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Amendments and the Germaneness Rule

A. GENERAL PRINCIPLES

§ 1. Introduction

A House rule⁽¹⁾ provides that “no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.”

The rule states the requirement of “germaneness,” which pertains to the relationship between an amendment and the matter sought to be amended.⁽²⁾ The “germaneness” rule, as it is known, contains one of the most important principles affecting legislative proceedings, and has been adopted by the House in every Congress since 1789. Moreover, since the requirement of germaneness of amendments is an integral part of

the legislative process, the issue of germaneness may properly be raised in the House even prior to the adoption of the rules.⁽³⁾

The rule of germaneness applies to amendments and not to language of the bill as introduced.⁽⁴⁾ Thus, while a committee may re-

1. Rule XVI clause 7, *House Rules and Manual* §794 (1991). *Note:* This chapter provides complete coverage of precedents through the 100th Congress, 2d session, and discusses significant precedents from the 101st Congress. For earlier coverage of the subject of germaneness, see 5 Hinds' Precedents §§5801–5924; 8 Cannon's Precedents §§2908–3064.
2. See §2, *infra*, for general discussion of the determination of the proposition to which an amendment must be germane.

3. See §1.1, *infra*.

4. See the ruling of Chairman Eugene J. Keogh (N.Y.) at 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955, with regard to a point of order raised by Mr. H.R. Gross (Iowa). The Chair indicated that a point of order will not lie if based on the contention that provisions contained in a bill as introduced are not within the jurisdiction of the committee reporting the bill.

See also the remarks of Chairman Frank H. Buck (Calif.) at 83 CONG. REC. 2174, 75th Cong. 3d Sess., Feb. 18, 1938. In response to a point of order raised by Mr. John W. McCormack (Mass.), the Chairman noted that the question of germaneness was not in issue, since “This is a provision in the bill as reported by the committee, and not an amendment to it.”

A point of order will not lie that an appropriation in a general appropriation bill is not germane to the rest of the bill. See §17.1, *infra*.

port a bill embracing different subjects, it is not in order during consideration of the bill to introduce a new subject by way of amendment. The rule, however, applies to amendments offered by the committee as well as to amendments offered from the floor.⁽⁵⁾

The concept of germaneness implies more than the mere “relevance” of one subject to another. It is frequently stated that the fact that two subjects are related does not necessarily render them germane to each other.⁽⁶⁾ The germaneness of an amendment, for example, may depend on the relative scope of the amendment and the proposition sought to be amended. Thus, a proposition of narrow or limited scope may not be amended by a proposition of a more general nature.⁽⁷⁾

One important purpose of the germaneness rule is to prevent the House from having to consider matters for which it is not fully prepared. Thus, an amendment may be held to be germane only if its subject bears a certain relationship to that of the proposition sought to be amended. An informal criterion that appears from

5. See, for example, § 42.5, *infra*. See, generally, § 22, *infra*.

6. See, for example, § 3.57, *infra*.

7. See § 9, *infra*.

the rulings discussed in this chapter may be that if the subject of a proposed amendment to a bill is not one that would reasonably be expected to be within the contemplation of those considering that bill, the amendment is probably not germane. Conversely, if consideration of the general subject matter of the amendment would naturally arise during consideration of the bill itself, it may be germane. Accordingly, one frequently cited test of the germaneness of an amendment to a bill is whether the subject matter of the amendment falls within the jurisdiction of the committee reporting the bill.⁽⁸⁾

Mr. Carl Albert, of Oklahoma, then Majority Leader, once stated with respect to the rule requiring germaneness of amendments:⁽⁹⁾

[The rule of germaneness] is a rule which this Congress has followed since 1789. . . .

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

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

The germaneness of an amendment should be determined from provisions of its text rather than

8. See § 4, *infra*.

9. See § 17.2, *infra*.

from the purposes which circumstances may suggest.⁽¹⁰⁾

Other factors may determine issues of germaneness. For example, a proposition to expel a Member would not be germane to a proposition to censure, since a different requirement as to the voting margin is mandated.⁽¹¹⁾

The only challenge to a ruling of the Chair or the content thereof lies through an appeal. Appeals from germaneness rulings are not traditional in the practices of the House, and when made go to the propriety of the Chair's ruling and not to the substance of the subject of the amendment. The germaneness rule itself, for example, applies only to amendments and cannot be used to challenge a ruling of the Chair.⁽¹²⁾

10. 5 Hinds' Precedents, §§ 5783, 5803.

11. See the proceedings of July 30, 1979, at 125 CONG. REC. 21297, 21298, 96th Cong. 1st Sess., in which a privileged resolution was offered to expel a Member, in preference to reserving the question for consideration in later connection with a proposal to censure the Member.

12. See, for example, the response of the Chair at 124 CONG. REC. 23108, 95th Cong. 2d Sess., July 27, 1978, to a parliamentary inquiry made by Mr. Robert E. Bauman, of Maryland, perhaps facetiously, as to whether one could "make a point of order against the ruling . . . for not being germane to the point of order."

