for the establishment of an Optometry Corps in the Medical Department of the Army was held to be not germane.

The following proceedings in the 79th Congress[17] related to a question of the germaneness of a committee amendment to the above-described Consent Calendar bill:

> The Clerk called the bill (H.R. 6817) to provide for the appointment of additional commissioned officers in the Regular Army, and for other purposes. . . .
>
> With the following committee amendment:
>
> After line 14, page 1, of the bill add the following:
>
> "Sec. 2. There is hereby established in the Medical Department of the Army, a corps to be known as the Optometry Corps. . . .
>
> "Sec. 3. To be eligible for appointment in the Optometry Corps, a candidate must be a graduate of a recognized optometry school or college approved by the Surgeon General.". . .
>
> MR. [W. STERLING] COLE of New York: Mr. Speaker, I make a point of order against the committee amendment on the ground that it is not germane to the bill.
>
> THE SPEAKER: The Chair holds that the point of order made by the gentleman from New York is well taken and sustains the point of order.

B. APPLICATION OF RULE TO PARTICULAR FORMS OF AMENDMENT OR PROPOSITION

§ 17. In General; Amendment to Special Rule; Amendment to Concurrent Resolution

The rule requiring germaneness of amendments has been applied to many forms of propositions having amendatory effect. Similar variety of application can be found with respect to the matter proposed to be amended.

The form in which an amendment is offered, or the form of the proposition to which it is offered, may affect the determination of whether the amendment is germane. Thus, whether an amendment adds a new title to a bill[18] or adds language to an existing title[19] may affect the determination of whether the amendment is germane.

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17. 92 CONG. REC. 9111, 9112, 79th Cong. 2d Sess., July 16, 1946. The Speaker was Sam Rayburn (Tex.); under consideration was H.R. 6817 (Committee on Military Affairs).

18. See Sec. 19, infra.

19. See § 19, infra.

When judging the germaneness of an amendment to a proposition under consideration (and originating) in the House, the amendment must relate to the subject matter of the pending text under immediate consideration. In sections 2, supra, and 18, infra, it is demonstrated that an amendment must be germane to the pending portion of the bill to which offered, or to the amendment to which offered, as the case may be, whether the amendment is in the form of a motion to strike out and insert, to strike out, or to insert. Similarly, section 21, infra, indicates that perfecting amendments to amendments in the nature of a substitute or to substitute amendments need to be germane to the inserted language contained in said substitutes, it being irrelevant whether or not the perfecting amendment might be germane to the underlying (perhaps broader) bill which said substitute seeks to strike out and replace. The language of the underlying bill proposed to be stricken is not taken into consideration when determining the germaneness of a second degree amendment to a substitute proposing to insert other language. It is only the pending text under immediate consideration against which the germaneness of proposed amendments thereto is judged. This test of germaneness is consistent with Rule XIX governing the permissible degree of amendments in the House (for general discussion of amendments, see Volume 9 of this work). At this stage the House has not finally adopted any version of a House-passed bill and is free to reject the pending amendment(s) and proceed to other differently drafted amendments which may present another test of germaneness to the bill as a whole.

> An amendment offered to change a concurrent resolution to a joint resolution would probably not be germane since the fundamental purpose of a joint resolution is to enact a law and not just state the sense of Congress as to a matter in question. Precedents which appear to be to the contrary involved instances in which the House was proceeding by unanimous consent.[20] In another instance, a motion to recommit a simple resolution with instructions to substitute therefor a Senate-passed bill was ruled out as not germane on substantive grounds, but the Chair indicated in passing that such a point of order would probably rest also on the basis that a bill has the force of law, whereas a resolution does not.[21]

A resolution from the Committee on Rules providing for the consideration of a bill relating to a

20. See 7 Cannon's Precedents § 1037, 1046, 1075.

21. See 8 Cannon's Precedents § 3446.

certain subject may not be amended by a proposition providing for the consideration of another and not germane subject matter.[22] To a special order providing for the consideration of one measure, an amendment providing for the consideration of (and waiving points of order against) an unrelated and nongermane measure is itself not germane.

