**ruptcy and employee protection issues, an amendment to such title which (1) addressed those issues as well as railroad rates and rate-making, (2) included provisions requesting a study of the impact of possible tax law changes on railroads, and (3) conferred certain powers on the Interstate Commerce Commission, the Secretary of Transportation and other officials, was held germane even though portions of the amendment indirectly affected a previous title of the bill already perfected by amendment.**

The proceedings of Sept. 5, 1980, relating to H.R. 7235, the Rail Act of 1980, are discussed in § 3.24, supra.

## § 15. Amendments to Appropriation Bills; Rescission Bills

An amendment offered to a general appropriation bill must be germane to that part which is under consideration.[3] And where an amendment to a general appropriation bill relates to the appropriation of specific funds, it must be offered to the specific item of appropriation to which it applies. If offered to the general introductory statement preceding the specific appropriation, it may be ruled out as not germane.[4]

From the point of view of germaneness, an amendment limiting the use of funds by a particular agency funded in a general appropriation bill may be offered while the paragraph carrying the funds is pending, subject to clause 2 of Rule XXI, added in 1983, requiring the reading of the bill to have been completed, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill.[5] However, to

**3.** See the remarks of Chairman Franklin W. Hancock, Jr. (N.C.) at 81 CONG. REC. 3763, 75th Cong. 1st Sess., Apr. 22, 1937, made in the course of ruling on a point of order raised by Mr. Tarver to an amendment offered by Mr. Ellenbogen. Under consideration was H.R. 6523 (Committee on Appropriations), Agriculture Appropriations for 1938.

On one occasion, the Chairman remarked, in the course of ruling on the propriety of an amendment to a supplemental appropriation bill that, "If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered." See § 15.3, infra. The Chairman probably intended his remarks to have reference only to the particular context in which he made his ruling.

**4.** See § 15.2, infra.

**5.** See § 15.1, infra.

a paragraph containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph.[6]

A legislative provision which is permitted to remain in an appropriation bill may be amended by a germane proposition which does not add further legislation.[7] Thus, a legislative provision in a general appropriation bill, permitted to remain pursuant to a resolution waiving points of order against the bill, may be perfected by germane amendment.[8] Similarly, where an amendment to a general appropriation bill proposes a change in existing law but is permitted to remain because no point of order is raised against it, the amendment may be perfected by germane amendments.[9]

A Senate amendment proposing legislation on an appropriation bill may be amended by germane amendments.[10] Furthermore, while it has been held that a Senate amendment proposing legislation on a general appropriation bill may be subject to an amendment of a similar nature offered in the House, the requirement remains in such circumstances that the House amendment be germane to the Senate amendment.[11]

Germaneness is an express requirement of any amendment sought to be introduced pursuant to the "Holman Rule,"[12] which permits legislative matter in general appropriation bills where such matter reduces expenditures. Thus, it has been held that, to be in order under the Holman rule,

**6.** See § 15.38, infra.

**7.** See §§ 15.15 and 15.45, infra.

**8.** See § 15.35, infra.

**9.** See § 15.49, infra.

**10.** See § 27.10, infra.

**11.** See the proceedings at 116 CONG. REC. 41504, 41505, 91st Cong. 2d Sess., Dec. 15, 1970, in which a Senate amendment proposing legislation on a general appropriation bill (H.R. 17755 [Committee on Appropriations], comprising Department of Transportation appropriations for fiscal 1971) was reported back from conference in disagreement, pursuant to provisions of Rule XX clause 2 (see *House Rules and Manual* § 829 [1991]) prohibiting conferees from agreeing to certain Senate amendments. A motion to concur in the amendment with a further amendment was held to be in order, even though such further amendment was also legislative in nature. See the ruling of Speaker John W. McCormack (Mass.) at p. 41505.

**12.** See Rule XXI clause 2, *House Rules and Manual* § 844a (1991).

an amendment must not only retrench expenditures but must be germane to the provisions to which offered.[13] The amendment must not only show on its face an attempt to retrench but must be germane to a provision in the bill even though offered by direction of the committee having jurisdiction of the subject matter of the amendment.[14] To be germane, an amendment must affect only those funds carried in the bill. Thus, an amendment providing that appropriations "herein and heretofore made" shall be reduced by $70 million through the reduction of federal employees as the President determines was held to be legislative and not germane to the bill, since it went to funds other than those carried therein, and was therefore not within the Holman rule exception.[15]

Under current practice, moreover, an amendment that permanently changes existing law is not germane if offered to a bill making appropriations for one fiscal year. On May 21, 1969,[16] the Chair ruled that, to a bill making appropriations for one fiscal year, an amendment retrenching expenditures for that year but also permanently changing existing law, by abolition of the Commission on Executive, Judicial and Legislative Salaries, was not germane. The Chair relied on the principle[17] that, to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment rendering such legislation permanent is not germane. In so doing, the Chair effectively overruled an earlier line of precedents that had stood for the proposition that amendments which abolish agencies or functions in addition to reducing funds contained in a general appropriation bill are in order under the exception stated in Rule XXI, clause 2. Under those earlier rulings,[18] it was in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition was to reduce funds contained in the bill, even though the language provided permanent law, there being no distinction in the rule itself between permanent and temporary legislation. The germaneness rule as applied at

**13.** See §§ 15.14 and 42.57, infra.

For further discussion of the Holman rule and the rules with respect to legislation on appropriation bills generally, see Ch. 26, supra.

**14.** See 7 Cannon's Precedents § 1549.

**15.** See § 15.14, infra.

**16.** See § 15.23, infra.

**17.** See 8 Cannon's Precedents § 2915.

**18.** See 4 Hinds' Precedents § 3887; 7 Cannon's Precedents §§ 1507, 1509, and 1511.

present precludes amendments which provide for permanent change in law when offered to temporary legislation.[19]

An amendment is germane if drafted as a limitation on the use of funds appropriated,[20] provided the terms of the limitation are confined to funds in the bill. Thus, to provisions of a general appropriation bill, an amendment providing that no additional funds from "any other source" shall be expended for specified purposes is generally held to be not germane and to constitute legislation on an appropriation bill.[1]

It may not be germane to amend an appropriation bill to change the source of funding for a project or activity from one fund in the Treasury to another, especially where the effect of utilizing a special fund is to reduce funds otherwise available for a totally unrelated program or purpose.[2]

It has been held proper to amend a general appropriation bill to attach conditions to the use of the appropriated funds. Where certain funds appropriated by a general appropriation bill are to remain available beyond the fiscal year covered by the bill, an amendment may be germane which places certain restrictions, effective on a certain date that also falls after the expiration of the fiscal year, on the use of funds appropriated by the bill.[3]

### *Amendment Limiting Use of Funds by Agency Funded in Previous Title of Bill*

**§ 15.1 To the last title of a general appropriations bill, containing general provisions applying to funds carried throughout the bill, an amendment limiting the use of funds by an agency funded in a previous title of the bill was held germane.**

An amendment limiting the use of funds by a particular agency funded in a general appropriations bill may be germane if offered at more than one place in the bill; thus, the amendment may be offered when the paragraph carrying such funds is

**19.** See § 24, infra.

**20.** See, generally, § 34, infra, for discussion.

**1.** See, for example, the ruling of Chairman Wilbur D. Mills (Ark.) at 97 CONG. REC. 4301, 82d Cong. 1st Sess., Apr. 24, 1951, with respect to a point of order made by Mr. Henry M. Jackson (Wash.) against an amendment offered by Mr. Boyd Tackett (Ark.). Under consideration was H.R. 3790 (Committee on Appropriations), the Interior Department Appropriation Bill of 1952.

**2.** See §§ 15.16, 15.22, and 15.39, infra.

**3.** See Sec. 15.27, infra.

pending, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill. An illustration of this principle can be found in the proceedings of July 16, 1979,[4] during consideration of H.R. 4393, Treasury, Postal Service and General Government Appropriations for fiscal 1980.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:

Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I reserve a point of order.

THE CHAIRMAN:[5] The gentleman will state the point of order.

MR. STEED: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .

MR. SYMMS: Mr. Chairman, the amendment [is] only a limitation of spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.

THE CHAIRMAN: The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

### *Place in Bill Where Restriction on Funds is Germane*

**§ 15.2 During consideration of a general appropriation bill, it was held that an amendment providing that no funds made available under the act shall be used for a certain purpose must be offered to the specific item of appropriation to which it applies, rather than to the general introductory statement preceding the specific appropriations.**

In the 80th Congress, a bill[6] was under consideration making appropriations for foreign aid. The following language had been read:[7]

Be it enacted, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign aid for the period beginning April 3, 1948, and ending June 30, 1949, and for other purposes, namely:

The following amendment was offered:[8]

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**4.** 125 CONG. REC. 18807, 96th Cong. 1st Sess.

**5.** Richardson Preyer (N.C.).

**6.** H.R. 6801 (Committee on Appropriations).

**7.** See 94 CONG. REC. 7189, 80th Cong. 2d Sess., June 4, 1948.

**8.** *Id.* at p. 7190.

Amendment offered by Mr. [Emanuel] Celler [of New York]: Page 1, line 6, after the word "purposes", strike out the comma and the word "namely" and insert "on condition, however, that no moneys authorized for appropriation hereunder shall be paid or credited to any country which participates in or aids in acts of aggression, such acts of aggression to be determined by proclamation by the President of the United States, namely."

Mr. John Taber, of New York, raising a point of order, stated:

Mr. Chairman, I make a point of order against the amendment that it is legislation on an appropriation bill and that it is not in order at this point in the bill and not germane.

The following exchange ensued:

MR. CELLER: I agree to the point of order, Mr. Chairman.

THE CHAIRMAN: The point of order is sustained.

Mr. Celler then offered an amendment which stated:

Amendment offered by Mr. Celler: Page 1, line 6, after the word "purposes", strike out the comma and the word "namely" and insert "but no funds made available under the authority of this Act shall be paid or credited to Great Britain, namely."

Mr. Taber raised the point of order that the amendment was not in order at that point in the bill. The Chairman,[9] in ruling on the point of order, stated:

The paragraph to which the gentleman from New York offers an amendment relates to the general provisions regarding the sums carried in the various titles and paragraphs in the bill. The amendment offered by the gentleman from New York relates to the appropriation of specific funds. The Chair feels that the amendment is not germane to this particular paragraph, and therefore sustains the point of order.

*Parliamentarian's Note:* Under clause 2 of Rule XXI as amended in the 98th Congress, limitation amendments are in order only at the end of the reading of the bill for amendment if the Committee of the Whole does not rise and report the bill to the House, and limitation amendments at that point may be germane if relating to funds in previous paragraphs of the bill.

### *Supplemental Appropriation Bill Covering Diverse Items—Amendment Relating to School Lunch Program as Germane Where Offered*

**§ 15.3 To a supplemental appropriation bill covering a number of items and agencies, an amendment proposing another appropriation authorized by law is germane.**

In the 79th Congress, during consideration of a supplemental appropriation bill,[10] an amend-

9. W. Sterling Cole (N.Y.).

10. H.J. Res. 390 (Committee on Appropriations).

ment relating to the school lunch program was offered[11] after the reading of those provisions of the bill affecting the Price Decontrol Board. A point of order was raised against the amendment, as follows:

> MR. [RICHARD B.] WIGGLESWORTH [of Massachusetts]: Mr. Chairman, the amendment that is offered seems to me to be not germane to the section of the bill where it is offered.

The Chairman,[12] in ruling on the point of order, stated:

> The gentleman from Massachusetts [Mr. Wigglesworth] makes the point of order that the amendment is not germane. If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered. Therefore, the Chair overrules the point of order.

### *Deficiency Appropriation Bill To Cover Pay Raises in Department of Agriculture—Amendment Proposing Additional Funds To Implement School Lunch Program*

**§ 15.4 To that title of a deficiency appropriation bill making additional appropriations to cover pay raises in the Department of Agriculture, an amendment proposing additional funds to enable the Secretary of Agriculture to carry out the programmatic provisions of the National School Lunch Act of 1946 was held to be not germane.**

In the 81st Congress, during consideration of the Second Deficiency Appropriation Bill of 1949,[13] an amendment was offered[14] as described above. A point of order was raised against the amendment, as follows:[15]

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I rise to make a point of order against the amendment that it is not germane at this point in the bill. Title II of the bill is limited to additional amounts for appropriations for the fiscal year 1949 to meet increased pay costs authorized by the act of July 3, 1948, and comparable increases granted by the administrative action pursuant to law, and so forth. . . .

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

> The Chair is ready to rule. In view of the express intent of title II, increased pay costs, the point of order is sustained.

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**11.** 92 CONG. REC. 10472, 79th Cong. 2d Sess., July 30, 1946.

**12.** Herbert C. Bonner (N.C.).

**13.** H.R. 4046 (Committee on Appropriations).

**14.** 95 CONG. REC. 4177, 4178, 81st Cong. 1st Sess., Apr. 8, 1949.

**15.** *Id.* at p. 4178.

**16.** Wright Patman (Tex.).

***Section of Supplemental Appropriation Bill Relating to Department of Agriculture—Amendment in Form of New Paragraph To Enable Secretary To Implement School Lunch Program***

**§ 15.5 To that section of a supplemental appropriation bill for diverse departments and agencies relating to appropriations for the Department of Agriculture, an amendment in the form of a new paragraph making an appropriation to enable the Secretary of Agriculture to carry out the provisions of the National School Lunch Act was held to be germane, it not being necessary that it relate to the immediately preceding paragraph.**

In the 82d Congress, during consideration of a supplemental appropriation bill,[17] the following exchange took place which related to an amendment to that portion of the bill concerning appropriations for the Department of Agriculture:[18]

The Clerk read as follows:

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

Salaries and Expenses, Defense Production Activities

For expenses necessary to enable the Department of Agriculture to carry out its functions under the Defense Production Act of 1950, as amended, $2,000,000.

MR. [WILLIAM A.] BARRETT [of Pennsylvania]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Barrett: On page 30, after line 23, insert the following:

NATIONAL SCHOOL LUNCH PROGRAM

For an additional amount of $16,500,000 to enable the Secretary of Agriculture to carry out the provisions of the National School Lunch Act. . . .

MR. [JOHN] TABER [of New York]: Mr. Chairman, a point of order against the amendment. I make the point of order that the language of the amendment and the paragraph are not germane to this point in the bill. This part of the bill relates entirely to the salaries and expenses of the defense production activities, while the amendment relates to a local, domestic operation.

THE CHAIRMAN:[19] The Chair is ready to rule. The language of the amendment provides an additional paragraph to the Department of Agriculture section of the bill. It is germane to this section, and the Chair, therefore, overrules the point of order.

17. H.R. 8370 (Committee on Appropriations).

18. 98 CONG. REC. 8514, 82d Cong. 2d Sess., June 28, 1952.