While numerous precedents (rulings of the Chair) have been chronicled with respect to the germaneness of amendments in a wide variety of contexts, it is essential to note that the Chair, in determining which of the tests of germaneness discussed in this chapter is most applicable, must first understand the nature and scope of the pending portion of the proposition being amended, and then the relationship of the offered amendment to that pending text. By initially achieving such a textual understanding, the Chair is then advised to follow the most appropriate line of precedent in rendering a ruling. It is therefore possible for the reader to avoid the misperception that an equally compelling and valid germaneness test can be applied and precedent cited to support either side of a germaneness point of order, by examining in full the pending bill and amendment text either where it is printed in this chapter or in the permanent *Congressional Record* where cited.

Application of Rule Before Adoption of Rules

§ 1.1 Prior to the adoption of the rules, when the House is operating under general parliamentary law, an amend-

ment may nevertheless be subject to a point of order if it is not germane to the proposition to which offered.

In the 91st Congress, during consideration of a resolution providing that the Speaker administer the oath of office to a Member-elect,⁽¹³⁾ an amendment was offered⁽¹⁴⁾ which provided that the Speaker should administer the oath, but which also added several conditions by way of punishment of the Member-elect for acts committed in a prior Congress. Such punishment included a fine and loss of seniority. In ruling on a point of order raised by Mr. Emanuel Celler, of New York, against the amendment, the Speaker⁽¹⁵⁾ stated:⁽¹⁶⁾

The Chair will state . . . that while we are operating under general parliamentary law . . . volume VIII, section 3384 of Cannon's Precedents states:

While the House is governed by general parliamentary usage prior to the adoption of rules, the Speakers have been inclined to give weight to the precedents of the House in the interpretation of that usage. . . .

13. Under consideration was H. Res. 1, providing for administration of the oath of office to Representative-elect Adam Clayton Powell.
14. 115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969.
15. John W. McCormack (Mass.).
16. 115 CONG. REC. 23, 91st Cong. 1st Sess., Jan. 3, 1969.

[I]t appears to the Chair that the punishment of Mr. Powell for acts committed in the 88th or 89th Congresses, or declaring his seat vacant in the 91st Congress, is not germane to the proposition that he be now sworn in.

The Chair sustains the point of order.⁽¹⁷⁾

Relationship Between Amendment and Text To Be Amended

§ 1.2 The germaneness of an amendment is determined by the relationship between its text and the portion of the bill to which offered, and is not judged by motives for offering the amendment which circumstances may suggest, nor by the fact that the amendment, offered to a public bill, may in substance be characterized as private legislation benefiting individuals.

The proceedings of May 30, 1984, relating to H.R. 5167, the

17. As a further example, see the remarks of Speaker McCormack at 113 CONG. REC. 15, 90th Cong. 1st Sess., Jan. 10, 1967, in response to a parliamentary inquiry by Mr. Joseph D. Waggoner, Jr. (La.). The Speaker's statement was to the effect that, where a resolution is being considered in the House prior to adoption of the rules, the rule applies that, after rejection of a motion for the previous question, the resolution is open to "any germane amendment."

Defense Department authorization for fiscal 1985, are discussed in §3.45, *infra*.

Point of Order Based on Committee Jurisdiction But Without Reference to Germaneness Issue

§ 1.3 The point of order that a section in a committee amendment in the nature of a substitute was not within the jurisdiction of that committee does not lie when that section is read for amendment, where no question of germaneness is presented.

The proceedings of July 16, 1974, during consideration of H.R. 15560 (a bill concerning loans to livestock producers) are discussed in §43.8, *infra*.

§ 2. Proposition to Which Amendment Must Be Germane

The requirement of germaneness pertains to the relationship between an amendment and the particular proposition sought to be amended. For example, the issue has been raised with respect to an amendment to a particular part of a bill,⁽¹⁸⁾ amendments to amend-

18. See, for example, §18, *infra*, discussing amendments offered to a

ments⁽¹⁹⁾ and amendments affecting specified provisions of existing law where the bill itself amends such law.⁽²⁰⁾

It is well established that the subject matter of an amendment must relate to the portion of the bill to which it is offered.⁽¹⁾ If offered to a specific section of a bill, the amendment should be germane to that section. If the amendment is offered as a new section or title, its germaneness may depend upon its appropriateness at that point in the bill at which it is offered,⁽²⁾ or, if diverse portions of the bill have been read or the bill is open to amendment at any point, may depend upon its relationship to the bill as a whole.

The rule of germaneness applies to the relationship between a pro-

particular paragraph, section, or title of a bill.

19. See §21, *infra*.

20. See §§35-42, *infra*, for discussion of issues of germaneness as affected by the relation of the bill or amendment to existing law.

1. See, for example, §18.7, *infra*.

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.

2. See §19, *infra*.