Although the Committee on Rules may report as part of a special order provisions making in order any amendment, whether or not germane, a special order providing for the consideration of a bill may not be amended on the floor of the House to make in order the consideration of an amendment which under the precedents of the House would not be germane if offered to that bill.[1]

Rule Applicable Only to Amendments

§ 17.1 The germaneness rule applies to amendments and not to language of the bill as introduced.

Where, during consideration of a bill[2] generally making appropriations for foreign aid, objection was made by Mr. Harold R. Gross, of Iowa, to a provision relating to allowances for postage stamps and other items for Members, the Chairman[3] ruled as follows:[4]

> This matter is a part of the bill reported to the House and now being considered in the Committee of the Whole, a general appropriation bill. The Chair cannot sustain a point of order on the basis that it does not relate to some other matter in the appropriation bill. It is part of the bill before the Committee of the Whole.

Pro Forma Amendment

§ 17.2 A pro forma amendment was held to be germane to a bill which sought to repeal a section of existing law and which was being considered under an open rule.

The following exchange took place in the 89th Congress:[5]

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22. See 8 Cannon's Precedents Sec. 2956; 5 Hinds' Precedents §§ 5834–36.

1. For discussion of proceedings under a special rule waiving points of order based on germaneness, see § 45, infra.

2. H.R. 9499 (Committee on Appropriations).

3. Wilbur D. Mills (Ark.).

4. 109 CONG. REC. 24753, 88th Cong. 1st Sess., Dec. 16, 1963.

5. 111 CONG. REC. 18639, 18640, 89th Cong. 1st Sess., July 28, 1965. Under consideration was H.R. 77 (Committee on Education and Labor) repealing section 14(b) of the National Labor Relations Act. See § 41.2, infra, for further discussion of the bill.

THE CHAIRMAN:[6] For what purpose does the gentleman from Oklahoma [Mr. Albert] rise?

MR. [CARL] ALBERT: Mr. Chairman, I move to strike out the last word. . . .

MR. [JOHN N.] ERLENBORN [of Illinois]: Mr. Chairman, in view of the past rulings of the Chair in relation to amendments to this bill as to their being germane, I submit the gentleman's amendment is not germane.

MR. ALBERT: Mr. Chairman, there was never a point of order less in order than the point the gentleman just made.

Mr. Chairman, there are words in this bill and they can be stricken.

THE CHAIRMAN: The Chairman overrules the point of order.

Mr. Albert, upon being recognized, made these general observations about the "germaneness" rule:[7]

. . . [The rule of germaneness] is a rule which this Congress has followed since 1789. It is a rule which has been insisted upon by Democrats and Republicans alike ever since the Democratic and Republican Parties have been in existence.

It is the rule without which this House could never complete its legislative program if there happened to be a substantial minority in opposition.

One of the great things about the House of Representatives and one of the things that distinguish it from other legislative bodies is that we do operate on the rule of germaneness.

No legislative body of this size could ever operate unless it did comply with the rule of germaneness. . . .

Amendments to Special Rules—Amendment Providing for Consideration of Nongermane Matter

§ 17.3 To a special rule reported from the Committee on Rules providing for the consideration of a bill on one subject, an amendment waiving the germaneness rule to provide for the additional consideration of an unrelated amendment to the bill is not germane; the provisions of Rule XVI clause 7 apply to amendments to special rules, in order to prohibit that from being accomplished indirectly which cannot under the germaneness rule be done by direct amendment.

On May 29, 1980,[8] the precedents (cited in the Speaker's ruling) which preclude the offering of a nongermane amendment to a special order that would substitute the consideration of one proposition for another unrelated proposition, were extended to preclude the offering of an amendment to a special rule which

6. Leo W. O'Brien (N.Y.).

7. 111 CONG. REC. 18640, 89th Cong. 1st Sess., July 28, 1965.