19. Francis E. Walter (Pa.).

### *Agriculture Appropriations—Restriction on Funds for Agricultural Adjustment Administration Committeemen*

**§ 15.6 To an agriculture appropriation bill, an amendment offered as a new section providing that "none of the funds appropriated in this act shall be used to pay the salaries . . . or expenses of more than one Agricultural Adjustment Administration committeeman in each county committee" was held to be in order.**

In the 77th Congress, during consideration of the Agriculture Appropriation Bill of 1943,[20] an amendment was offered[1] as described above. A point of order was raised against the amendment, as follows:

> MR. [MALCOLM C.] TARVER [of Georgia]: . . . There are no funds carried in the bill to pay the salaries of county committeemen or community committeemen. . . . The amendment . . . does not have any relation to any funds carried in the pending bill. . . .
>
> . . . I offer the additional point of order that the amendment is certainly not germane to the portion of the bill to which it is offered, which has no reference to the work of the Agricultural Adjustment Administration.

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

> The amendment offered by the gentleman from Ohio is a limitation on all the funds appropriated in the pending bill. It appears to the Chair that it is simply a limitation upon those appropriations carried in the bill, and, therefore, the amendment is in order. The Chair overrules the point of order.[3]

### *Agriculture Appropriations—Prohibition on Use of Appropriations for Purchase of Chemical Pesticides*

**§ 15.7 To a general appropriation bill providing funds for the Department of Agriculture and including a specific allocation of funds for animal disease and pest control, an amendment was held to be germane which provided that no appropriation in the act be used for the purchase or application of chemical pesticides where such action would be prohibited by state or local law.**

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**20.** H.R. 6709 (Committee on Appropriations).

**1.** 88 CONG. REC. 2452, 77th Cong. 2d Sess., Mar. 13, 1942.

**2.** Robert Ramspeck (Ga.).

**3.** See § 18.12, infra, for discussion of an amendment of a similar nature which was held improper because not germane to a specific paragraph to which it had been offered.

In the 91st Congress, a bill[4] was under consideration comprising Department of Agriculture appropriations for fiscal year 1970. The bill provided in part:[5]

> Plant and animal disease and pest control: For operations and measures, not otherwise provided for, to control and eradicate pests and plant and animal diseases and for carrying out assigned inspection, quarantine, and regulatory activities, as authorized by law, including expenses pursuant to the Act of February 28, 1947 as amended (21 U.S.C. 114b–c), $89,493,000 . . .: *Provided,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by any State of at least 40 per centum. . . .

An amendment was offered[6] as described above. A point of order was raised against the amendment, as follows:

> MR. [JAMIE L.] WHITTEN [of Mississippi]: . . . In the first place, I do not know of any provision in this bill for the purchase of chemical pesticides.
>
> May I say further, Mr. Chairman, that the amendment before us goes to the State law, exempting or including pesticides based on those States which have passed State laws.
>
> On that basis, Mr. Chairman, I contend that the amendment is not germane. . . .

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

> The amendment notes certain exceptions within or substantially affecting States in circumstances in which the purchase or application of such pesticides would be prohibited by State law or regulation, or any citizen or instrumentality of State or local government.
>
> It is a well-established rule that an amendment to an appropriation bill is germane wherein it denies the use of funds for a specific purpose.
>
> The amendment offered by the gentleman from New York (Mr. Ottinger) appears to fall within that rule. It is a limitation upon the use of funds appropriated in the bill. It is a denial of the use of those funds for a specific purpose. Therefore, the Chair overrules the point of order.

### *Funds for Foreign Assistance Programs—Prohibition on Use of Funds To Pay Dues of United Nations Members*

**§ 15.8 To a bill providing funds for foreign assistance programs, an amendment to deny use of funds therein to pay arrearages or dues of members of the United Nations was held to be germane to the subject of the bill and in order as a limitation.**

In the 87th Congress, a bill[8] was under consideration relating

4. H.R. 11612 (Committee on Appropriations).
5. See 115 CONG. REC. 13752, 13753, 91st Cong. 1st Sess., May 26, 1969.
6. *Id.* at p. 13753.
7. James C. Wright, Jr. (Tex.).
8. H.R. 13175 (Committee on Appropriations).

to foreign assistance appropriations. The following amendment was offered to the bill:[9]

> Amendment offered by Mr. [A. Paul] Kitchin [of North Carolina]: Add a new section to the title on page 8, after line 4, to read:
>
> "Sec. 113. None of the funds appropriated or made available pursuant to this act for carrying out the Foreign Assistance Act of 1961, as amended, may be used to pay in whole or in part any assessments, arrearages or dues of any member of the United Nations."

The following exchange[10] concerned a point of order raised against the amendment:

> MR. [CORNELIUS E.] GALLAGHER [of New Jersey]: Mr. Chairman, I make the point of order that the amendment is not germane to this bill. . . .
>
> THE CHAIRMAN:[11] The amendment says:
>
> > None of the funds appropriated or made available to this Act—
> >
> > That is this very bill.
>
> MR. GALLAGHER: This amendment was covered in the United Nations bond bill last week.
>
> THE CHAIRMAN: That may be so, but it is still germane to this bill because it deals with funds contained in this bill. The Chair therefore overrules the point of order.

### *Special Relief Appropriation Bills—Amendment Relating to Construction of Federal Buildings*

**§ 15.9 To a bill making appropriations for work relief and relief, an amendment was held to be germane which proposed a program of construction of federal public buildings and which provided in part that "with a view to relieving country-wide unemployment the Postmaster General and the Administrator, in the selection of towns or cities in which buildings are to be constructed, shall endeavor to distribute the projects equitably throughout the country."**

In the 76th Congress, during consideration of a bill[12] making appropriations for work relief and relief, an amendment was offered[13] as described above. A point of order was raised against the amendment, as follows:[14]

> MR. [JOHN] TABER [of New York]: Mr. Chairman, I make the point of order against the amendment, first,

**9.** 108 CONG. REC. 20187, 87th Cong. 2d Sess., Sept. 20, 1962.

**10.** *Id.* at pp. 20187, 20188.

**11.** Wilbur D. Mills (Ark.).

**12.** H.J. Res. 544 (Committee on Appropriations).

**13.** 86 CONG. REC. 6756, 6757, 76th Cong. 3d Sess., May 23, 1940.

**14.** *Id.* at p. 6757.

that it is not germane to the joint resolution, this being a relief bill, and the amendment being one authorizing a public-buildings program and making appropriations therefor, and second, that it is not germane to this part of the joint resolution.

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

In the opinion of the Chair, in view of the fact that this is a bill for work and work relief and provides specifically, in certain portions of it, as in lines 14 and 15, of page 3, for public buildings, the point of order should not be sustained. . . .

In view of the fact that there are specific designations of public buildings and appropriations made for them in this joint resolution, which is for work and work relief, and inasmuch as the amendment offered by the gentleman from Mississippi proposes erection of public buildings which would give work and work relief, it seems to the Chair that it is germane to the bill. . . .

### —*Amendment Appropriating Funds for To Public Works Administration for Loans To Finance Employment Projects*

**§ 15.10 To a bill making appropriations for work relief and relief, an amendment appropriating money to the Public Works Administration and authorizing the Commissioner of Public Works with the approval of the President to make loans from such funds to various public organizations to finance employment projects was held to be germane.**

In the 76th Congress, during consideration of a bill[16] comprising appropriations for work relief and relief, an amendment was offered which stated in part:[17]

Amendment offered by Mr. [H. Jerry] Voorhis of California: Page 33, line 7, add a new title as follows:

"TITLE II

"Section 1. There is hereby appropriated to the Public Works Administration out of any money in the Treasury not otherwise appropriated, the sum of $500,000,000, and the Commissioner of Public Works . . . is hereby authorized . . . to make loans from this fund to States, Territories, possessions, or political subdivisions . . . to . . . aid in financing projects which will provide new employment; (b) to organizations created pursuant to law or under the authority of any public body to operate without profit . . . to . . . aid in financing projects . . . which will produce new employment, will be devoted to public use and are within any one of the following classes: Hospitals, health centers, clinics, colleges [and the like]."

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

15. Fritz G. Lanham (Tex.).

16. H.J. Res. 544 (Committee on Appropriations).

17. 86 CONG. REC. 6760, 76th Cong. 3d Sess., May 23, 1940.

MR. [JOHN] TABER [of New York]: Mr. Chairman, I make a point of order against the amendment that it is not germane to the rest of the bill, it being a program involving the granting of funds to States, cities, counties, and other municipalities without any requirement that the money be used for relief. . . .

The Chairman,[18] in ruling on the point of order, stated:[19]

In accordance with the former ruling of the Chair,[20] and the further fact that the bill before us provides for funds to be paid to States, Territories, and so forth, the Chair thinks the amendment germane, and therefore overrules the point of order.

### —*Amendment Extending Life of Agency Not Referred to in Bill*

**§ 15.11 To a bill appropriating money for relief and work relief programs to be administered by the President through existing governmental agencies, an amendment proposing to extend the life of a temporary agency not referred to in the bill was held to be not germane.**

In the 75th Congress, during consideration of a relief appropriations bill,[1] the following amendment was offered:[2]

Amendment offered by Mr. [Alfred F.] Beiter [of New York]: Page 3, after line 24, add a new paragraph, as follows:

"In order to maintain or increase employment by providing for useful public-works projects of the kind and character for which the Federal Emergency Administrator of Public Works (hereinafter called the Administrator) has heretofore made loans or grants pursuant to title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, or the Emergency Relief Appropriation Act of 1936, the Federal Emergency Administration of Public Works is hereby continued until June 30, 1939, and the funds hereinbefore allocated to the Federal Emergency Administration of Public Works shall be used for the making of loans or grants to finance or aid in the financing of such projects, and in addition thereto the Administrator is hereby authorized to use funds on hand which have accrued from the sale of securities and funds which will be received from the sale of securities for the making of loans or grants to finance or aid in the financing of such projects. . . ."

A point of order was raised against the amendment, as follows:[3]

MR. [CLIFTON A.] WOODRUM [of Virginia]: . . . [T]he amendment goes

**18.** Fritz G. Lanham (Tex.).

**19.** 86 CONG. REC. 6760, 6761, 76th Cong. 3d Sess., May 23, 1940.

**20.** See § 15.9, supra.

**1.** H.J. Res. 361 (Committee on Appropriations).

**2.** 81 CONG. REC. 5024, 75th Cong. 1st Sess., May 25, 1937.

**3.** *Id.* at pp. 5024, 5025.

very much beyond the scope of the purposes of the relief act under consideration. In the first place, it undertakes to extend the life of the Public Works Administration to June 30, 1939, beyond the scope of the present act. In the second place, it amends the Relief Acts of 1935 and 1936 by changing the powers of the Reconstruction Corporation. . . .

I think the whole purpose of this amendment is an effort to revive an agency that expires by operation of law and to extend its powers, and to amend other acts not in any way connected with the subject matter under consideration.

Mr. Clarence Cannon, of Missouri, stated, with respect to the point of order:[4]

. . . It is true that the amendment proposes changes in law but these proposed changes are in laws which are not affected by this bill. The amendment, therefore, is not germane to the pending bill. . . .

The Chairman,[5] in sustaining the point of order, stated:

The amendment offered by the gentleman from New York [Mr. Beiter] in addition to providing for many matters, provides for extension of the Public Works Administration, an agency of the Government not carried in this bill, and handled heretofore by other legislation. The amendment also pertains to certain powers of the Reconstruction Finance Corporation, about which there is nothing in this bill. As the gentleman from Virginia has pointed out, it also pertains to certain provisions of the independent offices appropriation bill, still pending in the Congress.

Because of the fact the amendment attempts to extend an agency of the Government not covered by this bill and yet to be handled by the Congress, the Chair feels the amendment is not germane to this bill. . . .

### —*Amendment Authorizing Agency To Use Funds From Sale of Securities*

**§ 15.12 To a bill appropriating money for relief and work relief, an amendment proposing to appropriate money to an existing federal agency and authorizing the agency to use funds from the sale of certain securities was held to be not germane.**

In the 75th Congress, during consideration of a relief appropriations bill,[6] the following amendment was offered:[7]

Amendment offered by Mr. [Alfred F.] Beiter [of New York]: Page 3, after line 24, add a new paragraph, as follows:

"In order to maintain or increase employment by providing for useful public-works projects of the kind and char-

4. *Id.* at p. 5025.
5. John J. O'Connor (N.Y.).
6. H.J. Res. 361 (Committee on Appropriations).
7. 81 Cong. Rec. 5025, 75th Cong. 1st Sess., May 25, 1937.

acter for which the Federal Emergency Administrator of Public Works . . . has heretofore made [certain loans and grants], the funds hereinbefore allocated to the Federal Emergency Administration of Public Works shall be used for the making of loans and grants to finance or aid in the financing of such projects, and in addition thereto the Administrator is hereby authorized to use funds on hand which have accrued from the sale of securities and funds which will be received from the sale of securities, for the making of loans or grants to finance or aid in the financing of such projects in accordance with existing law."

Mr. Clifton A. Woodrum, of Virginia, having raised a point of order against the amendment, the Chairman[8] ruled as follows:

The only objectionable feature of this amendment from the standpoint of germaneness is the authorization of the Federal Emergency Administration of Public Works to use funds "from the sale of securities." . . .

By reason of the fact that this amendment . . . does pertain to the use of funds from the sale of securities, about which nothing is contained in the pending bill, the Chair feels constrained to sustain the point of order.

Mr. Millard F. Caldwell, of Florida, then offered a similar amendment, which was held to be germane because it eliminated the provision as to the use of funds from the sale of securities.

**8.** John J. O'Connor (N.Y.).

### *Holman Rule Requirement of Germaneness*

**§ 15.13 To be in order under the Holman rule, an amendment proposing legislation on an appropriations bill must be germane and, in particular, must retrench expenditures under the bill sought to be amended.**

In the 77th Congress, during consideration of a deficiency appropriations bill,[9] an amendment was held to be not germane which purported to retrench expenditures by excluding from the benefits of the Civil Service Retirement Act the President, the Vice President, and Members of Congress. The following proceedings[10] related to such amendment:

MR. [CLARENCE] CANNON of Missouri: Mr. Chairman, I make the point of order that the amendment is not germane to the bill, that it is legislation on an appropriation bill, and is out of order. . . .

MR. [DONALD H.] MCLEAN [of New Jersey]: . . . There are exceptions to the rule that an appropriation bill cannot carry legislation, and I call the Chair's attention to the Holman rule. That rule provides that if the legisla-

**9.** H.R. 6548 (Committee on Appropriations).

**10.** 88 CONG. REC. 1157, 77th Cong. 2d Sess., Feb. 9, 1942.

tion would result in the saving of expenditures it is not subject to a point of order. . . .

THE CHAIRMAN:[11] . . . The amendment offered by the gentleman from New Jersey is clearly not germane to the bill under consideration. If it were germane it would be legislation on an appropriation bill. It does not in any way retrench expenditures under this bill. For two very good reasons, therefore, the Chair sustains the point of order.

