

specific place for an amendment of this type to be introduced.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Louisiana (Mr. Long) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. Long).

The Chair will state that subsection (1) of section 11 reads as follows:

Any reference to "function" or "functions" shall be deemed to include—

and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. Long) starts as follows:

Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

and so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the

word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Railroad Freight Rates—Waiver of Antitrust Laws

§ 29.15 To a proposition amending existing laws in several respects but limited in scope to the issue of federal funding of railroads, an amendment to one of those laws to require any railroad to maintain certain freight rate practices and waiving provisions of antitrust laws to permit enforcement of those rate practices was held not germane as addressing regulatory authorities in law and not confined to the issue of federal financial assistance.

The proceedings of Oct. 14, 1978, relating to H.R. 12161, the ConRail Authorization Act, are discussed in § 35.80, infra.

§ 30. Amendments Providing for Conditions or Qualifications

For introductory discussion of amendments that seek to impose conditions, qualifications, or restrictions, generally, see the introduction to Division D, supra.

Armed Services: Condition on Contract Authority

§ 30.1 To a bill to provide for the common defense by increasing the strength of the armed forces, an amendment was held to be germane which required every contract for the supplying of goods or services for the use of persons inducted under the Act, to specify that the company with whom the contract is made shall not discriminate in employment of any person because of race, religion, or the like.

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

Amendment offered by Mrs. Douglas: On page 44, line 11, after the period add a new subsection to read as follows:

Sec. —. (a) Every contract entered into by the United States for the supplying of goods or services to be used by, for, or in connection with any person inducted into, or enlisted in, the armed forces of the United States under the provisions of this act shall specify, as a condition thereof, that the company or individual with whom the contract is

made shall not discriminate in the employment of any person, or in the terms and conditions of employment of any person, because of his race, color, national origin, ancestry, language, or religion, and shall specify that a breach of such condition shall result in the termination of such contract. . . .

A point of order was raised against the amendment, as follows:⁽¹⁶⁾

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

Mr. Chairman, the amendment goes far beyond the realm of this legislation. . . . This amendment goes so far from the purposes of this legislation that I cannot understand why anybody would offer it. . . .

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

MRS. [HELEN GAHAGAN] DOUGLAS [of California]: Mr. Chairman, I think the amendment is germane. Section 17(a) deals with procurement and purchase of materials. The amendment simply specifies what kind of contracts must be entered into in the procurement of materials.

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

The Chair has examined the amendment and is inclined to believe that under the broad purposes of the bill the amendment is in order. It seeks to effectuate portions of the declaration of

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

15. 94 CONG. REC. 8705, 80th Cong. 2d Sess., June 17, 1948.

16. *Id.* at p. 8706.

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

policy and relates to persons and duties within the scope of the bill. The Chair accordingly overrules the point of order.

Prohibition on Military Procurement at Named Facility

§ 30.2 To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement at a particular facility pending the submission of a report by the Comptroller General relating to the feasibility of deactivating that facility was held to be germane.

In the 91st Congress, during consideration of a bill⁽¹⁸⁾ comprising the military procurement authorization for fiscal 1971, the following amendment was offered:⁽¹⁹⁾

Amendment offered by Mr. [Harold R.] Collier [of Illinois]:

On page 6, after line 8, insert the following:

Sec. 403. The Comptroller General of the United States is authorized and directed to report to Congress as soon as practicable with respect to the economic feasibility of the deactivation of the facilities of the Forest Park Naval Ordnance Station, Illinois; and until such time as such re-

port is made and the Congress takes action thereon, none of the funds authorized to be appropriated under this Act may be used for the procurement of those weapons or related goods or services which, but for a decision by the Secretary of Defense to deactivate the Forest Park Naval Ordnance Station, would have been procured at such Station during the fiscal year 1971.

A point of order was raised against the amendment, as follows:⁽²⁰⁾

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, the amendment is subject to a point of order. While it would be in order on a military construction bill, it has nothing to do with the bill now under consideration.

The Chairman,⁽¹⁾ in ruling on the point of order, stated:

. . . The Chair feels that the amendment deals with procurement of weapons, that the amendment is germane to the legislation, and therefore overrules the point of order.

Restriction on Assignment of Selective Service Inductees

§ 30.3 During consideration of a bill amending the Selective Service Act of 1948, it was held that, to that paragraph prohibiting assignment of inductees, until completion of four months' service, to any areas outside the United

18. H.R. 17123 (Committee on Armed Services).

19. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

20. *Id.* at p. 14482.