8. 126 CONG. REC. 12667, 12668, 12672, 12673, 96th Cong. 2d Sess.

would have permitted the additional consideration of a nongermane amendment to a bill. During consideration of a resolution reported from the Committee on Rules providing for the consideration of a joint resolution relating to a temporary extension of the public debt limit, an amendment to the resolution was proposed, to make in order an amendment to the joint resolution disapproving an import fee imposed by the President pursuant to the Windfall Profit Tax Act. The resolution reported from the Committee on Rules stated:

> *Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7428)) to extend the present public debt limit through June 30, 1980, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. . . .
>
> MR. [ROBERT E.] BAUMAN [of Maryland]: . . . I will oppose the previous question so that I can offer a substitute rule that will make in order an amendment that will forbid the President to impose the 10-cents-a-gallon import fee. May I urge opposition to the previous question which will, in fact, be a vote on whether one is for or against the 10-cent-a-gallon increase in gasoline and oil prices in this country. . . .
>
> THE SPEAKER:[9] The question is on ordering the previous question.
>
> The question was taken; and the Speaker announced that the noes appeared to have it.
>
> MR. [RICHARD W.] BOLLING [of Missouri]: Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.
>
> THE SPEAKER: Evidently a quorum is not present.
>
> The Sergeant at Arms will notify absent Members.
>
> The vote was taken by electronic device, and there were—yeas 74, nays 312, not voting 47, as follows: . . .
>
> So the previous question was not ordered. . . .
>
> MR. BAUMAN: Mr. Speaker, I offer an amendment in the nature of a substitute.

9. Thomas P. O'Neill (Mass.).

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Bauman: Strike out all after the resolving clause and insert in lieu thereof the following:

", That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7428) to extend the present public debt limit through June 30, 1980, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. . . . No amendment to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and it shall further be in order, any rule of the House to the contrary notwithstanding, to consider an amendment consistent of the provisions of House Joint Resolution 531 as reported by the Committee on Ways and Means. Debate on said amendment shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. . . .

MR. BOLLING: Mr. Speaker, I make a point of order that the substitute offered by the gentleman from Maryland is nongermane to House Resolution 682, the rule providing for consideration of H.R. 7428, the temporary extension of the debt limit.

Mr. Speaker, it is a basic premise of parliamentary procedure that it is not permissible to do indirectly by amendment to a rule what may not be done directly. In other words, it is not permissible to offer to a resolution providing a special order for one bill, an amendment to include another unrelated bill.

House Resolution 682 only makes in order H.R. 7428, the temporary extension of the debt limit. An amendment to disapprove the oil import fee is not germane to H.R. 7428. Therefore, it is not germane to offer a substitute amendment for the rule which would make in order, by waiving the germaneness rule, an amendment otherwise not germane to the original proposition—in this instance H.R. 7428.

THE SPEAKER: Does the gentleman from Maryland (Mr. Bauman) desire to be heard on the point of order?

MR. BAUMAN: I do, Mr. Speaker.

Mr. Speaker, the point of order goes to the heart of the question of germaneness. There is no question that if the Committee on Rules had reported the rule now pending that I proposed, House Joint Resolution 531 would in fact have been in order as an amendment because the Committee on Rules has the power to make it in order.

Certainly the subject matter dealt with, that is to say the importation taxation of crude oil and the gasoline import fee, is within the jurisdiction of the Committee on Ways and Means as is the debt limit extension. I think, because of the overall question of economic policy involved in a 30-day extension of the national debt limit and the amount of revenue raised by the import fee, that they are in fact related very intimately, and I would suggest that the subject matter is germane. . . .

THE SPEAKER: The Chair is prepared to rule.

The Chair is guided by several precedents in determining whether an

amendment to an order of business resolution, making in order an amendment which is not germane to the bill, should be held not germane to the resolution. The decisions contained in Hinds' Precedents, volume V, sections 5834 through 5836 stand for the proposition that it is not in order to substitute the consideration of one measure for the consideration of another unrelated measure by amendment to an order of business resolution. As cited on page 491 of the *House Rules and Manual*, on September 14, 1950, the House had under consideration a special order from the Committee on Rules taking from the Speaker's table a House bill with Senate amendments, disagreeing to said amendments and agreeing to a conference. To that resolution, an amendment was offered providing that all Senate amendments except one be disagreed to, that the House amend one of the Senate amendments, insist thereon, and agree to a conference. The Senate amendment at issue proposed a study of excess profits tax legislation, and the proposed amendment thereto would have enacted excess-profits tax legislation, and sent that amendment to conference. Speaker Rayburn ruled that the amendment was not germane to the resolution, stating specifically that it was "a rule long established that a resolution from the Committee on Rules providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for the consideration of another and not germane subject matter."