### *Reduction Affecting Funds in Other Acts Not Germane Under Holman Rule*

**§ 15.14 To a bill providing supplemental appropriations for certain specified departments of government, an amendment which would affect appropriations in other Acts for virtually all departments and agencies of government is not germane and not a proper retrenchment under the Holman Rule.**

In the 89th Congress, a bill[12] was under consideration comprising supplemental appropriations for fiscal 1967. The following amendment was offered to the bill:[13]

Amendment offered by Mr. [Frank T.] Bow [of Ohio]: . . . add a new section as follows:

"Sec. 803. . . . appropriations herein and heretofore made for personal services . . . shall, as the President shall determine, be reduced by not less than $70,000,000 through the reduction, below the number otherwise authorized under appropriations herein and heretofore made, of not less than 10,000 full-time permanent civilian Federal employees."

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

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that the amendment goes beyond the scope of this bill. It applies to funds that are contained in other legislation and to funds that are made available by previous law. . . .

I raise the further point, Mr. Chairman, that the gentleman's amendment would require additional duties of the President, and for that reason is subject to the point of order that it is legislation on an appropriation bill.

Mr. Bow stated in response:

I acknowledge that [the amendment] deals with personnel and appropriations in other legislation as well as in this bill, but the whole subject matter is the reduction of personnel and the retrenchment of Federal expenditures. That follows the Holman rule.

The Chairman,[14] in sustaining the point of order, stated:

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**11.** Howard W. Smith (Va.).

**12.** H.R. 18381 (Committee on Appropriations).

**13.** 112 CONG. REC. 27424, 89th Cong. 2d Sess., Oct. 18, 1966.

**14.** James G. O'Hara (Mich.).

The Chair notes that the Holman rule, in clause 2 of rule 21, specifies that to fall within the exception provided by this rule, the amendment must be germane to the subject matter of the bill. The bill before the Committee provides supplemental appropriations for certain governmental activities—activities specified in this bill. The amendment goes much further than this, and with three exceptions would be applicable to all departments and agencies of the Government.

The citations brought to the attention of the Chair by the gentleman from Ohio—all of them, as far as the Chair can determine, involved appropriation bills that dealt with the activities of some department, and the amendments provided for limitations or retrenchments of activities carried in the bill, and were germane to the bill before the Committee.

Subsequently, Mr. Bow offered the following amendment:[15]

Amendment offered by Mr. Bow: . . . add a new section as follows:

"Sec. 803. Notwithstanding any other provision, appropriations herein . . . shall . . . be reduced . . . by not less than $1,500,000,000 through substitution by reduction and transfer of funds previously appropriated for governmental activities that the President . . . shall have determined to be excess to the necessities of the services and objects for which appropriated."

A point of order was again raised, as follows:

MR. MAHON: . . . [T]he amendment goes far beyond the scope of this bill and applies to funds made available by other laws for which appropriations are not provided in the pending measure.

I make the further point of order that the amendment would obviously impose additional duties on the President.

The Chairman again sustained the point of order, and explained the operation of the Holman rule as follows:

The Chair feels that the amendment is clearly legislation. . . .

Therefore, if the amendment were to be permitted it would have to qualify as the gentleman has attempted to qualify it, under the Holman exception, under the Holman rule, rule XXI, clause 2.

In the opinion of the Chair, the Holman exception is inapplicable in this instance for three reasons.

First, the payment from a fund already appropriated of a sum which otherwise would be charged against the Treasury has been held not to be a retrenchment of expenditures under the Holman rule. . . .

Second, it seems to the Chair that the language proposed by the gentleman from Ohio [Mr. Bow] authorizes the reappropriation of unexpended balances, a practice prohibited by clause 5 of rule XXI.

Third, the amendment goes to funds other than those carried in this bill and is not germane.

### *Restriction on Funds in Other Acts*

**§ 15.15 To that provision in an appropriation bill prohib-**

15. 112 CONG. REC. 27425, 89th Cong. 2d Sess., Oct. 18, 1966.

**iting aid to one nation unless a certain condition is met, an amendment prohibiting aid under that or any prior appropriations act to another nation until that nation takes certain actions, and referring to funds provided in other acts, was held to be not germane.**

In the 90th Congress, a bill[16] comprising foreign aid appropriations for fiscal 1968 was under consideration which, in part, prohibited aid to the United Arab Republic except under certain conditions. Points of order had been waived against the bill. The following amendment was offered:[17]

> Amendment offered by Mr. [Harold R.] Gross [of Iowa]: On page 13, line 14, strike the period, insert a colon, and add the following: "*Provided* further, That none of the funds provided in this Act or any predecessor Act shall be made available to the State of Israel until the Government of that country provides full and complete reparations for the killing and wounding of more than 100 United States citizens in the wanton, unprovoked attack in June 1967 by Israel's military aircraft and torpedo boats on the United States naval vessel, the Liberty."

A point of order was raised against the amendment, as follows:[18]

> MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, this amendment goes beyond the appropriation of funds in this and other preceding acts.

Mr. Gross stated in response:

> Mr. Chairman, this is clearly a limitation upon an appropriation bill; that the funds not be expended for the stated purpose unless the limitations are met.

The Chairman,[19] in ruling on the point of order, stated:

> The amendment offered by the gentleman from Iowa [Mr. Gross] refers to funds provided in this act or any predecessor act. It covers an area not covered by the amendment in the bill.
>
> In the opinion of the Chair, it is clearly additional legislation and is not germane to the . . . bill.

### *Amendment Relating to Funds From "Other Sources"*

**§ 15.16 To a paragraph of a general appropriation bill, an amendment providing that no additional funds from "any other source" shall be expended for specified purposes was held to be not germane.**

In the 82d Congress, during consideration of the Interior De-

16. H.R. 13893 (Committee on Appropriations).
17. 113 CONG. REC. 32968, 90th Cong. 1st Sess., Nov. 17, 1967.
18. *Id.* at p. 32969.
19. Charles M. Price (Ill.).

partment Appropriations Bill of 1952,[20] an amendment was offered[1] whose purpose was described by Mr. Boyd Tackett, of Arkansas, the proponent, as follows:[2]

> My amendment merely limits [the Southwestern Power Administration] to the exact amount this Congress gives them. In other words, my amendment would prohibit the Southwestern Power Administration from getting money from some other source and hiding it from this Congress.

Mr. Henry M. Jackson, of Washington, raised the point of order that the amendment was not germane to the bill.[3] The Chairman,[4] in ruling on the point of order, stated:[5]

> The provision of the bill sought to be amended has to do with construction by the Southwestern Power Administration. The bill before the House provides an appropriation of a specific amount of money for this purpose. The amendment offered by the gentleman from Arkansas [Mr. Tackett] has reference to funds from sources other than those contained in the bill before the committee; therefore it goes beyond the scope and the purposes of the bill presently before the committee.
>
> . . . The Chair sustains the point of order.

### *Continuing Appropriations for Certain Agencies—Restriction Affecting Other Funds*

**§ 15.17 To a joint resolution "continuing" appropriations for one month, an amendment placing a restriction on the total administrative budget expenditures for the fiscal year and thus affecting funds not continued by the bill was held to be not germane.**

In the 90th Congress, during consideration of a bill[6] continuing appropriations through October 1967, the following amendment was offered:[7]

> Amendment offered by Mr. [Frank T.] Bow [of Ohio]: On line 5 strike out the period, insert a semicolon and the following: "and that the joint resolution of June 30, 1967 (Public Law 90–38) as amended by Public Law 90–75 and as amended herein, is further amended by adding the following:
>
> "Sec. 105. Notwithstanding any other provision of law, net aggregate administrative budget expenditures during the fiscal year ending June 30,

**20.** H.R. 3790 (Committee on Appropriations).

**1.** 97 CONG. REC. 4300, 82d Cong. 1st Sess., Apr. 24, 1951.

**2.** *Id.* at p. 4301.

**3.** *Id.* at p. 4300.

**4.** Wilbur D. Mills (Ark.).

**5.** 97 CONG. REC. 4301, 82d Cong. 1st Sess., Apr. 24, 1951.

**6.** H.J. Res. 849 (Committee on Appropriations).

**7.** 113 CONG. REC. 26957, 26958, 90th Cong. 1st Sess., Sept. 27, 1967.

1968 shall not exceed $131,500,000,000 . . . ."

A point of order was raised against the amendment, as follows:[8]

MR. [GEORGE H.] MAHON [of Texas]: . . . The amendment of the gentleman from Ohio seems clearly not to be in order because it is not germane. It limits the expenditure of money not in the bill and not covered in the resolution and it rescinds money not in the resolution and not contained in the pending measure.

In response to the point of order, the Speaker[9] stated:[10]

The joint resolution before the House extends the provisions of Public Law 90–38, which currently expires on September 30, 1967, through October 31, 1967.

The amendment offered by the gentleman from Ohio [Mr. Bow] proposes to further amend Public Law 90–38 by adding two new sections to the law—the first placing a limitation on net aggregate administrative budget expenditures during fiscal 1968, the second requiring a $5 billion reduction, through the apportionment process, in administrative budget expenditures. . . .

Public Law 90–38 provides "continuing appropriations" for certain departments and agencies of the Government. Its provisions cease to be effective when regular appropriation bills become law. Since several appropriation acts have been signed by the President, the provisions of Public Law 90–38 do not apply to all fiscal 1968 funds.

The amendment, on the other hand, goes to the total administrative budget. Its application goes beyond the scope of Public Law 90–38.

Citing precedents "which stand for the general proposition that to a bill limited in its application to certain departments and agencies of Government, an amendment applicable to all departments and agencies is not germane," the Speaker sustained the point of order.[11]

### *Supplemental Appropriations for Relief—Amendment Imposing Prohibition on Use Not Limited to Funds in Bill*

**§ 15.18 To a joint resolution making supplemental appropriations for relief, an amendment prohibiting use of federal relief money for political purposes but not limiting the prohibition to funds appropriated by the pending bill, was held to be not germane.**

The proceedings of Feb. 16, 1938, relating to House Joint Resolution 596, making supplemental appropriations for relief, are discussed in § 9.19, supra.

8. *Id.* at p. 26959.
9. John W. McCormack (Mass.).
10. 113 CONG. REC. 26959, 26960, 90th Cong. 1st Sess., Sept. 27, 1967.
11. *Id.* at p. 26960.

***Provision Rescinding Agency's Funds for One Purpose—Amendment Imposing Conditions on Availability of all Funds for Agency***

**§ 15.19 To a proposition rescinding an agency's funds for research and education on the subject of motor vehicle seat belts and passive restraints, an amendment conditioning the availability of all of that agency's funds on certain findings with respect to state compliance with federal standards for mandatory seat belt use was conceded to be not germane, in that it affected regulatory operations and was not confined to research and education funds.**

During consideration of H.R. 2577 (12) in the House on July 31, 1985,(13) a point of order against a motion to recede and concur with an amendment to the pending proposition was conceded and therefore sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:(14) The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 262: Page 75, lines 14 and 15, strike out "$7,500,000 or so much thereof as may be available on May 2, 1985" and insert "$2,000,000". . . .

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Whitten moves that the House recede from its disagreement to the amendment of the Senate numbered 262 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "no funds shall be obligated until the Secretary has made a complete, definitive and binding ruling on the compliance of each state mandatory safety belt use law that has been enacted as of the date of this act with the minimum criteria set forth in Federal Motor Vehicle Safety Standard 208. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Speaker, I make a point of order regarding amendment No. 262. The point of order is that that amendment is nongermane to the Senate amendment and so is violative of the rules of the House relative to this point.

MR. WHITTEN: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman from Mississippi concedes the point of order. The point of order, therefore, is sustained.

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**12.** Supplemental Appropriations, fiscal 1985.

**13.** 131 CONG. REC. 21832–34, 99th Cong. 1st Sess.

**14.** Philip R. Sharp (Ind.).

***Bill Containing Funds for Allowances for Former President Nixon and Other Agencies—Amendment Delaying Availability of all Funds Pending Restitution by President Nixon***

**§ 15.20 While it may be in order on a general appropriation bill to delay the availability of certain funds therein until a nonfederal recipient meets certain qualifications so long as the contingency does not impose new duties on federal officials or directly change existing law, the contingency must be related to the funds being withheld and cannot affect other funds in the bill which are not related to that factual situation; thus, to a general appropriation bill containing funds not only for certain allowances for former President Nixon, but also for other departments and agencies, an amendment delaying the availability of all funds in the bill until Nixon has made restitution of a designated amount to the United States government was held to be not germane where that contingency was not related to the availability of other funds in the bill.**

In the proceedings of Oct. 2, 1974,[15] relating to supplemental appropriations for fiscal 1975,[16] the points of order made against the amendment in question were largely based on the contention that the amendment constituted legislation on an appropriation bill. Most points of order against amendments delaying the availability of funds pending an unrelated contingency are based on the issue of germaneness, and in the Chair's ruling it appeared that the defect in the amendment was that its scope was so broad as to affect funds in the bill other than those to which the limitation was directly related—in other words, that the amendment was not germane.

MR. JAMES V. STANTON [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. James V. Stanton: On page 14, line 5 after the period insert:

"Sec. 203. No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution to the United States Government in the amount of $92,298.03 as previously determined by the Joint Committee on Internal Revenue Taxation on page 201 of its report dated April 3, 1974.". . .

15. 120 CONG. REC. 33620, 33621, 93d Cong. 2d Sess.

16. H.R. 16900.

MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, I make a point of order against the amendment.

This amendment would impose some duty upon an agency of Government in this bill. The Internal Revenue Service is the only agency that can collect taxes. This obviously would require duties not now required by law. It is obviously legislation in an appropriation bill, and therefore it is subject to a point of order. . . .

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

The Chair has examined the amendment. . . . It merely delays the availability of certain funds here appropriated until a certain state of facts exist.

It does not impose any duty upon a Federal official, in the opinion of the Chair. The only duty it imposes by its terms, would be upon President Nixon, who is no longer a Federal official. . . .

If the gentleman from Texas (Mr. Eckhardt) wants to be heard on the point of order, the Chair will withhold his final ruling. . . .

MR. [BOB] ECKHARDT [of Texas]: . . . The Chair is undoubtedly correct, that this does not impose additional duties under the standards set out in various cases. However, the objection of the gentleman from Texas (Mr. Mahon), as I understand it, is that this does not impose additional duties but creates substantive law. It establishes a liability in effect on the President of the United States, which liability does not exist by any judicial determination unless this action is taken by this body.

Mr. Chairman, what we are in effect doing is passing a special bill with respect to liability of the President of the United States for an amount of money that has only been determined by a committee of this House and not by a court. If we pass this, we are in effect saying that until he pays a certain amount of money, which we say he owes by virtue of passing a law today, he will not receive money that he would otherwise receive.

I find this a very, very extensive legislative determination, one which I would have doubts about on constitutional grounds, even if it were brought up as a separate piece of legislation.