1. Daniel D. Rostenkowski (Ill.).

States, and prohibiting assignment of inductees, for a period of six months after induction, to any combat areas outside the United States, an amendment was held germane which provided that “no person inducted under the authority of this act shall be assigned to any theater of operation” in which the commander is denied authority to bomb enemy targets as specified.

In the 82d Congress, during consideration of a bill⁽²⁾ comprising amendments to the Universal Military Training and Service Act, an amendment was offered⁽³⁾ as described above. Mr. Carl Vinson, of Georgia, raised the point of order that the amendment was not germane. The Chairman,⁽⁴⁾ in ruling on the point of order, stated:

The Chair has examined the amendment with some degree of care and while it does present a very close question in the opinion of the Chair, yet it does appear to impose a limitation on the use of troops sought to be provided by the pending bill. In view of the fact that it does appear to be such a limitation, the Chair is constrained to overrule the point of order.

2. S. 1-1951 (Committee on Armed Services).
3. 97 CONG. REC. 3883, 82d Cong. 1st Sess., Apr. 13, 1951.
4. Jere Cooper (Tenn.).

Muster-Out Pay Bill

§ 30.4 To a bill providing muster-out pay for members of the armed services, an amendment providing that no wounded or diseased member be discharged until adequate provisions be made for him under the laws and regulations administered by the Veterans' Administration, was held not germane.

In the 78th Congress, during consideration of the Muster-Out Pay Bill of 1944⁽⁵⁾ the following amendment was offered:⁽⁶⁾

Amendment offered by Mr. Hinshaw, as a new section to follow section 8:

Sec. —. No officer or enlisted man or woman shall be . . . released from active duty until his or her . . . final pay, or a substantial portion thereof, including mustering-out pay, [is] ready for delivery to him or her . . . and no wounded, diseased, or handicapped member of the active armed forces shall be released from active service until and unless adequate provisions are made for him or her under the laws and regulations administered by the Veterans' Administration.

Mr. Andrew J. May, of Kentucky, reserved a point of order against the amendment, and Mr. Carl Hinshaw, of California, sub-

5. S. 1543 (Committee on Military Affairs).
6. 90 CONG. REC. 425, 78th Cong. 2d Sess., Jan. 19, 1944.

sequently conceded the point of order.⁽⁷⁾

Waiver of Jurisdiction Over American Troops

§ 30.5 To a bill authorizing the sale or loan of vessels to friendly foreign nations, an amendment providing that no vessel be made available under the act unless the recipient country agree to waive criminal jurisdiction over American troops stationed therein, was held to be not germane.

In the 85th Congress, a bill⁽⁸⁾ was under consideration which authorized the transfer of naval vessels to friendly foreign countries. The amendment described above was offered by Mr. Frank T. Bow, of Ohio,⁽⁹⁾ and a point of order was raised by Mr. L. Mendel Rivers, of South Carolina, on grounds that the amendment was not germane. Mr. Bow, in discussing the bill and defending the proposed amendment, stated:⁽¹⁰⁾

. . . Section 4 provides that no vessel may be made available under this

7. *Id.* at p. 426. The Chairman was Howard W. Smith (Va.).
8. H.R. 6952 (Committee on Armed Services).
9. 103 CONG. REC. 7271, 7272, 85th Cong. 1st Sess., May 20, 1957.
10. *Id.* at p. 7272.

act unless the Secretary of Defense, after consultation with the Joint Chiefs of Staff, determines that its transfer is in the best interests of the United States. . . . I think it is germane for the Congress to decide whether it is in the best interest of American servicemen as to whether or not criminal jurisdiction shall be waived before we turn these vessels over to these countries. . . . This other provision would give these rights and limitations, so the amendment is germane. . . .

Mr. Rivers stated:

. . . [T]his bill deals only with the transfer of ships by the Department of the Navy. We cannot transgress on the jurisdiction of the Committee on Foreign Affairs in the realm of treaties and such matters. . . .

The Chairman,⁽¹¹⁾ in ruling on the point of order, stated:

The Chair is ready to rule. The gentleman from South Carolina makes a point of order against the amendment offered by the gentleman from Ohio [Mr. Bow] on the ground that the amendment is not germane. The Chair holds that the amendment consists of an unrelated contingency which is under the jurisdiction, as has been pointed out by the gentleman from South Carolina, of another committee of the House, namely, the Committee on Foreign Affairs. Therefore, the amendment is not germane and the point of order against it is sustained.

Statement of Congressional Policy Regarding Geneva Accords

§ 30.6 To a bill authorizing military procurement, re-

11. Lee Metcalf (Mont.).

search, development and construction, an amendment comprising a statement of congressional policy with respect to foreign policy affecting Vietnam was held to be not germane.