The Chair has anticipated similar points of order against amendments to order of business resolutions in the past, and has been prepared to rule, as he does now, that such an amendment is not permitted to an order of business resolution under clause 7, rule XVI. For the reasons stated by the gentleman from Missouri, and because a viable mechanism exists within the rules of the House and within the Committee on Rules to address the issues presented by the pending amendment, the Chair sustains the point of order.

§ 17.4 A resolution providing for the consideration of a bill relating to a certain subject may not be amended by a proposition providing for consideration of another matter which is not germane.

On Sept. 14, 1950, the Speaker cited this long-standing principle in ruling on a point of order against an amendment that had been offered after rejection of the previous question on a special rule.[10] The Speaker ruled on that date that, to a resolution providing that the House disagree to a Senate amendment that directed a joint committee to conduct a study of excess-profits tax legislation and further directed the appropriate committee to report such legislation, an amendment providing that the House concur in the Senate amendment

10. H. Res. 842, providing for consideration of H.R. 8920, a bill to reduce excise taxes and for other purposes, with Senate amendments thereto.

with an amendment actually enacting excess-profits tax legislation was not germane. The proceedings are discussed in detail at § 27.11, infra.

—*Amendment Proposing Changes in Rules of House*

§ 17.5 An amendment proposing changes in the Rules of the House is not germane to a proposition not containing such changes; thus, to a special order waiving certain points of order against a general appropriation bill not reported for three days and containing unauthorized items, legislation and reappropriations, but not waiving points of order against any nongermane amendment, an amendment in the nature of a substitute waiving all points of order against a nongermane amendment to be offered to the bill, constituting a change in House Rules by providing a privileged procedure for expedited review of an agency's regulations was held not germane.

During consideration of House Resolution 560 in the House on Aug. 13, 1982,[11] the Speaker sustained a point of order against the amendment described above. The proceedings were as follows:

> MR. [LEO C.] ZEFERETTI [of New York]: Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.
>
> The Clerk read the resolution, as follows:
>
> > Resolution waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes
> >
> > *Resolved*, That upon the adoption of this resolution it shall be in order, clause 7, rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20 . . . and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7,

11. 128 CONG. REC. 20969, 20975–78, 97th Cong. 2d Sess.

line 1 through page 8, line 2 . . . *Provided* That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

[A motion for the previous question was rejected.]

MR. [TRENT] LOTT [of Mississippi]: Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Lott:

Strike all after the resolving clause and insert in lieu thereof the following: "that upon the adoption of this resolution it shall be in order, clause 7, Rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, Rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2 . . . It shall be in order to consider amendments to said bill printed in the Congressional Record of August 12, 1982, by and if offered by Representative Broyhill of North Carolina and Representative Levitas of Georgia, and all points of order against said amendments are hereby waived.". . .

MR. ZEFERETTI: Mr. Speaker, I make a point of order that the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. Lott) is not germane to House Resolution 560, the rule providing for the consideration of H.R. 6957, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

Under the rules of the House and the precedents by which we are guided it is not in order to amend an order of business resolution or, as we commonly refer to it, a rule, to accomplish by indirect means that which may not be achieved by direct means.

In other words, it is not in order to amend a rule to allow the offering of an amendment to a bill or resolution which otherwise would not be germane.

Mr. Speaker, the Broyhill-Levitas amendment provides legislative veto over certain FTC regulations and would provide expedited procedures in the House and an accelerated discharge petition procedure.

Mr. Speaker, this amendment amends the rules of the House and is clearly within the jurisdiction of the Rules Committee and not germane to this bill.

The Chair has very clearly set out this principle. Most recently on May 29, 1980, the Chair sustained a point of order which was made against the offering of an amendment to House Resolution 682 providing for the consideration of H.R. 7428, the temporary extension of the debt limit.

In that instance an amendment to the rule was offered to allow an oil import fee amendment to be offered to the debt limit bill.

The amendment obviously was not germane to the bill and the Chair

ruled that an amendment to the resolution making it in order also would not be germane.

The substitute amendment to the rule offered by the gentleman from Mississippi (Mr. Lott) would make in order amendments to H.R. 6957 which are not germane to the bill and, therefore, clearly would not be germane to House Resolution 560. . . .

MR. LOTT: . . . The point of order has been made on this substitute rule saying it is not germane to the original rule.