I understand that the question of constitutionality is not before the Chair with respect to a point of order, but I merely point that out in emphasizing the great substantive effect of this amendment. . . .

MR. [CHARLES S.] GUBSER [of California]: . . . (T)he word "restitution," if I understand the English language correctly . . . would imply that the funds were held by Richard Nixon illegally. Therefore if we . . . allow this amendment to stand, we are clearly creating what should be a judicial decision, and we are giving it legislative sanction, and it is therefore legislation on an appropriation bill. Therefore I think the point of order should be sustained. . . .

MR. STEED: Mr. Chairman, this amendment says "no funds in this act", and that means if this amendment is adopted unless former President Nixon paid this amount of money the whole bill is dead. If that does not constitute legislation on an appropriation bill I do not know what does.

**17.** James C. Wright, Jr. (Tex.).

THE CHAIRMAN: The Chair must observe that the Chair is not in a position to rule as suggested by the gentleman from Texas (Mr. Eckhardt) on a question of constitutionality. The gentleman's point may quite well be valid, but the Chair is not in a position to rule on constitutionality, nor is the Chair in a position to rule upon the validity of the commentary offered as to whether or not the Joint Committee on Internal Revenue Taxation may or may not have established this precise figure as being owed. . . .

The Chair is . . . impressed by the most recent comment made by the gentleman from Oklahoma (Mr. Steed) wherein the gentleman from Oklahoma points out that by the terms of the amendment itself funds under the entire act and not just funds for the former President, would be inhibited. Let the Chair read the amendment.

> No funds shall be available for expenditure under this act until such time as Richard M. Nixon has made restitution.

The Chair is persuaded that the availability of some of the funds in the act for other purposes will be based upon an unrelated contingency, and the Chair is prepared to state on the basis of the additional argument made since his preliminary determination that he has changed his opinion regarding the scope and effect of the amendment and sustains the point of order.

### *Senate Amendment Striking Provision Prohibiting Funds for Continental Shelf Lease Sale—House Amendment Restricting Use of Funds in Bill or any Other Act*

**§ 15.21 To a proposition limiting the use of funds in a bill for a particular purpose, an amendment limiting the use of funds in other Acts and for a purpose more general in scope is not germane; thus, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking out a House provision prohibiting the use of funds in the bill for a designated Outer Continental Shelf lease sale in California, a House amendment prohibiting the use of funds in the bill or in any other Act for that lease sale and other California lease sales was conceded to be non-germane as more general in scope.**

On Oct. 5, 1983,[18] during consideration of the Department of the Interior appropriations for fiscal 1984 (H.R. 3363) in the House, a point of order was conceded and sustained in the circumstances de-

**18.** 129 CONG. REC. 27319, 27320, 98th Cong. 1st Sess.

scribed above. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[19] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 95: Page 38, strike out all after line 21 over to and including line 15 on page 40.

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

Sec. 113. (a) No funds in this or any other act may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning area described in (1) through (4) below. No funds may be expended for lease or sale of lands within the area described in (1) through (4) so long as adjacent State Tidelands continue to be designated as State Oil and Gas Leasing Sanctuary pursuant to Sec. 6871.1 et seq. of the California Public Resources Code . . .

(1) An area of the Department of the Interior Southern California Planning Area off the coastline of the State of California Oil and Gas Leasing Sanctuary as described by Sec. 6871.1 et seq. of the California Public Resources Code in effect September 29, 1983 . . .

(4) An area within the boundaries of the Santa Barbara Channel Ecological Preserve and Buffer Zone, as defined by Department of the Interior, Bureau of Land Management Public Land Order 4587 . . . .

(b) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands in OCS Lease Sale #80 which lie within an area located off the coastline of the State of California Oil and Gas Leasing Sanctuary as defined by Sec. 6871.1 et seq. California Public Resources Code in effect September 29, 1983 . . . .

(c) Until January 1, 1985, no funds may be expended by the Department of the Interior for the lease or sale of lands within the Department of the Interior Southern California Planning area, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Pacific Ocean off the coastline of Santa Monica Bay, State of California, which lies within a line on the California (Lambert) Plane Coordinate System . . . .

(f) In OCS Lease Sale 80, lease or sale of lands affecting the responsibilities of the Department of Defense shall be with the concurrence of the Secretary of Defense. . . .

MR. [JOHN B.] BREAUX [of Louisiana]: Mr. Speaker, I make a point of order against Senate amendment No. 95, the point of order being that under rule XVI, clause 7, the provisions are not germane.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

**19.** Dale E. Kildee (Mich.).

### *Bill Appropriating Money From Reclamation Fund—Amendment To Increase Appropriation From General Fund of Treasury*

**§ 15.22 To language in an appropriation bill appropriating money for specific projects from the reclamation fund, an amendment proposing to increase the appropriation "from the general fund of the Treasury" was held to be not germane.**

In the 80th Congress, during consideration of Interior Department appropriations of 1948,[20] an amendment was offered[1] as described above. A point of order was raised against the amendment, as follows:[2]

> MR. [ROBERT F.] JONES [of Ohio]: Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane to this section of the bill in that this section deals with the reclamation fund and not the general fund of the Treasury.

The Chairman[3] sustained the point of order.

20. H.R. 3123 (Committee on Appropriations).
1. 93 CONG. REC. 4081, 4082, 80th Cong. 1st Sess., Apr. 25, 1947.
2. *Id.* at p. 4082.
3. Earl C. Michener (Mich.).

### *Appropriation for One Year—Amendment Permanently Changing Law*

**§ 15.23 To a bill making appropriations for the current fiscal year, an amendment permanently changing existing law was held not germane to the bill, and thus was not in order as a "retrenchment" of expenditures even though it tended to reduce expenditures for that year.**

In the 91st Congress, a bill[4] was under consideration making supplemental appropriations for the fiscal year, including funds to cover increased pay costs resulting from the implementation of the report of the Commission on Executive, Judicial, and Legislative Salaries. The following amendment was offered to the bill:[5]

> Amendment offered by Mr. Hall: On page 61, after line 4 insert the following:
>
> GENERAL PROVISIONS
>
> The Commission on Executive, Judicial, and Legislative Salaries established under Public Law 90–206 is hereby abolished. The salary increases recommended by the Presi-

4. H.R. 11400, Supplemental Appropriations, fiscal 1970 (Committee on Appropriations).
5. 119 CONG. REC. 13269, 91st Cong. 1st Sess., May 21, 1969.

dent as a result of the actions of said Commission are hereby rescinded.

Mr. George H. Mahon, of Texas, pointing out that the bill under consideration was a supplemental appropriation bill, objected to the amendment on two grounds, first, that it constituted legislation on an appropriation bill, and, second, that it was not germane to the bill.[6] In defending the amendment, Mr. Durward G. Hall, of Missouri, stated in part:

> Now, of course, under the restrictions or rescindments or actions under rule XXI and the "Holman rule," we can, in an appropriation bill, take action by the act of the House to eliminate anything that costs additional expense from the General Treasury and that has been acted on previously.
>
> I think that the amendment is in order. Certainly it is germane. Certainly it is a retrenchment on its face.

The Chairman,[7] however, ruled that the amendment was not in order. He stated:

> . . . The Chair has examined the amendment and the precedents, and would call attention of the House to Cannon's Precedents, volume 8, page 480, section 2914, which reads as follows: "to a section proposing legislation for the current year an amendment rendering such legislation permanent was held not to be germane."
>
> Then, in section 2915: "to a provision in an appropriation bill proposing legislation for the fiscal year provided for by the bill an amendment proposing to make the provision permanent legislation was held not to be germane."
>
> The Chair therefore rules that the amendment offered by the gentleman from Missouri is not germane and therefore not in order; and the Chair sustains the point of order.

*Parliamentarian's Note:* This precedent, based on 8 Cannon's Precedents Sec. 2915, represents the current practice under the germaneness requirement of the Holman rule; it effectively overrules an earlier line of precedents which stood for the proposition that it is in order on a general appropriation bill to provide for the abolition of an office if the certain effect of that abolition is to reduce funds contained in the bill, even though the language may provide permanent law, there being no distinction in the Holman rule itself between permanent and temporary legislation. The present practice and the earlier rulings are discussed in the introduction to this section.

### *—Amendment Permanently Changing Law Affecting Eligibility*

**§ 15.24 To a proposition appropriating funds for a program for one fiscal year, an amendment permanently amending the authorizing**

6. *Id.* at p. 13270.
7. Chet Holifield (Calif.).

**law relating to eligibility for funding in any fiscal year is more general in scope, amends another law, and is not germane.**

On Oct. 5, 1983,[8] during consideration of H.R. 3363[9] in the House, the Chair held that, to a Senate amendment to an appropriation bill reported from conference in disagreement, striking funds for a certain fisheries program, a House amendment permanently amending the authorizing law to provide authority for funding for a state ineligible under existing law was not germane and the point of order was conceded and sustained. The proceedings were as follows:

THE SPEAKER PRO TEMPORE:[10] The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 16: Page 10, lines 10 and 11, strike out "; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f)".

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Yates moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: '; $4,000,000, to remain available until expended, for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757f), of which $500,000 shall be made available to the State of Idaho without regard to the limitation as stated in 16 U.S.C. 757e and without regard to the Federal cost sharing provisions in 16 U.S.C. 757a–757f: *Provided*, That 16 U.S.C. 757e is amended by adding the following new sentence: 'The State of Idaho shall be eligible on an equal standing with other states for Federal funding for purposes authorized by sections 757a to 757f of this title.'". . .

MR. [JOHN B.] BREAUX [of Louisiana]: . . . My point of order is pursuant to clause 7 of rule XVI, the provisions of which indicate that [the amendment] is not germane.

Mr. Speaker, I make this point of order for two reasons, if the Speaker would want me to be heard at this time.

MR. YATES: Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The point of order is sustained.

### —*Amendment Affecting Permanent Appropriation and Permanently Modifying Procedures for Consideration of Appropriation Bills*

**§ 15.25 To a general appropriation bill providing funds for one fiscal year, an amendment changing existing law**

8. 129 CONG. REC. 27313, 27314, 98th Cong. 1st Sess.
9. The Department of the Interior Appropriations for fiscal 1984.
10. Dale E. Kildee (Mich.).

**by imposing restrictions on a permanent appropriation for compensation for Members of Congress, and furthermore amending the rules of the House and Senate to modify procedures for consideration of appropriation bills in subsequent years, was ruled out of order as legislation on an appropriation bill and as not germane, in that such amendment enlarged the scope of the bill and was partly within the jurisdiction of the Committee on Rules.**

On June 29, 1987,[11] during consideration of H.R. 2714[12] in the Committee of the Whole, the Chair sustained a point of order against the following amendment:

MR. [DANIEL E.] LUNGREN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Lungren: Page 31, after line 25, insert the following new sections:

Sec. 309. Subsection (c) of section 130 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1982, and for other purposes" (approved October 1, 1981; Public Law 97–51) is amended by striking out "Effective" and by inserting in lieu thereof "(1) Except to the extent provided by paragraph (2), effective" and by inserting at the end thereof the following new paragraph:

"(2) If all general appropriation bills for any fiscal year have not been presented to the President for signature under section 7 of Article I of the Constitution before the beginning of that fiscal year, then the appropriation contained in paragraph (1) shall not be effective with respect to such fiscal year.".

Sec. 310. It shall not be in order in either the House of Representatives or the Senate to consider the general appropriation bill making appropriations for the legislative branch for any fiscal year unless and until all other general appropriation bills for such fiscal year have been presented to the President for signature under section 7 of Article I of the Constitution. . . .

MR. [VIC] FAZIO [of California]: Mr. Chairman, this amendment violates the Rules of the House in several instances, as follows:

First, it goes beyond the bill under consideration, amending the continuing resolution, and as such is not germane. This is a violation of rule XVI, clause 7.

Second, the amendment constitutes legislation on an appropriations bill and as such is in violation of clause 2 of rule XXI.

Third, in effect, this amendment amends the Rules of the House, a subject which is under the jurisdiction of the Committee on Rules. . . .

MR. LUNGREN: Mr. Chairman, I would have to concede that this is legislation on an appropriation bill. Unfortunately, this is the only manner in which this subject seems to be able to be raised. . . .

THE CHAIRMAN:[13] The Chair is prepared to rule.

**11.** 133 CONG. REC. 18082, 18083, 100th Cong. 1st Sess.

**12.** The Legislative Branch Appropriations, fiscal 1988.

**13.** William J. Hughes (N.J.).

The gentleman from California [Mr. Lungren] has conceded the point of order raised by the chairman of the subcommittee, the gentleman from California [Mr. Fazio], and the point of order is sustained.

### *Provision Imposing Diverse Conditions Upon Availability of Funds—Amendment To Permanently Change Law Affecting Eligibility of Recipients*

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

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

### *Restriction on Funds Applicable Beyond Fiscal Year Covered by Bill*

**§ 15.27 To an appropriation bill for the Department of Defense, an amendment was held to be germane which sought to implement certain policies, already required by law to be put into effect, by providing that none of the funds appropriated by the act be used, after a certain date, extending beyond the fiscal year covered by the bill, to finance military operations by United States forces in Vietnam where some funds in the bill were available beyond that fiscal year.**

In the 92d Congress, during consideration of Department of Defense appropriations for fiscal 1972,[14] the following amendment was offered:[15]

Amendment offered by Mr. [Andrew] Jacobs [Jr., of Indiana]: On page 48, immediately following line 7, add the following new section under Title VII:

"Sec. 745. In line with Title VI of the 1971 Military Procurement Act calling for termination of all U.S. military operations in Indochina at the earliest practicable date and for the prompt and orderly withdrawal of all U.S. military forces at a date certain, subject to the release of all American prisoners and an accounting for all Americans missing in action, and notwith-

14. H.R. 11731 (Committee on Appropriations).

15. 117 Cong. Rec. 41838, 92d Cong. 1st Sess., Nov. 17, 1971.

standing any other provisions in this Act, none of the funds appropriated by this Act shall be used to finance any military combat or military support operations by U.S. forces in or over South Vietnam, North Vietnam, Laos or Cambodia, after November 7, 1972, if all American prisoners shall have first been released and all Americans missing in action shall have been accounted for."

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

MR. [FRANK T.] BOW [of Ohio]: Mr. Chairman, I make a point of order against the amendment on two grounds:

First, very simply, the November 7, 1972, date goes beyond the fiscal year for which this appropriation is being made;

Second, and I think most important, is the final paragraph, which was also written into the Boland amendment: "if all American prisoners shall have first been released and all Americans missing in action shall have been accounted for."

This provision places an additional responsibility and duty upon someone, but there is nothing in the amendment as to who would have that responsibility and duty. The amendment provides that all prisoners must have been released or accounted for. I repeat that this is an additional responsibility in legislation in this amendment. Therefore I urge my point of order.

The following remarks were made in response to the point of order: (16)

MR. JACOBS: . . . So far as the responsibility is concerned, this is only a provision that the amendment will take effect on the happening of an event. That event may or may not happen. It places no responsibility on anyone. . . .