In the 90th Congress, a bill⁽¹²⁾ was under consideration comprising supplemental military authorizations for fiscal 1967 and stating in part:⁽¹³⁾

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

TITLE I—PROCUREMENT

Sec. 101. In addition to the funds authorized to be appropriated under Public Law 89-501, there is hereby authorized to be appropriated during the fiscal year 1967 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, and tracked combat vehicles in amounts as follows:

AIRCRAFT

For aircraft: for the Army, \$533,100,000. . . .

The following amendment was offered to the bill:

Amendment offered by Mr. Reuss: On page 4, line 10, after “\$624,500,000”, insert:

- 12. H.R. 4515 (Committee on Armed Services).
- 13. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967.

TITLE IV—STATEMENT OF CONGRESSIONAL POLICY

Sec. 401. None of the funds authorized by this Act shall be used except in accordance with the following declaration by Congress of— . . .

(3) its support of the Geneva accords of 1954 and 1962 and urges the convening of that Conference or any other meeting of nations similarly involved and interested as soon as possible for the purpose of formulating plans for bringing the conflict to an honorable conclusion in accordance with the principles of those accords.

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

MR. [L. MENDEL] RIVERS [of South Carolina]: Mr. Chairman, I rise to a point of order on the ground that the amendment is not germane to the bill. The bill before the House is a supplemental authorization bill. The amendment contains no limitation. It declares a matter of policy which obviously is under the jurisdiction of another committee, since it deals with foreign affairs and commitments.

Mr. Henry S. Reuss, of Wisconsin, stated in response:⁽¹⁴⁾

. . . [T]he amendment I offer is germane because it is a limitation on the legislative authorization for military procurement, research, and construction contained in the first three titles of H.R. 4515. By stating the circumstances under which the authorization may be pursued, it is well within the precedents of this body, and the mere fact that a portion of the lan-

14. *Id.* at p. 5140.

guage relates to the foreign policy specialty of the House Committee on Foreign Affairs is entirely irrelevant. . . .
 . . . On May 20, 1959, a House bill from my committee, the House Committee on Banking and Currency, was before this House. The gentleman from New York, Mr. Powell, offered an amendment providing that none of the funds authorized by the housing bill should be used except under a policy that such housing should be available without discrimination. . . . The chairman . . . Mr. Walter, of Pennsylvania . . . held the amendment germane upon the ground, "that the amendment offered by the gentleman from New York is restricted to any title of this act and is specific in the opinion of the Chair."

The Chairman,⁽¹⁵⁾ in ruling on the point of order, stated:⁽¹⁶⁾

The Chair is of the opinion that the subject matter of the amendment comes within the jurisdiction of the Committee on Foreign Affairs, and not the Committee on Armed Services which reported the bill now before the Committee.

The Chair refers the Committee to a decision by Chairman Metcalf, of Montana, in the 85th Congress. The bill then under consideration authorized the sale or loan of certain vessels to friendly foreign nations. It had been reported by the Committee on Armed Services. The amendment on which the Chair was called upon to rule provided that no vessels could be made available under the act unless the recipient

country agreed to waive criminal jurisdiction over troops of the United States stationed therein—an amendment which clearly called for diplomatic negotiations with the foreign nations involved.

In holding the amendment not germane, the Chair stated that it consisted of an unrelated matter under the jurisdiction of the Committee on Foreign Affairs—Congressional Record, volume 103, part 6, page 7272. . . .

The Chair, applying one of the accepted tests for germaneness, is of the opinion that the amendment is essentially on a "subject other than that under consideration" and is not germane to the bill under consideration.

The Chair therefore sustains the point of order.

Foreign Assistance—Restrictions Affecting Grain Used to Produce Distilled Spirits

§ 30.7 To a bill authorizing an appropriation for foreign relief, an amendment providing that no part of the funds to be appropriated or advanced shall be used to furnish grain to the peoples of certain countries "as long as grain is used in such countries for the production of distilled spirits for beverage purposes" was held to be germane.

In the 80th Congress, during consideration of a bill⁽¹⁷⁾ pro-

15. Daniel D. Rostenkowski (Ill.).

16. 113 CONG. REC. 5141, 90th Cong. 1st Sess., Mar. 2, 1967.

17. H.R. 4604 (Committee on Foreign Affairs).

viding for aid to foreign countries, an amendment was offered⁽¹⁸⁾ as described above. Mr. John M. Vorys, of Ohio, raised the point of order that the amendment was not germane to the section or to the bill. The Chairman⁽¹⁹⁾ overruled the point of order.