The test of germaneness, though, is whether an amendment addresses the same purpose as that which seeks to amend the purpose of the House Resolution 560, and that purpose is to waive certain points of order against numerous provisions of the bill, H.R. 6957; namely, either legislative provision or unauthorized programs or agencies.

This substitute rule only makes one minimal change at the end of the rule which was read. It makes in order two amendments printed in yesterday's Record and waives all points of order against those amendments.

The purpose of this substitute is, therefore, the same as the purpose of the original rule, to waive points of order against certain legislative provisions.

I do not think it will do any good to claim that this rule is nongermane because one of the amendments goes to the jurisdiction of another committee, since all of the legislative provisions go to the jurisdiction of a number of other legislative committees and that is the purpose of the rule originally offered and my substitute. . . .

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

The gentleman from New York (Mr. Zeferetti) makes the point of order that the amendment offered by the gentleman from Mississippi (Mr. Lott) to House Resolution 560 is not germane to that special order as reported from the Committee on Rules. Specifically, House Resolution 560 waives certain points of order against H.R. 6957, the Commerce, Justice, State, and Judiciary appropriation bill for fiscal 1983, because the report on that bill has not been available for 3 days and because certain provisions in that bill are unauthorized by law or contain changes in existing law in violation of clause 2, rule XXI. Nothing in that special order waives points of order against nongermane amendments which might be offered to the bill.

The precedents of the House on page 492 of the House Rules and Manual indicate that a resolution reported from the Committee on Rules providing for consideration of a bill relating to a certain subject may not be amended by an amendment which would permit the additional consideration of a nongermane amendment to the bill. In the opinion of the Chair, the amendment to be made in order not only constitutes legislation on an appropriation bill but would be nongermane if offered to H.R. 6957. Nothing in that general appropriation bill amends the rules of the House, and the amendment which would be made in order provides a privileged procedure for expedited review of FTC regulations, and constitutes a change in the rules of the House. The precedents indicate that

12. Thomas P. O'Neill (Mass.).

such rules changes are not germane to a bill not containing rules changes. P. 506—House Rules and Manual. Although the procedures contained in the amendment are the same as those currently contained in the FTC Improvement Act of 1980 with respect to congressional review, section 21 of that act ceases to be effective after September 30, 1982. The amendment would, therefore, constitute a change in law for fiscal 1983. The Chair rules that the amendment is not germane to House Resolution 560 and sustains the point of order.

Amendment to Concurrent Resolution

§ 17.6 While a concurrent resolution providing for an adjournment of the Senate to a day certain is amendable, the Speaker indicated in response to a parliamentary inquiry that an amendment providing a sine die adjournment of the Senate would not be germane.

The following perhaps jocose proceedings occurred on Mar. 13, 1974:[13]

The Speaker laid before the House the Senate concurrent resolution (S. Con. Res. 75) providing for an adjournment of the Senate from Wednesday, March 13, 1974, to Tuesday, March 19, 1974.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 75

Resolved by the Senate (the House of Representatives concurring), That when the Senate completes its business today, Wednesday, March 13, 1974, it stand adjourned until noon, Tuesday, March 19, 1974.

MR. [H. R.] GROSS [of Iowa]: Mr. Speaker, a parliamentary inquiry. . . . [W]hat is the import of the resolution?

THE SPEAKER:[14] It is an adjournment resolution enacted by the Senate, for the Senate only, until Tuesday next. The Senate is asking the consent of the House. . . .

MR. GROSS: Is it subject to amendment, Mr. Speaker?

THE SPEAKER: It is a privileged resolution.

MR. GROSS: Mr. Speaker, I would be constrained to make it a sine die adjournment for the other body.

THE SPEAKER: The Chair feels that that is not germane.

§ 18. Amendment Offered to Particular Paragraph, Section, or Title

An amendment must be germane to the particular paragraph,[15] section or title of the bill to which it is offered. Thus, the Chairman may rule out an amendment as not being germane to that section to which it was offered as a motion to strike out

13. 120 CONG. REC. 6550, 93d Cong. 2d Sess.

14. Carl Albert (Okla.).

15. See, for example, 89 CONG. REC. 1158, 78th Cong. 1st Sess., Feb. 19, 1943.