MR. [SIDNEY R.] YATES [of Illinois]: . . . I should like to point out, in response to the remarks of the distinguished gentleman from Ohio [Mr. Bow], that there are funds provided in the bill for programs that go beyond the end of the fiscal year.

The Chairman,(17) in ruling on the point of order, stated:

The Chair is ready to rule. The Chair will point out, first, that there are funds in the bill that do go beyond this fiscal year, and therefore holds that the termination date included in the amendment of the gentleman from Indiana does not render the amendment not germane. . . .

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

### *Appropriation for Emergency Fuel Assistance—Amendment Delaying Availability Pending Enactment of Oil Windfall Profit Tax*

**§ 15.28 An amendment delaying the availability of an appropriation pending an unrelated contingency is not germane to an appropriation bill; thus, to a joint resolution appropriating funds to**

**16.** *Id.* at p. 41839.

**17.** Daniel D. Rostenkowski (Ill.).

**the Community Services Administration for emergency fuel assistance, an amendment prohibiting any of such funds from being obligated before the date of enactment of any law imposing an oil windfall profit tax was held to be not germane.**

On Oct. 25, 1979,[18] during consideration of House Joint Resolution 430 in the House, the Speaker Pro Tempore[19] sustained a point of order against the following amendment:

MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "None of the funds appropriated by this Act may be obligated before the date of the enactment of any Federal law imposing a windfall profit tax on producers of domestic crude oil.". . .

MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, the amendment before us violates the rules of the House, inasmuch as it is not germane under clause 7, rule XVI.

The amendment clearly goes beyond the bill and, in fact, addresses an entirely separate piece of legislation that is not referred to in any manner in House Joint Resolution 430.

I urge the point of order be sustained.

We have ample precedents, Mr. Speaker, of similar situations which clearly show that an amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. I cite Deschler's Procedure 28.4, Mr. Speaker. . . .

MR. GIAIMO: . . . The amendment which I am offering here addresses itself to this legislation. It is simply a limitation and says none of the funds appropriated can be obligated before the date of enactment of any Federal law imposing a windfall profit tax.

That is a simple limitation, which I think is not subject to a point of order. . . .

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

The Chair has examined several precedents and would like to point to chapter 28, section 4.11 of Deschler's Precedents:

To a bill extending and amending laws relating to housing and the renewal of urban communities, an amendment providing that no funds could be appropriated or withdrawn from the Treasury for the purposes of the bill until enactment of legislation raising additional revenue, was held not to be germane.

The Chair sustains the point of order of the gentleman from Kentucky (Mr. Natcher).

### *—Amendment Restricting Use of Oil Windfall Profit Taxes for Any Other Purposes*

**§ 15.29 To a joint resolution appropriating funds to the Community Services Administration for emergency fuel**

18. 125 CONG. REC. 29639, 29640, 96th Cong. 1st Sess.

19. Dan Rostenkowski (Ill.).

**assistance, an amendment providing that notwithstanding any other provision of law, no portion of any oil windfall profit taxes imposed by law may be transferred to any other use except to the extent that the amount of such taxes exceeded the amount appropriated by the joint resolution, was conceded to be subject to the point of order that it was not germane.**

During consideration of House Joint Resolution 430 in the House on Oct. 25, 1979,[20] a point of order against the following amendment was conceded and sustained:

> MR. [ROBERT N.] GIAIMO [of Connecticut]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Giaimo: Page 3, after line 3, insert the following new sentence: "Notwithstanding any other provision of law [whether enacted before, on, or after the date of the enactment of this Act], no portion of any windfall profit taxes imposed by Federal law on producers of domestic crude oil may be transferred to any other use except to the extent that the amount of such taxes exceeds the amount appropriated by this Act."
>
> MR. [WILLIAM H.] NATCHER [of Kentucky]: Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Connecticut (Mr. Giaimo).
>
> MR. GIAIMO: Mr. Speaker, I concede the point of order.
>
> THE SPEAKER PRO TEMPORE:[1] The gentleman from Connecticut (Mr. Giaimo) concedes the point of order and the Chair sustains the point of order.

### *Provision Restricting Availability of Funds Except Under Condition—Amendment Imposing Different Condition*

**§ 15.30 To a Senate amendment to a general appropriation bill prohibiting the availability of funds in any Act for salaries and expenses for the Office of the Assistant Secretary of Treasury for Enforcement and Operations after a date certain unless Congress enacts authorizing legislation for the Customs Service, a proposed substitute amendment restricting availability of funds in that bill for the same office unless specific categories of products, determined to have been produced by slave or convict labor in the Soviet Union, are barred from customs entry into the United States was conceded to be**

**20.** 125 CONG. REC. 29639, 96th Cong. 1st Sess.

**1.** Dan Rostenkowski (Ill.).

**not germane as a condition totally unrelated to that contained in the Senate amendment.**

The proceedings of Nov. 7, 1985, during consideration of H.R. 3036 (Treasury and Postal Service appropriations for fiscal 1986), are discussed in § 27.27, infra.

### *Provision Directing Park Service To Lease Land—Substitute Prohibiting Use of Funds To Lease Property to Concessionaires*

**§ 15.31 For an amendment to a general appropriation bill directing the National Park Service to lease certain land at fair market rental value, a substitute prohibiting the use of funds in the bill for lease of that property by the National Park Service to concessionaires was held germane and a negative limitation on the use of funds which did not add legislation to that permitted to remain in the original amendment.**

During consideration of H.R. 14231[(2)] in the Committee of the Whole on June 25, 1976,[(3)] the Chair overruled a point of order against the following amendment:

MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Yates: On page 10, line 2, strike the period, insert a semicolon and the following:

*Provided*, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.

MR. [GILBERT] GUDE [of Maryland]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Gude as a substitute for the amendment offered by Mr. Yates: On page 27, between lines 18 and 19, insert the following:

"Sec. 109. No part of the appropriations made available under this title shall be available for the use of the Federal buildings located at 900 Ohio Drive, Haines Point in the District of Columbia by any concessioner of the National Park Service for any purpose."

MR. YATES: Mr. Chairman, I have a point of order against the amendment offered as a substitute by the gentleman from Maryland (Mr. Gude). . . .

Mr. Chairman, while this amendment has the appearance of a simple limitation, as a matter of fact, it is much more than that. The amendment prohibits the use of funds in the bill for use by a national park concessioner of a National Park Service building. The intent of the amendment is to

2. The Department of Interior Appropriation bill for fiscal 1977.

3. 122 CONG. REC. 20548–50, 94th Cong. 2d Sess.

evict the concessioner from the building. At the present time, the concessioner which occupies the building pays an annual rent and also pays for utilities and routine maintenance. If the concessioner vacates the building, the National Park Service must assume responsibility for maintenance and utility costs. The National Park Service estimates these costs to be about $26,000 per year.

Mr. Chairman, there are ample precedents in the rules of the House and I suggest that on page 551 under the Rules of the House, under section 843, ample precedents are cited to demonstrate that limitations on appropriation bills "must not impose new duties upon an executive officer."

Clearly this amendment imposes additional duties and responsibilities on the National Park Service. . . .

MR. GUDE: Mr. Chairman, I think this amendment provides nothing more than the Park Service merely targets a lease. I do not think it confers any responsibilities on them that they do not already have. I think it is clearly germane and in order. It is no less germane than the amendment offered by the gentleman from Illinois (Mr. Yates).

THE CHAIRMAN:[4] The Chair is prepared to rule.

The gentleman from Illinois (Mr. Yates) raises a point of order to the amendment offered as a substitute for the amendment offered by the gentleman from New York.

The question the Chair must decide is whether the substitute amendment is germane to the original amendment and whether it adds additional legislation to that which is already in the amendment of the gentleman from Illinois.

The substitute amendment of the gentleman from Maryland, in the opinion of the Chair, is germane—relating to leasing of the same property, and does not add additional legislation to that which is already in the original amendment. Rather, the substitute is a negative limitation on funds in the bill.

The Chair must, therefore, reluctantly overrule the point of order.

### *Provision Limiting Funds for Salary Increases for Members of Congress—Amendment To Further Restrict Funds for Salaries of Members Voting Against Increase*

**§ 15.32 To a proposition limiting the use of any fiscal 1980 funds to pay salary increases for Members of Congress above 5 percent while permitting top executive and judicial salaries to be increased by 7 percent, an amendment further restricting availability of those funds to pay salaries of those Members voting against any salary increase for Members contained in the pending joint resolution was held germane as an additional restriction on the use of the same funds, applied to the same category of recipients.**

4. Walter Flowers (Ala.).

During consideration of House Joint Resolution 404 in the House on Sept. 25, 1979,[5] the Speaker overruled a point of order against the amendment described above, demonstrating that, to a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of those funds to a subcategory of the same recipients is germane. The proceedings were as follows:

H.J. RES. 404

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1980, namely:

Sec. 101. (a)(1) Such amounts as may be necessary for continuing projects or activities. . . .

For the fiscal year 1980, funds available for payment to executive employees, which includes Members of Congress, who under existing law are entitled to approximately 12.9 percent increase in pay, shall not be used to pay any such employee or elected or appointed official any sum in excess of 5.5 percent increase in existing pay and such sum if accepted shall be in lieu of the 12.9 percent due for such fiscal year: Provided further, That for the purpose of carrying out this provision and notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Adjustment Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, which limit the pay for certain Federal offices and positions, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980 except that in applying such limitation the term "at a rate which exceeds by more than 5.5 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting pay increases to 5.5 percent. . . .

MR. [GEORGE M.] O'BRIEN [of Illinois]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. O'Brien: On page 5, strike lines 10 through 16.

On page 6, line 3, strike everything after "1980" through line 8, and insert a period. . . .

MR. [JOSEPH L.] FISHER [of Virginia]: Mr. Speaker, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: Page 5, beginning on line 3, strike out "(except as to executive salaries which are covered subsequently)" and insert in lieu thereof "(without regard to section 305 thereof)".

**5.** 125 CONG. REC. 26135, 26136, 26138, 26140–43, 96th Cong. 1st Sess.

Page 5, strike out line 10 and all that follows down through "limitation" on line 4 of page 6 and insert in lieu thereof the following:

Notwithstanding the provisions of the Federal Pay Comparability Act of 1970, the Executive Salary Cost-Of-Living Act, or any other related provision of law, which would provide an approximate 12.9 percent increase in pay for certain Federal officials for pay periods beginning on or after October 1, 1979, and notwithstanding section 102 of this joint resolution, the provisions of section 304 of the Legislative Branch Appropriation Act, 1979, shall apply to funds appropriated by this joint resolution or any Act for the fiscal year 1980; except that in applying the limitation in such section 304 to the pay of offices and positions (other than Members of Congress) covered by that section the term "at a rate which exceeds by more than 7 percent the rate" shall be substituted for the term "at a rate which exceeds the rate" where it appears in subsection (a) of such section for the purpose of limiting such pay increases to 7 percent, and in applying such limitation to the pay of Members of Congress. . . .

MR. [PETER A.] PEYSER [of New York]: Mr. Speaker, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Peyser to the amendment offered by Mr. Fisher as a substitute for the amendment offered by Mr. O'Brien: After the substitute offered by the gentleman from Virginia add the following:

Notwithstanding any other provision of this resolution, no part of the funds appropriated by this Act for fiscal year 1980 shall be available to pay the salary of any Member at a rate which exceeds the salary rate payable for that office for September 30, 1978, if at any time in the consideration of this resolution that Member voted in a recorded vote for any amendment that has the effect of limiting the amount payable for Members of Congress to the rate payable for September 30, 1978. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: . . . I make the point of order that the amendment is not germane to the substitute. The amendment conditions the use of funds to pay salaries on the votes of Members of Congress on this resolution and, therefore, introduces new subject matter, both a Member's voting record and a new method of calculating pay depending on the Member's voting record. The amendment places nongermane restrictions on the use of funds and should be ruled out of order. . . .

THE SPEAKER:[6] . . . The Chair will rule that the Fisher substitute contains a selective restriction on the availability of funds in the bill by separating salaries of certain employees, as opposed to Members of the Congress of the United States, and that is in order. The amendment offered by the gentleman from New York (Mr. Peyser) is a further selective restriction on the availability of fiscal 1980 funds for the Members' pay.

The Chair feels that the amendment as offered by the gentleman from New York (Mr. Peyser) is germane to the Fisher amendment, and the point of order of the gentleman from Massachusetts (Mr. Conte) is overruled.

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**6.** Thomas P. O'Neill, Jr. (Mass.).

***Provision Restricting Funds To Pay Salary Increases for Members—Amendment To Use Changes in Public Debt as Standard for Determining Funds Available for Salaries***

**§ 15.33 An amendment which conditions the expenditure of funds covered by a bill by adopting as a measure of their availability the monthly increase in the public debt limit may be germane so long as the amendment does not directly affect other provisions of law or impose contingencies predicated upon other unrelated actions of Congress; thus, to a joint resolution making continuing appropriations and restricting the use of any fiscal 1980 funds to pay cost-of-living salary increases for Members of Congress and other federal employees above a certain percentage, an amendment prohibiting the use of all such funds to pay over 99 percent of Members' salaries in any month in which the public debt has been increased was held germane since not amending or affecting the public debt limit, but rather using that limit as an easily ascertainable standard by which to relate Members' salary entitlements to the entire Federal fiscal situation.**

During consideration of House Joint Resolution 404 (continuing appropriations for fiscal year 1980), the Speaker overruled a point of order against the amendment described above. The proceedings of Sept. 25, 1979,[7] were as follows:

> MR. [KENNETH B.] KRAMER [of Colorado]: Mr. Speaker, I offer an amendment.
>
> The Clerk read as follows:
>
> > Amendment offered by Mr. Kramer: Page 6, insert before line 13 the following: Notwithstanding any other provision of this joint resolution or any other provision of law, for any month immediately following any month during which the total public debt subject to the statutory debt limit, as reported in the monthly statement of the public debt published by the Department of the Treasury, indicates an increase from the level so reported during the preceding month, no part of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act may be used to pay the salary of any Member of the Congress at a rate greater than 99 percent of the rate which would be payable without regard to this sentence. . . .
>
> MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment is not germane.
>
> The amendment deals with the subject of Federal pay and has the pur-

7. 125 CONG. REC. 26150–52, 96th Cong. 1st Sess.

pose of limiting Federal pay. The amendment offered by the gentleman from Colorado (Mr. Kramer) introduces a new subject of a public debt, a completely new subject of public debt, and a different method of limiting Federal pay, that is, calculated relations between Federal pay and the public debt. . . .

MR. KRAMER: Mr. Speaker, I would like to quote from Deschler's Procedure, chapter 25, section 2.1 and also section 2.3. I think the precedents are very clear that this amendment is germane. I read as follows:

> A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI.
>
> The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.

Mr. Speaker, it is my understanding, in talking to the Parliamentarian's office, that a contingency amendment is, indeed, germane, provided that the contingency itself is within the scope of the performance of Congress.