United Nations Relief and Rehabilitation Organization—Proposed Audit

§ 30.8 To a bill to enable the United States to participate in the work of the United Nations Relief and Rehabilitation Organization, and authorizing an appropriation for such purpose, an amendment was held to be not germane which proposed that the Appropriations Committee of the House employ an auditor to examine the books and files pertaining to expenditures made by the organization from funds appropriated in accordance with the authorization, and report thereon to such committee.

In the 78th Congress, during consideration of a bill⁽²⁰⁾ to enable the United States to participate in

18. 93 CONG. REC. 11272, 80th Cong. 1st Sess., Dec. 10, 1947.

19. Earl C. Michener (Mich.).

20. H.J. Res. 192 (Committee on Foreign Affairs).

the United Nations Relief and Rehabilitation Organization, an amendment was offered⁽¹⁾ as follows:

MR. [BENTON F.] JENSEN [of Iowa]: Mr. Chairman, I offer an amendment. The Clerk read as follows:

On page 15, after line 3, insert the following:

“The Appropriations Committee of the House of Representatives shall employ an experienced auditor and other necessary—personnel whose duty it shall be to examine the books, files, papers, and accounts of U. N. R. R. A. and all official documents pertaining to expenditures made by U. N. R. R. A. from funds appropriated in accordance with this authorization. Said auditor shall make a comprehensive report of same to the full Committee of Appropriations quarterly, or at such other times as said committee may direct.”

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

MR. [JOHN J.] COCHRAN [of Missouri]: Mr. Chairman, I make the point of order against the amendment that it is not germane to the joint resolution.

The resolution . . . authorizes the expenditure of money for the United Nations relief and rehabilitation organization to be handled . . . by the State Department. This amendment seeks to give a legislative committee of this House the power to employ an experienced auditor and other necessary personnel to examine the books, files, papers, and so forth, of U.N.R.R.A. As I understand the resolution, it requires

1. 90 CONG. REC. 683, 78th Cong. 2d Sess., Jan. 25, 1944.

a report to the Congress. The Committee on Appropriations has control over the appropriations. This is simply an authorization. If it is desired to place any limitations upon the appropriations, they should be on that bill, not this resolution.

The Chairman⁽²⁾ sustained the point of order.⁽³⁾

Emergency Relief Bill—Prohibition on Discrimination Based on Union Membership

§ 30.9 To that part of an emergency relief bill stating certain criteria affecting eligibility of applicants for relief or for employment on government projects, an amendment prohibiting, in the distribution of funds authorized by the act, any discrimination on account of union membership or nonmembership was held to be germane.

In the 75th Congress, the Emergency Relief and Public Buildings Bill⁽⁴⁾ was under consideration, which stated in part:⁽⁵⁾

Sec. 10. In the employment of persons on projects under the appropriations in this title, applicants in

2. Emmet O'Neal (Ky.).
3. 90 CONG. REC. 684, 78th Cong. 2d Sess., Jan. 25, 1944.
4. H.J. Res. 679 (Committee on Appropriations).
5. 83 CONG. REC. 6808, 75th Cong. 3d Sess., May 12, 1938.

actual need whose names have not heretofore been placed on relief rolls shall be given the same eligibility for employment as applicants whose names have heretofore appeared on such rolls: *Provided*, That . . . no relief worker shall be eligible for employment on any project of the Works Progress Administration who has refused to accept employment on any other Federal or non-Federal project at a wage rate comparable with or higher than the wage rate established for similar work on projects of the Works Progress Administration. . . .

An amendment was offered which sought to add a provision stating:⁽⁶⁾

Provided further, That in the . . . distribution of the funds appropriated or authorized by this act, no discrimination shall be made because of membership or nonmembership in any union or organization.

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

MR. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Chairman, I make the point of order that that is not germane to this section. Section 19 deals with that subject matter.

The Chairman,⁽⁷⁾ in ruling on the point of order, stated:

. . . Section 10 relates to the employment of persons on projects under appropriations in this title and . . . covers in a broad way the applicants who are eligible for employment by W.P.A. The gentleman from Virginia

6. *Id.* at p. 6812.
7. John W. McCormack (Mass.).

[Mr. Woodrum] has called to the attention of the Chair the provisions of section 19, and the gentleman from New York [Mr. Taber] has called to the attention of the Chair that section 19 is of a penalty nature. . . . The amendment of the gentleman from Michigan has no relation as the Chair sees it to the penalty provisions of section 19, and, if germane, would have to have some relationship to the employment of persons on projects under the appropriations in this title as contained in section 10. . . .

