resolution on the budget, fiscal year 1980 (House Concurrent Resolution 107), the Chair sustained a point of order against an amendment, thus holding that to a perfecting amendment to a concurrent resolution on the budget changing amounts in functional categories and aggregates only for one fiscal year, an amendment which addresses the budget for another fiscal year as well and which contains other unrelated

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1. 125 CONG. REC. 9556, 9564–66, 96th Cong. 1st Sess.

matter, as a redraft of the entire resolution, is not germane. The proceedings were as follows:

Ms. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. Holtzman: In the matter relating to the appropriate level of total new budget authority decrease the amount by \$8,113 million;

In the matter relating to the appropriate level of total budget outlays decrease the amount by \$2,705 million;

In the matter relating to the amount of the deficit decrease the amount by \$2,705 million;

In the matter relating to the appropriate level of the public debt decrease the amount by \$2,705 million;

In the matter relating to Function 050 decrease the amount for budget authority by \$3,351 million; and decrease the amount for outlays by \$1,177 million. . . .

In the matter relating to Function 350 decrease the amount for budget authority by \$102 million; and decrease the amount for outlays by \$34 million. . . .

In the matter relating to Function 450 decrease the amount for budget authority by \$75 million; and decrease the amount for outlays by \$25 million.

MR. JOHN L. BURTON [of California]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. John L. Burton to the amendment offered by Ms. Holtzman: Strike all after line 1 and insert:

*Resolved by the House of Representatives (the Senate concurring), That the*

Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1979—

(1) the recommended level of Federal revenues is \$510,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is zero;

Sec. 6. Pursuant to section 304 of the Congressional Budget Act of 1974, the appropriate allocations for fiscal year 1979 made by H. Con. Res. 683 are revised as follows: . . .

MR. [ROBERT N.] GIAIMO [of Connecticut]: The gentleman's amendment is a substitute for the entire resolution; the Holtzman amendment is not. It touches on matters not dealt with in the Holtzman amendment, namely, changes for fiscal year 1979. It is, therefore, not germane to the amendment of the gentlewoman from New York (Ms. Holtzman). . . .

THE CHAIRMAN:<sup>(2)</sup> The Chair is ready to rule on the point of order made by the gentleman from Connecticut (Mr. Giaimo).

The amendment offered by the gentlewoman from New York (Ms. Holtzman) deals only with fiscal year 1980 targets. The amendment thereto offered by the gentleman from California (Mr. John L. Burton) deals not only with 1980 but with fiscal 1979 revisions and contains other language. The amendment is not germane to the Holtzman amendment. The Chair so rules and sustains the point of order.

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2. William H. Natcher (Ky.).

***Test of Germaneness of Amendment to Amendment in Nature of Substitute***

**§ 21.22 The test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to said substitute, and not to the original bill; thus, to an amendment in the nature of a substitute only 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 was ruled out as not germane.**

On Nov. 13, 1980,<sup>(3)</sup> during consideration of the State and Local Fiscal Assistance Act Amendments of 1980<sup>(4)</sup> in the Committee of the Whole, it was demonstrated that, to a proposition to appropriate or to authorize appropriations for only one year, an amendment to extend the appropriation or authorization to another year is

3. 126 CONG. REC. 29523–28, 96th Cong. 2d Sess.

4. H.R. 7112.

not germane. The proceedings were as follows:

THE CHAIRMAN:<sup>(5)</sup> When the Committee rose on Wednesday, November 12, 1980, section 1 had been considered as having been read and opened for amendment.

Are there any amendments to section 1?

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:

Amendment offered by Mr. [John W.] Wydler [of New York] 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

5. Gerry E. Studds (Mass.).

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.” . . .

(d) Authorization of Appropriations for Allocations to State Governments.—

(1) In general.—In the case of each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund \$2,300,000,000 for each such entitlement period to make allocations to State governments. . . .

(2) Entitlement periods.—The following entitlement periods are described in this paragraph:

(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.” . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, the amendment is not germane to the Horton substitute. It is in violation of rule XVI against non-germane 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. . . .

MR. WYDLER: 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 contained 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: 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 funda-

mental 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.

*Parliamentarian's Note:* The committee amendment in the nature of a substitute was a three-year bill, but the Horton substitute, the relevant text, was a one-year provision only. Although in the form of an amendment to the State and Local Fiscal Assistance Act, all provisions thereof applied only to the entitlement period, fiscal year 1981.

***Agriculture Bill: Provision Similar to One Contained in Original Bill Offered as Amendment to Amendment in Nature of Substitute***

**§ 21.23 To an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture, an amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals, notwithstanding provisions of the Occupational Safety and Health Act (a matter within the jurisdiction of the Com-**

**mittee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered.**

On July 19, 1973,<sup>(6)</sup> during consideration of a bill to amend and extend the Agriculture Act of 1970<sup>(7)</sup> in the Committee of the Whole, it was demonstrated that the test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between an amendment and the bill for which the amendment in the nature of a substitute has been offered:

MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:

Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall pro-

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6. 6 119 Cong. Rec. 24962, 24963, 93d Cong. 1st Sess.

7. H.R. 8860.

vide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown (such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

MR. [WILLIAM A.] STEIGER OF WISCONSIN: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill

was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

THE CHAIRMAN:<sup>(8)</sup> The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

### ***Amendment as Broader Than Proposition Being Amended***

#### **§ 21.24 To an amendment proposing to add a new paragraph to a section of a bill, an amendment providing that certain procedures not be permitted “under this section” was ruled out as not germane.<sup>(9)</sup>**

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8. William H. Natcher (Ky.).

9. 116 Cong. Rec. 24040, 91st Cong. 2d Sess., July 14, 1970. See Sec. 18.6, supra.