I would ask that the amendment be ruled germane on that basis. . . .

THE SPEAKER:[8] The Chair is ready to rule on the point of order.

The amendment offered by the gentleman from Colorado (Mr. Kramer) provides a mechanism for measuring the ceiling to be placed on the amount of fiscal 1980 funds which can be available to pay salary increases for Members. The amendment does not in any way directly affect provisions of law relating to public debt levels during fiscal 1980.

As indicated in Deschler's Procedure, chapter 28, section 24.18, the Chair ruled on July 26, 1973, that an amendment which conditions the expenditure of funds in a bill by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other acts is germane, so long as the amendment does not directly affect the obligation and expenditure of other funds or the administration of other programs.

In the opinion of the Chair, the legislative standard stated in the amendment offered by the gentleman from Colorado as a measure of the amount of pay increase to be paid by fiscal 1980 appropriated funds is an easily ascertainable method of adjusting the availability of those funds in relation to the Federal financial situation as a whole, and is not drafted as a contingency which is dependent upon specific unrelated events or actions of Congress.

The gentleman's point of order is overruled.

### *Restriction on Use of Funds for Enforcement of OSHA Regulations Applicable to Small Farms—Amendment To Ensure Compliance by Congress With OSHA Requirements*

**§ 15.34 To a substitute amendment prohibiting the use of**

8. Thomas P. O'Neill, Jr. (Mass.).

**funds in a general appropriation bill for the enforcement of any regulation under the Occupational Health and Safety Act applicable to small farms, an amendment adding at the end thereof the requirement that such funds be expended to assure full compliance under that Act by Congressional Members and staff was held not germane.**

The proceedings of June 24, 1976, relating to H.R. 14232 (Labor and Health, Education and Welfare appropriations for fiscal 1977), are discussed in § 8.20, supra.

***Provision To Bar Use of Contributions to United Nations Program for Assistance to Cuba—Amendment To Make Provision Applicable to Any Country That Has Severed Diplomatic Relations***

**§ 15.35 To a provision in a general appropriation bill "That the President shall seek to assure that no contribution to the United Nations Development Program . . . shall be used for projects for . . . assistance to . . . Cuba," an amendment was held to be germane which sought to make the provision applicable to any country which has severed diplomatic relations with the United States.**

In the 90th Congress, the foreign aid appropriation bill for fiscal 1968 (9) was under consideration, which provided in part: (10)

> International organizations and programs: For expenses authorized by section 302(a), $125,000,000: *Provided*, That the President shall seek to assure that no contribution to the United Nations Development Program authorized by the Foreign Assistance Act of 1961, as amended, shall be used for projects for economic or technical assistance to the Government of Cuba, so long as Cuba is governed by the Castro regime: *Provided further*, That no part of this appropriation shall be used to initiate any project, activity, or program which has not been justified to the Congress.

The following amendment was offered:

> Amendment offered by Mr. [Paul C.] Jones of Missouri: On page 3, line 5, delete the words "That the President shall seek to assure that"; and further, on line 10, after the word "regime" add a comma and the words "or to any country which has severed diplomatic relations with the United States."

A point of order was raised against the amendment, as follows: (11)

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**9.** H.R. 13893 (Committee on Appropriations).

**10.** See 113 CONG. REC. 32886, 90th Cong. 1st Sess., Nov. 16, 1967.

**11.** *Id.* at p. 32887.

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, this amendment does not serve just to perfect a legislative provision that might be protected by the rule adopted earlier, but it seeks to expand into a whole new area not contemplated in the present legislative provision and purports to deal with countries with which we have broken diplomatic relations. We would be adding a whole new section since the amendment is not limited to funds appropriated under this Act.

The Chairman,[12] in ruling on the point of order, stated:

The section of the bill to which the amendment is offered is legislation which has been permitted to remain by waiver of points of order. Such legislative provisions can be perfected by germane amendments.

The Chair is of the opinion that the amendment of the gentleman from Missouri is germane and therefore overrules the point of order.

### *Bill Permitting President To Allocate Appropriation to Agencies—Amendment To Allocate Portion to Specified Agency*

**§ 15.36 To a bill appropriating a certain sum and providing that the President may make allocations therefrom to various agencies of the government, an amendment proposing that a certain amount of such fund should be allocated to a specific agency of the government was held to be germane.**

In the 75th Congress, during consideration of a relief appropriations bill,[13] an amendment was offered[14] as described above. Mr. John Taber, of New York, raised the point of order that the amendment was not germane. The Chairman,[15] in ruling on the point of order, stated:

The amendment offered by the gentleman from Florida . . . provides that part of the appropriation in this bill shall be allocated to one of the agencies of government, the Federal Administration of Public Works.

The Chair is of the opinion that the amendment is germane to the bill, and therefore overrules the point of order.

### *Bill Containing Funds for Agency—Amendment Containing Funds for Different Agency for Related Purpose*

**§ 15.37 To a portion of an appropriation bill containing funds for a certain purpose to be expended by one government agency, an amendment containing funds for another government agency**

12. Charles M. Price (Ill.).

13. H.J. Res. 361 (Committee on Appropriations).

14. 81 CONG. REC. 5012, 75th Cong. 1st Sess., May 25, 1937.

15. John J. O'Connor (N.Y.).

**for the same general purpose may not be germane although authorized by law; thus, to a title of a general appropriation bill containing funds for energy programs administered by the Department of Energy, an amendment appropriating a portion of those funds for a pilot wood utilization program authorized by law to be conducted by the Department of Agriculture was held not germane.**

On July 24, 1981,[16] during consideration of a bill[17] in the Committee of the Whole, Chairman Anthony C. Beilenson, of California, sustained a point of order against the following amendment:

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

The Clerk read as follows:

Amendment offered by Mr. Weaver: Page 16, line 19, insert immediately before the period the following: ", and *Provided further*, That $5,000,000 of the funds provided herein shall be made available to the Secretary of Agriculture for the establishment of pilot wood utilization projects and demonstrations as authorized by the Wood Residue Utilization Act of 1980, Public Law 96–554.".

MR. [TOM] BEVILL [of Alabama]: Mr. Chairman, I make a point of order against the gentleman's amendment. . . .

The amendment is not germane to this paragraph of the bill nor to the bill as a whole. The wood residue program is authorized by Public Law 96–554, and clearly is to be administered by the Forest Service, Department of Agriculture, which is funded under the Interior appropriations bill.

This program was not authorized to be administered or funded by the Department of Energy, which is where the gentleman's amendment applies.

Under clause 7, rule XVI, it is stated that it is not in order during consideration in the House to introduce a new subject by way of amendment, and an amendment inserting an additional section should be germane to the portion of the bill to which it is offered.

I contend this amendment is not germane to this paragraph or this bill and is in violation of clause 7, rule XVI. . . .

MR. WEAVER: . . . [T]he Department of Energy now funds wood utilization programs. This bill is law. We are not changing existing law. We are referring only to existing law and it is an energy manufacturing program and, therefore, definitely germane to this bill.

THE CHAIRMAN: The Chair is prepared to rule on the point of order made by the gentleman from Alabama (Mr. Bevill).

For the purposes stated by the gentleman from Alabama, the distinguished chairman of the subcommittee, the point of order is sustained and the amendment is held not germane to the

16. 127 CONG. REC. 17226, 97th Cong. 1st Sess.

17. H.R. 4144, the Energy and Water Development Appropriations, fiscal 1982.

pending title of the bill, which relates only to the Department of Energy.

### *Paragraph Containing Funds for Agency—Amendment Increasing Amount by Transferring Funds From Other Accounts*

**§ 15.38 To a paragraph of a general appropriation bill containing funds for an agency but not transferring funds to that account from other paragraphs in the bill, an amendment increasing that amount by transfer from an account in another paragraph is not germane, since affecting budget authority for a different agency not the subject of the pending paragraph.**

Where a paragraph of a bill, the Departments of Commerce, Justice, State and Judiciary Appropriations for fiscal 1986 (H.R. 2965), contained funds for the Federal Bureau of Investigation, but did not transfer funds from other accounts in the bill, an amendment increasing that budget authority by transfer from funds contained in a paragraph, not yet read, for the National Endowment for Democracy was ruled out as not germane. The proceedings of July 17, 1985,[18] were as follows:

THE CHAIRMAN:[19] The Clerk will read.

The Clerk read as follows: . . .

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed one thousand six hundred forty passenger motor vehicles . . . acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,194,132,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1987. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Young of Florida: On page 15, in line 4, strike "$1,194,132,000," and insert in lieu thereof "$1,203,625,000, of which $9,493,000 shall be derived by transfer from the appropriation in this Act for "National Endowment for Democracy",".

Mr. Neal E. Smith, of Iowa, raised a point of order against the amendment:

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**18.** 131 CONG. REC. 19431, 19432, 19435–37, 99th Cong. 1st Sess.

**19.** George E. Brown, Jr. (Calif.).

MR. SMITH of Iowa: . . . My point of order is that it is in violation of clause 7, rule XVI. It involves an increase in the FBI by a transfer of funds. There are no transfers in the bill for the FBI. The money would be transferred from a source that is entirely different and unrelated, and therefore taking money that is intended for one purpose and transferring it to an entirely different purpose when it is offered as an amendment is not germane. . . .

MR. YOUNG of Florida: . . . The amendment does not violate section 303 of the Budget Act because the amendment does not provide new budget authority but rather provides funds by transfer from elsewhere in the bill.

The amendment does not violate rule XXI, clause 2, because it is in order to perfect a paragraph in the bill permitted to remain by a waiver of points of order, so long as the amendment does not add legislation or unauthorized items. A transfer of funds within the confines of an appropriation bill is not considered legislation, and clearly the amendment does not add unauthorized items. The amendment is germane to the bill which contains numerous other transfers. For example, I call to the Chair's attention page 6 and page 7, where there are numerous transfers from one fund to another in that section of the bill alone.

So I would hope that the Chair would overrule the point of order.

THE CHAIRMAN: If no one else wishes to be heard on the point of order, the Chair is prepared to rule.

The Chair believes that the amendment is not germane to this paragraph because there are no other transfers involved in this particular paragraph and it would affect an account in an unrelated portion of the bill.

The Chair, therefore, upholds the point of order made by the gentleman from Iowa [Mr. Smith].

### *Bill Providing New Budget Authority—Amendment To Provide In Lieu Thereof for Transfer of Unexpended Balances of Funds Previously Appropriated*

**§ 15.39 It is not germane to change a direct appropriation of new budget authority from the general fund of the Treasury into a reappropriation (in effect a rescission) of funds previously appropriated for an entirely different purpose in a special reserve account; thus, to a bill providing new budget authority for emergency agricultural credit, an amendment contained in a motion to recommit with instructions to provide, in lieu of that new budget authority, for a transfer of unexpended balances of funds previously appropriated for a totally unrelated purpose was held to be not germane.**

On Feb. 28, 1985,[20] during consideration of H.R. 1189[1] in the House, Speaker Pro Tempore Alan D. Wheat, of Missouri, sustained a point of order against a motion to recommit the bill with instructions to the committee of jurisdiction. The proceedings were as follows:

H.R. 1189

*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 "Emergency Agricultural Credit Appropriations Act".

DEPARTMENT OF AGRICULTURE

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for guaranteed loans under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, $1,000,000,000, which shall be in addition to the $150,000,000 provided in Public Law 98–396 and the $500,000,000 made available by Public Law 98–473. Such funds shall be available in order that farm producers may obtain the necessary financing for calendar 1985 operations. Such funds shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans and the reduction in rate of interest. . . .

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

The Clerk read as follows:

Mr. Conte moves to recommit the bill, H.R. 1189, to the Committee on Appropriations, with instructions to that committee to report the bill back to the House forthwith, with the following amendment.

On page 2, in line 10, after "$1,000,000,000," insert "to be derived by transfer from unobligated balances in the Energy Security Reserve.".

MR. [JAMIE L.] WHITTEN [of Mississippi]: Mr. Speaker, I make a point of order against the motion to recommit with instructions in that it attempts to propose as instructions, language which would not have been in order directly as an amendment during the reading of the bill. The instructions include what is in effect a rescission which was not considered by the House and which would have violated clause 7 of rule XVI if there had been a reading of the bill for amendment.

The bill under consideration provides supplemental appropriations for fiscal year 1985. The gentleman's instructions would rescind funds appropriated in fiscal year 1980 for the Synthetic Fuels Corporation, a matter clearly not related to this bill.

Mr. Speaker, because the motion contains language not in order during consideration of the bill in the House, I believe it violates the germaneness rule of the House. I ask for a ruling of the Chair. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, the point of order should be overruled. An amendment in a motion to recommit with instructions

**20.** 131 CONG. REC. 4133, 4134, 4146, 99th Cong. 1st Sess.

**1.** Emergency Farm Credit Appropriation, fiscal 1986.

must be germane to the bill as a whole. Although the amendment does affect previously appropriated funds, so do several provisions of the bill itself.

On page 2, in lines 15 through 18, there is language that provides that funds in the bill "shall be used to prevent foreclosure of farm loans through extending the period of repayment of existing loans." This language directly affects loans guaranteed with funds under existing law.

On page 3, in lines 2 through 14, there is language which provides for "review of FATM loans," and "deferral of principal and interest and the foregoing of foreclosure." This language directly affects loans held by the Farmers Home Administration.

On page 4, in lines 2 through 5, there is language directing the administrator of the Small Business Administration to use loan guarantee authority to restructure existing loans.

Taken as a whole, the bill clearly affects the use of previously appropriated funds and authority. My amendment, which also affects previously appropriated funds, is germane, and therefore I ask the Chair to overrule the point of order.

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

The gentleman from Mississippi makes the point of order that the motion to recommit offered by the gentleman from Massachusetts (Mr. Conte) is not germane to the bill H.R. 1189. The bill reported from the Committee on Appropriations provides only new budget authority for emergency agricultural credit. The bill does not directly transfer or reappropriate any unexpended balances of appropriations nor does it rescind previously appropriated funds.

In the opinion of the Chair, the effect of the motion to recommit is to decrease sums already appropriated for a program—Synfuels payments for future defaults on loans guaranteed pursuant to the Energy Security Act—totally unrelated to the program under consideration—farm credit—and to convert into immediate budget outlays obligational authority which was not intended to represent any outlays except in the event of a future default. The amendment in the motion to recommit has the effect of transferring the original appropriation for Synfuels loan guarantees, a proposition not contemplated in the bill reported from the Committee on Appropriations. The Chair sustains the point of order.

*Parliamentarian's Note:* The instant ruling is important as it stands for the proposition that it is not germane to decrease sums already appropriated for a program totally unrelated to the proposition under consideration (in effect a rescission), and to convert into immediate budget outlays obligational authority which was not intended to represent any outlays except in the unlikely event of a future default. Of course, germaneness was the only test here, since the pending bill was not a general appropriation to which Rule XXI clause 6 would apply. In such a case, the amendment would clearly have been a

reappropriation in violation of that rule.

### *Rescission of Prior-year Appropriations*

**§ 15.40 To a bill reducing certain prior-year appropriations and containing a paragraph appropriating money "for grants to States for administration of unemployment compensation and employment service facilities" as authorized in another act, an amendment was held to be germane which provided that "any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized" since both the bill and amendment reduced prior-year appropriations.**

In the 79th Congress, a bill[2] was under consideration reducing certain appropriations and contract authorizations available for the fiscal year 1946. The bill stated in part:[3]

> *Be it enacted, etc.,* That the appropriations and contractual authorizations of the departments and agencies available in the fiscal year 1946, and prior year unreverted appropriations, are hereby reduced in the sums hereinafter set forth, such sums to be carried to the surplus fund and covered into the Treasury immediately upon the approval of this act.
>
> TITLE I—EXECUTIVE OFFICE OF THE PRESIDENT, INDEPENDENT OFFICES, AND EXECUTIVE DEPARTMENTS
>
> EXECUTIVE OFFICE OF THE PRESIDENT
>
> *Office for Emergency Management*
>
> Foreign Economic Administration:
>
> Salaries and expenses, $5,226,461, and limitations under this head are hereby decreased as follows: (1) Travel within continental United States from "$234,000" to "$150,000," (2) reimbursement to employees for emergency or extraordinary expenses from "$75,000" to "$40,000," and (3) expenses of a confidential character from "$1,200,000" to "$25,000.". . .
>
> Office of Economic Stabilization:
>
> Salaries and expenses, $53,780, and limitations under this head are hereby decreased as follows: (1) Penalty mail

2. H.R. 4407 (Committee on Appropriations).
3. See 91 CONG. REC. 9846, 9850, 9851, 79th Cong. 1st Sess., Oct. 19, 1945.

costs from "$2,250" to "$1,500," (2) traveling expenses from "$4,500" to "$4,000," and (3) printing and binding from "$2,000" to "$1,600.". . .

EMERGENCY FUNDS APPROPRIATED TO THE PRESIDENT

Emergency fund for the President, national defense, $45,000,000.

Defense aid—lend-lease:

(1) Ordnance and ordnance stores, supplies, spare parts, and materials, $57,990,000.

(2) Aircraft and aeronautical material, $85,705,000. . . .

INDEPENDENT OFFICES

Civil Service Commission: Salaries and expenses, Civil Service Commission (national defense), $2,032,000.

Employees' Compensation Commission: Employees' compensation fund, $1,761,644.

Federal Communications Commission: Salaries and expenses, Federal Communications Commission (national defense), $930,000. . . .

SOCIAL SECURITY BOARD

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1946, for grants to States for administration of unemployment compensation and employment service facilities operated in conjunction therewith, as authorized in title III of the Social Security Act, approved August 14, 1935, as amended, $30,000,000, which shall be in addition to the amounts appropriated for such purposes in title II of the Labor-Federal Security Appropriation Act, 1946.

The following amendment was offered:

Amendment offered by Mr. [John W.] McCormack [of Massachusetts]: On page 8, line 10, after the period, strike out lines 11 through 20 and insert the following:

"On July 1, 1946, any unobligated balance of the appropriation made in the first paragraph under the heading 'Employment Office Facilities and Services' in title VII of the Labor-Federal Appropriation Act, 1946, shall be carried to the surplus fund and covered into the Treasury, and after June 30, 1946, appropriations shall be made only for grants to States for administration of unemployment compensation and employment service facilities as authorized in title III of the Social Security Act, approved August 11, 1935, as amended, and in the act of June 6, 1933, as amended, known as the Wagner-Peyser Act."

Mr. Everett M. Dirksen, of Illinois, raised the point of order that the amendment was not germane and that it was legislative in character. The Chairman,[4] in ruling on the point of order, stated:

In the opinion of the Chair, the amendment is obviously germane. It relates to the same subject as specified in the bill.

The following exchange ensued:

MR. [JOHN] TABER [of New York]: Mr. Chairman, this, to my mind, is the situation: The amendment is a rescission. The paragraph which is made in order under the rule is an appropriation; therefore the amendment is not in order.

**4.** Fritz G. Lanham (Tex.).

THE CHAIRMAN: In the opinion of the Chair, the amendment offered is germane to the paragraph which deals with appropriations for this purpose. The amendment offered also deals with appropriations for the same purpose. In the opinion of the Chair the amendment offered by the gentleman from Massachusetts is clearly germane and the Chair overrules the point of order. . . .

MR. [FRANCIS H.] CASE of South Dakota: I do not question the germaneness, but I heard the bill referred to as a legislative bill, and if it is interpreted as a legislative bill, the amendment making an appropriation, of course, would not be in order.

THE CHAIRMAN: This certainly is not a general appropriation bill but a bill with reference to rescission of appropriations. The only question which could occur from a parliamentary standpoint would be the question of germaneness. In the opinion of the Chair, the amendment is clearly germane. . . .

### *Germaneness—Guidelines Under Impoundment Control Act*

**§ 15.41 Debate concerning procedures under section 1011(3) of the Impoundment Control Act of 1974, suggested that only those amendments to a "rescission bill" would be germane which would (1) strike rescissions contained in the bill, (2) change the amount proposed to be rescinded but not to a figure in excess of that recommended by the President, or (3) add rescissions recommended by the president in the same message covered by the bill but not in excess of the proposed amount.**

On Dec. 4, 1974,[5] the House resolved into the Committee of the Whole for the consideration of H.R. 17505 (a bill to rescind certain budget authority recommended in Presidential messages). During the course of the proceedings, the following occurred:

MR. [GEORGE H.] MAHON [of Texas]: Mr. Speaker, I 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. 17505) to rescind certain budget authority recommended in the messages of the President of September 20, 1974 (H. Doc. No. 93–361), October 4, 1974 (H. Doc. No. 93–365) and November 13, 1974 (H. Doc. No. 93–387), transmitted pursuant to section 1012 of the Impoundment Control Act of 1974; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to 1 hour and that the time be divided equally between the gentleman from Massachusetts (Mr. Conte) and myself.

**5.** 120 CONG. REC. 38192, 38193, 38202, 93d Cong. 2d Sess.

**5.** 120 CONG. REC. 38192, 38193, 38202, 93d Cong. 2d Sess.

THE SPEAKER:[6] Is there objection to the request of the gentleman from Texas?

There was no objection.

THE SPEAKER: The question is on the motion offered by the gentleman from Texas.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 17505, with Mr. Bolling in the chair.

The Clerk read the title of the bill. . . .

THE CHAIRMAN:[7] Under the unanimous-consent agreement, the gentleman from Texas (Mr. Mahon) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. Conte) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas.

MR. MAHON: Mr. Chairman, the House in the consideration of this measure is breaking new ground. This is the first bill to be reported to the House as a result of the passage by the Congress of the Congressional Budget and Impoundment Control Act of 1974. We will remember that over a period of months there was considerable controversy between the legislative branch and the executive branch over the withholding of funds to carry out various programs that had been approved by Congress and had been appropriated for by the Congress.

This new act provides a process for rescission in a special way which has not heretofore existed. . . .

Mr. Chairman, for the benefit of Members and others, I will ask permission to insert at this point in the Record an explanation of the Impoundment Control Act which is title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). It is brief and simple but, in my judgment, useful:

SUMMARY OF RESCISSION AND DEFERRAL PROVISIONS OF THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Title X of this Act provides two ways for the President to terminate or defer spending that the Congress has provided—either through a budget rescission or a budget deferral. In each case, Congress has the opportunity to overturn the President and to require that the funds it originally provided be made available for obligation.

RESCISSION OF BUDGET AUTHORITY

When the President decides not to use all or part of the money which the Congress has provided for a program, he must send a rescission message to the Congress. The House and Senate then have 45 days in which to approve the President's proposal through a rescission bill canceling the budget authority previously made available. *This bill must be passed by the House and Senate and signed by the President.* If this is not done within 45 days of the date of the Presidential message containing the proposed rescission, the money must then be made available for obligation.

DEFERRAL OF BUDGET AUTHORITY

When the President proposes to delay spending for some project or program for some period of time not beyond the end of the fiscal year, he must send a budget deferral message to the Congress.

**6.** Carl Albert (Okla.).

**7.** Richard Bolling (Mo.).

The President may then defer spending according to his proposal unless and until *either the House or Senate passes* an impoundment resolution disapproving the proposed deferral. As opposed to the rescission process, this requires action by only one House. . . .

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, I have a question for the gentleman from Massachusetts (Mr. Conte). This being, I believe, the maiden voyage of this kind of legislation in the House, I am not fully aware of what rights a common, garden-variety Member of the House has to amend this bill.

I understand that there was some $8 billion in the foreign aid pipeline as of last July 1, the beginning of this fiscal year. Would it be within the prerogative of a Member of the House, just an ordinary Member, to offer an amendment to this bill, to perform a rescission on the money in the pipeline for the foreign giveaway program?

MR. [SILVIO O.] CONTE [of Massachusetts]: . . . No, it would not be in order because we would be limited here to the subject matters and the maximum amounts that the President sent up for rescission, and since that is not a part of that package, no one can get a crack at it in this bill. Let me further explain.

Let me point out to the gentleman from Iowa that section 1011(3) of the Budget and Impoundment Control Act states that a "rescission bill means a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012 . . . "

The statement of purpose, and the enacting clause, of H.R. 17505 contain citations to section 1012 of the Impoundment Control Act of 1974, in order to insure that the bill is a rescission bill, within the meaning of Public Law 93–344.

Accordingly, amendments to the bill are limited as follows:

First, the committee amendments, of which two are substantive, striking the rescissions for REA and REAP;

Second, amendments which would strike rescissions in the bill, or change the amount rescinded, provided the amount in the amendment is equal to or less than, the amount proposed in the Presidential message; and

Third, amendments which would add rescissions, provided the rescission to be added has been proposed by the President in a message cited in the enacting clause of the bill, and the amount is equal to, or less than, the amount proposed by the President. . . .

THE CHAIRMAN: The Clerk will read.

The Clerk read as follows:

NATIONAL PARK SERVICE

Contract authority provided for the fiscal year ending June 30, 1973 by section 105(a)(10) of the Federal-Aid Highway Act of 1970 (Public Law 91–605) for "Parkways" is rescinded in the amount of $10,461,000. . . .

THE CHAIRMAN: The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 4, line 1, strike "IV" and insert "III".

The committee amendment was agreed to.

MR. MAHON: Mr. Chairman, I move that the Committee do now rise and

report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Bolling, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 17505) to rescind certain budget authority recommended in the messages of the President of September 20, 1974 (H. Doc. 93–361), October 4, 1974 (H. Doc. 93–365) and November 13, 1974 (H. Doc. 93–387), transmitted pursuant to section 1012 of the Impoundment Control Act of 1974, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

MR. MAHON: Mr. Speaker, I move the previous question on the bill and all amendments thereto to final passage.

The previous question was ordered.

THE SPEAKER: Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

*Parliamentarian's Note:* The statement made by Mr. Conte, above, reflects the agreed-upon parameters of amendments to the rescission bill concurred in by the Chairman of the Committee of the Whole, Richard Bolling, who was the chief sponsor and manager of the Budget and Impoundment Act in the 93rd Congress.

### *Specific Project Added to River and Harbor Projects*

**§ 15.42 To that portion of the Civil Functions, Department of the Army, Appropriation Bill pertaining to river and harbor projects, an amendment in the form of a new paragraph providing an appropriation for a specific inland waterway previously authorized by law was held to be germane.**

In the 81st Congress, during consideration of the Civil Functions, Department of the Army, Appropriation Bill of 1950,[8] the following amendment was offered:[9]

Amendment offered by Mr. [John E.] Rankin [of Mississippi]: Page 8, after line 8, insert the following new paragraph:

"Tennessee-Tombigbee inland waterway: For the prosecution of the works of improvement with respect to the Tombigbee and Tennessee Rivers heretofore authorized by law (Public Law 522, 79th Cong.) $3,000,000."

8. H.R. 3734 (Committee on Appropriations).

9. 95 CONG. REC. 3141, 81st Cong. 1st Sess., Mar. 24, 1949.

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

> MR. [CLARENCE A.] CANNON [of Missouri]: I make the point of order, Mr. Chairman, that the amendment is not germane at this point in the bill, and therefore not in order.

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

> This is the part of the bill that covers projects of this kind. I have prepared this amendment to carry out the mandate of Congress 2 years ago and the recommendation of the Army engineers. This amendment merely introduces a new section after line 8 on page 8 and provides for funds to begin construction of this great inland waterway. . . .

A further point of order was made as follows:

> MR. [JOHN] TABER [of New York]: The provision for rivers and harbors is entirely included in the paragraph beginning at line 10 on page 5 of the bill and ending on line 8, page 8, and all amendments relating to additional rivers and harbors projects would have to be offered within that paragraph. . . .
>
> I think that it must be offered as an amendment to the figure $176,000,000 on page 6, line 22, where all provisions for rivers and harbors are included.

The ruling of the Chairman (10) was as follows:

> . . . The Chair invites attention to the fact that the paragraph of the bill now under consideration relates to rivers and harbors, maintenance and improvements of existing river and harbor works. The gentleman from Mississippi offers an amendment . . . which seeks to add a new paragraph under the same heading of rivers and harbors, maintenance and improvements of existing river and harbor work. The Chair invites attention to the fact that the pending amendment relates to the prosecution of work on improvements with respect to certain rivers as heretofore authorized by law. The Chair is constrained to believe that the amendment is in order as a new paragraph and, therefore, overrules the point of order.

### *Appropriation Bill—Amendment To Raise Revenue*

**§ 15.43 To a bill appropriating money, an amendment proposing to raise revenue is not germane.**

For discussion of this principle, see 8 *Cannon's Precedents* § 3038; and see the proceedings of Apr. 26, 1932, at 75 Cong. Rec. 8982, 8983, 72d Cong. 1st Sess. See also clause 5(b) of Rule XXI as added by the 98th Congress in 1983, providing that: No bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction to report tax and tariff measures, nor shall an amendment in the House or proposed by the Senate carrying a tax or tariff measure be

**10.** Jere Cooper (Tenn.).

in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A question of order on a tax or tariff measure in any such bill, joint resolution, or amendment thereto may be raised at any time. Rule XXI clause 5(b) is discussed further at Deschler's Procedure (1987 supp.) Ch. 17, §§ 17.12 et seq. For general discussion of committee jurisdiction, see Ch. 17 §§ 26 et seq., supra. Also of interest are Ch. 26 (legislation on appropriation bills) and Ch. 13 §§ 13 et seq. (House prerogatives with respect to revenue measures), supra.

### *Amendment Enlarging Scope of Provision by Striking Language*

**§ 15.44 To that provision in a general appropriation bill requiring deposit in the Treasury of all receipts from sale of electric power in the "southeastern power area," an amendment striking out the limitation with respect to geographic area was held to so enlarge the scope of the provision sought to be amended as to present a different subject and to be not germane.**

In the 82d Congress, during consideration of the Interior Department Appropriation Bill of 1952,[11] an amendment was offered[12] as described above. A point of order was raised against the amendment, as follows:

> MR. [HENRY M.] JACKSON of Washington: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Arkansas on the ground that it is not germane to the matter now under consideration and that it is legislation on an appropriation bill; and that it changes the scope and purpose of the bill.

The Chairman,[13] in sustaining the point of order, cited the principle that, "if the effect of striking out the language [is to so alter] the scope and import of the text as to present a subject different from that under consideration, it is not germane."[14]

### *Different Methods of Apportionment of Funds Among States*

**§ 15.45 To an appropriation bill an amendment striking out a legislative provision stating that certain funds "shall be apportioned among the States in accordance**

11. H.R. 3790 (Committee on Appropriations).
12. 97 CONG. REC. 4294, 82d Cong. 1st Sess., Apr. 24, 1951.
13. Wilbur D. Mills (Ark.).
14. 97 CONG. REC. 4295, 82d Cong. 1st Sess., Apr. 24, 1951.

**with regulations promulgated by the Secretary" and inserting a provision that such funds be made available to the states pursuant to a specified provision of existing law was held to be in order as a germane amendment which did not add further legislation.**

In the 83d Congress, the Departments of Labor, and Health, Education, and Welfare and related Independent Agencies Appropriation Bill of 1955 (15) was under consideration, which provided in part:

OFFICE OF VOCATIONAL REHABILITATION

. . . For payments to States . . . in accordance with the Vocational Rehabilitation Act, as amended (29 U.S.C. ch. 4) . . . $21,000,000. . . . *Provided further,* That the funds herein appropriated shall be apportioned among the States in accordance with regulations promulgated by the Secretary to insure equitable maintenance and improvement of State programs . . . . (16)

The following amendment was offered: (17)

Amendment offered by Mr. [John E.] Fogarty [of Rhode Island]: Page 17, line 15, strike out "shall be apportioned among the" and strike out all of lines 16 through 20, inclusive, and in lieu thereof insert the following: "shall be made available to the States in accordance with the provisions of section 3 (a) of Public Law 113, 78th Congress, approved July 6, 1943."

Mr. John Taber, of New York, having raised a point of order against the amendment, the Chairman (18) ruled as follows: (19)

It is well established that if a legislative provision is permitted to remain in an appropriation bill, it may be amended by a germane proposition which does not add further legislation. This amendment provides a method of apportionment different from what is specified in the pending bill. It deals with money in the bill and its apportionment. Therefore, it is germane. The provision in the bill certainly grants wide, discretionary power to the Secretary of the Department as to how money in the paragraph shall be apportioned among the States, and under this provision of the bill the Secretary seems not to be bound by prior laws governing the matter. The pending amendment is also legislation, but it would narrow authority granted by the bill, and would confine the Secretary to the provisions of an existing law. Therefore the amendment does not add further legislation, and, as already stated, it is germane. . . .

**15.** H.R. 9447 (Committee on Appropriations).

**16.** 100 CONG. REC. 7963, 83d Cong. 2d Sess., June 9, 1954.

**17.** *Id.* at pp. 7963, 7964.

**18.** Donald W. Nicholson (Mass.).

**19.** 100 CONG. REC. 7964, 83d Cong. 2d Sess., June 9, 1954.

### *Appropriation To Maintain National Forests—Amendment To Make the Appropriation Available for Payment to States*

**§ 15.46 To that paragraph in an appropriation bill making an appropriation for protection, maintenance and development of national forests, an amendment was held to be not germane which sought to make the appropriation available for certain payments to states.**

In the 82d Congress, during consideration of the Department of Agriculture Appropriations Bill of 1952,[20] an amendment was offered whose purpose was explained by the proponent as follows:[1]

> MR. [CLAIR] ENGLE [of California]: Mr. Chairman, the purpose of this amendment is to earmark $1,350,000 which is money illegally taken away from the western counties by the Forest Service. That money was due to these counties under the Forest Management Act of May 23, 1908, which provides that 25 percent of all moneys received during any fiscal year from each national forest shall be paid at the end of the year to the State in which the national forest is situated, to be expended as the State legislatures may prescribe for the benefit of public schools and public lands of the county or counties in which the national forest is situated.

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

> MR. [JOHN] TABER [of New York]: I make a point of order against the amendment on the ground that it is not germane to the paragraph to which offered, that it is not authorized by law, and that it is legislation on an appropriation bill.
>
> The Chairman,[2] in ruling on the point of order, stated:
>
> The paragraph to which the amendment is offered makes an appropriation for specific purposes, namely, for the "administration, protection, use, maintenance, improvement, and development of the national forests," thus the paragraph provides money for narrowly defined use only on national forests, which belong to the Federal Government.
>
> The amendment in question seeks to make available a part of this appropriation for a purpose entirely different from the purposes spelled out in the paragraph of the bill. . . . Regardless of the use to which the States could put the money, the payment of claims to States as outlined . . . is in no wise germane to the administration, protection, et cetera, of national forests. Building State roads and schools is even further remote from expenditures on Federal forests.

20. H.R. 3973 (Committee on Appropriations).

1. 97 CONG. REC. 5217, 82d Cong. 1st Sess., May 10, 1951.

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

### *Provisions Restricting Funds for Activities of Legal Services Corporation—Amendment Applying Some Substantive Provisions of Federal Law to Corporation*

**§ 15.47 To a Senate amendment to a general appropriation bill subjecting funds for the Legal Services Corporation to a comprehensive series of restrictions on its activities for that fiscal year and reconstituting its board of directors, a proposed amendment also applying to that corporation "with respect to the use of funds in the bill" certain substantive provisions of Federal criminal and civil law not otherwise applicable to it was held not germane.**

The proceedings of Oct. 26, 1989, relating to the conference report on H.R. 2991, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, are discussed in § 34.37, infra.

### *Unrelated Method of Reducing Expenditure*

**§ 15.48 To a joint resolution providing for continuing appropriations for certain governmental functions pending enactment of regular appropriation bills and curtailing certain government expenditures, an amendment requiring the Bureau of the Budget to compile and report to each Member of the House the total federal expenditures in his congressional district and directing the Members to take certain steps to effect a reduction in expenditures, was ruled not germane as a method of reducing expenditures unrelated to reductions in the joint resolution.**

In the 90th Congress, a joint resolution[3] was under consideration continuing appropriations for fiscal 1968. The following proceedings[4] related to the propriety of a proposed amendment:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Charles S.] Joelson [of New Jersey] Strike out everything after the first paragraph and add the following after the first paragraph:
>
> "The Bureau of the Budget shall . . . submit to each Member of the House of Representatives a list of federal expenditures . . . in the congressional district represented by each Member . . . for the 1968 fiscal year.

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**3.** H.J. Res. 888 (Committee on Appropriations).

**4.** 113 CONG. REC. 29290, 90th Cong. 1st Sess., Oct. 18, 1967.

". . . Each Member . . . shall . . . submit to the chairman of the House Appropriations Committee a list of recommended elimination or reduction of Federal spending in the congressional district represented by him or her . . . ."

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the joint resolution. It would impose additional duties on the Bureau of the Budget and would require reports of committees which are not now required. . . .

MR. JOELSON: Mr. Chairman, the amendment is directed at the reduction of expenditures in each congressional district to the tune of 5 percent of the total expenditures in each district. As I understand the resolution under consideration, its purpose is to reduce spending by 5 percent. My amendment would merely establish a different way of accomplishing this purpose. Therefore, I submit that the amendment is germane.

THE CHAIRMAN:[5] Reading the amendment offered by the gentleman from New Jersey, in the opinion of the Chair the amendment includes a directive to the Bureau of the Budget and provides for an investigation by Members of the House and a review by the Committee on Appropriations. The Chair thinks the points made by the gentleman from Texas are well taken. The Chair sustains the point of order.

5. Charles A. Vanik (Ohio).

### *Provision Authorizing President To Make Reductions With Assistance of Budget Director—Amendment To Authorize Budget Director To Hold Certain Funds in Reserve or Make Certification as to Necessity for Release*

**§ 15.49 Where an amendment to a general appropriation bill sought to reduce appropriations and contract authorizations and to authorize the President to make such reductions with the assistance of the Director of the Bureau of the Budget, a substitute for such amendment was held to be germane and not to add additional legislation which required the Director of the Bureau of the Budget to place in reserve, from funds available for administrative expenses, certain amounts not to be released for expenditure unless the Director certifies that maintenance of essential government services so requires.**

In the 81st Congress, during proceedings relating to a general appropriation bill for 1951,[6] an

6. H.R. 7786 (Committee on Appropriations).

amendment was under consideration which provided:[7]

> Amendment offered by Mr. [Albert] Thomas [of Texas]: On page 411, following line 21, insert a new chapter, as follows:
>
> "CHAPTER X–A. GENERAL REDUCTIONS IN APPROPRIATIONS AND CONTRACT AUTHORIZATIONS
>
> "Reductions in appropriations and contract authorizations contained in this act are hereby made in the sum of $500,000,000 [and the President is hereby authorized, with the aid and assistance of the Director of the Bureau of the Budget, to make such reductions totaling $500,000,000 in appropriations and contract authorizations contained in this act, including funds for Government corporations]. . . ."

Despite its legislative features, no point of order was made against the Thomas amendment. To such amendment, the following amendment was offered:[8]

> Amendment offered by Mr. [Clarence A.] Cannon [of Missouri] as a substitute for the amendment offered by Mr. Thomas: On page 411, after line 21, insert the following:
>
> "In apportioning funds for the fiscal year 1951, the Director of the Bureau of the Budget shall place in reserve not less than 5 percent of the amounts available for administrative expenses and such reserves shall not be released for expenditure unless the Director of the Bureau of the Budget shall certify that maintenance of essential Government service so requires."

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

> MR. [JAMES G.] FULTON [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment submitted by the gentleman from Missouri on the ground that it is legislation on an appropriation bill, that it adds additional duties to be performed by an executive officer of the Government.

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

> The Chair has examined the amendment very carefully and is of the opinion that the amendment is in order as a substitute for the Thomas amendment. The Chair might point out that the Thomas amendment contained some legislative features. The substitute offered by the gentleman from Missouri is germane and does not, in the opinion of the Chair, add any additional legislation. The Chair, therefore, overrules the point of order.

### *Amendment to Legislative Provision*

**§ 15.50 Where an amendment to a general appropriation bill is technically improper because proposing a change in existing law, but is per-**

**7.** 96 CONG. REC. 6812, 81st Cong. 2d Sess., May 10, 1950. See also § 15.50, infra.

**8.** *Id.* at p. 6813.

**9.** Jere Cooper (Tenn.).

**mitted to remain through the failure to raise a point of order, the amendment may be perfected by germane amendments.**

In the 81st Congress, during consideration of a general appropriation bill,[10] an amendment was under consideration authorizing the President, assisted by the Director of the Bureau of the Budget, to make certain reductions in appropriations.[11] To such amendment, an amendment was offered to require the Director of the Bureau of the Budget to place in reserve a certain portion of the amounts available for administrative expenses, such reserves not to be released for expenditure except under certain conditions.[12] In ruling on a point of order made by Mr. James G. Fulton, of Pennsylvania, the Chairman[13] stated:

> The gentleman from Missouri [Mr. Cannon] has offered a substitute amendment which has been reported. The gentleman from Pennsylvania [Mr. Fulton] has made a point of order against the amendment.
>
> The Chair . . . is of the opinion that the amendment is in order as a substitute for the Thomas amendment. The Chair might point out that the Thomas amendment contains some legislative features. The substitute offered by the gentleman from Missouri is germane and does not . . . add any additional legislation.
>
> The Chair, therefore, overrules the point of order.

### *Expenditure Limitation in Dollar Amount - Amendment Increasing Limitation Pursuant to Formula*

**§ 15.51 To a provision in a general appropriation bill fixing an expenditure limitation in a dollar amount for a fiscal year, an amendment increasing the limitation by an amount to be computed pursuant to a specified formula was held to be germane.**

On May 21, 1969,[14] the Committee of the Whole had under consideration a section of an appropriation bill setting a limitation on expenditures for the fiscal year at $192,900,000,000. An amendment was offered increasing the limitation by an amount equal to certain budgetary fixed costs.

A point of order was raised against the amendment, on the

**10.** H.R. 7786 (Committee on Appropriations).

**11.** See 96 CONG. REC. 6812, 81st Cong. 2d Sess., May 10, 1950. See also § 15.49, supra.

**12.** *Id.* at p. 6813.

**13.** Jere Cooper (Tenn.).

**14.** 115 CONG. REC. 13271, 91st Cong. 1st Sess. Under consideration was H.R. 11400, Supplemental Appropriations for fiscal 1970.

grounds that it constituted legislation. Acknowledging that legislative provisions in that portion of the bill itself were not subject to the point of order, because the House had adopted a resolution[15] waiving such points of order, the Member making the objection (George H. Mahon, of Texas) contended that the waiver pertained only to matter contained in the bill, not amendments to the bill. The Chairman, relying on the principle that a provision as to which points of order have been waived may be perfected by germane amendment, overruled the point of order. The proceedings were as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. [Jeffery] Cohelan of California: On page 62, line 3, add the following as a new section:
>
> "(c) The limitation set forth in subsection (a), as adjusted in accordance with the proviso to that subsection, shall be increased by an amount equal to the aggregate amount by which expenditures and net lending (budget outlays) for the fiscal year 1970 on account of items designated as "Open-ended programs and fixed costs" in the table appearing on page 16 of the Budget for the fiscal year 1970 may be in excess of the aggregate expenditures and net lending (budget outlays) estimated for those items in the April review of the 1970 budget."
>
> MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I make a point of order against the amendment in that it is legislation on an appropriation bill.
>
> Mr. Chairman, the rule pertaining to title IV only protects what is in the bill, not amendments to the bill.
>
> THE CHAIRMAN [Chet Holifield, of California]: The Chair is ready to rule.
>
> The Chair has examined title IV. This is a new subparagraph to title IV. Title IV is legislation in a general appropriation bill, and all points of order have been waived in title IV, as a result of it being legislation. Therefore the Chair holds that the amendment is germane to the provisions contained in title IV and overrules the point of order.

## § 16. Consent Calendar Bills

The rule requiring germaneness of amendments is applicable to amendments, including a committee amendment, to a Consent Calendar bill.[16]

### *Appointment of Additional Army Officers—Amendment To Establish Optometry Corps*

**§ 16.1 To a bill to provide for the appointment of additional commissioned officers in the regular army, a committee amendment providing**

**15.** See H. Res. 414 at 115 CONG. REC. 13246, 91st Cong. 1st Sess., May 21, 1969, waiving points of order against Title IV of H.R. 11400.

**16.** See, for example, § 16.1, infra.