In the opinion of the Chair [the amendment] is a direction to the Works Progress Administrator in relation to the appointment of persons on projects under the appropriations in this title. The Chair feels that the amendment is germane. . . .

Discrimination in Sale of Housing—Basis for Withholding Funds

§ 30.10 To a substitute for a committee amendment to a housing bill, an amendment was held germane which sought to give the Federal Housing Administrator authority to withhold financial aid under any title of the substitute unless written assurances were received from the recipients of such aid that the property on account of which the aid was to be given would be available for sale or occupancy without discrimination.

In the 86th Congress, during consideration of the Housing Act of 1959,⁽⁸⁾ the following amendment was offered to a substitute⁽⁹⁾ for a committee amendment:⁽¹⁰⁾

Amendment offered by Mr. [Adam C.] Powell [Jr., of New York] to the amendment offered by Mr. [Albert S.] Herlong [Jr., of Florida]: Add a new title as follows:

TITLE VIII—NONDISCRIMINATION

Sec. 1007. No . . . assistance authorized under any title of this Act shall be given or made . . . unless the recipient and beneficiary of such . . . assistance gives assurance in writing that the property for which the . . . commitment is to be given or made shall be available for sale, lease or occupancy without regard to the race, creed, or color of the purchaser, lessee or occupant. . . .

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

MR. [WILLIAM M.] COLMER [of Mississippi]: Mr. Chairman, I raise the point of order that the amendment is not germane because it is too general in its nature, it is not specific in applying to any particular provision.

The Chairman,⁽¹¹⁾ in ruling on the point of order, stated:

8. S. 57 (Committee on Banking and Currency).
9. The substitute to the committee amendment was language of H.R. 7117.
10. 105 CONG. REC. 8654, 86th Cong. 1st Sess., May 20, 1959.
11. Francis E. Walter (Pa.).

The Chair is ready to rule.

The amendment offered by the gentleman from New York [Mr. Powell] is restricted to any title of this act and is specific, in the opinion of the Chair.

Therefore the point of order is overruled.

Scholarships to Medical Schools—Requirements for Eligibility

§ 30.11 To a bill providing for scholarships, an amendment relating to requirements for eligibility for such scholarships was held to be germane.⁽¹²⁾

§ 30.12 To a bill making grants to medical schools to be used for student scholarships, an amendment establishing a National Commission on Medical, Dental, and Optometric Scholarships to prepare and evaluate national examinations for purposes of testing qualifications of scholarship applicants was held to be germane.

In the 89th Congress, during consideration of the Health Professions Educational Assistance Act of 1965,⁽¹³⁾ an amendment

12. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965. See § 30.12, *infra*.

13. H.R. 3141 (Committee on Interstate and Foreign Commerce).

was offered⁽¹⁴⁾ as described above. The amendment prohibited the award of scholarships to those not deemed qualified, and further required as a condition of receiving a scholarship that the recipient serve for one year in designated geographic areas. A point of order was raised against the amendment, as follows:

MR. [OREN] HARRIS [of Arkansas]: . . . The gentleman's amendment sets up an entirely different program, apart from any program that we have, an entirely new national program which is not contemplated and is not a part of this bill. So it goes beyond the purview of this program and of this proposed legislation and imposes additional duties upon the Surgeon General to provide information that would determine the matter of scholarships, which is not a part of this program at all.

The Chairman,⁽¹⁵⁾ observing that the bill related to scholarships and that the amendment related to a method of establishing scholarships, overruled the point of order.⁽¹⁶⁾

Conditions on Payment of Agricultural Subsidies—Compliance With Specified Provisions of Law

§ 30.13 To that title in an omnibus agriculture bill estab-

14. 111 CONG. REC. 22475, 89th Cong. 1st Sess., Sept. 1, 1965.

15. Martha W. Griffiths (Mich.).

16. 111 CONG. REC. 22476, 89th Cong. 1st Sess., Sept. 1, 1965.

lishing an annual ceiling on subsidy payments to producers of cotton, wheat, and feed grains, an amendment was held to be not germane which sought to make such payments conditional upon compliance with the minimum wage provisions of another act and with applicable health and safety laws.

In the 91st Congress, during consideration of the Agricultural Act of 1970.⁽¹⁷⁾ The following amendment was offered:⁽¹⁸⁾

Amendment offered by Mr. [Abner J.] Mikva [of Illinois]: On page 2, after line 24, added the following new section:

Sec. 102. No person shall be entitled to receive any payments (as defined in section 101) which exceed in the aggregate \$5,000 under the programs established by titles III, IV, V, and VI of this Act, unless—

(1) he pays each person employed by him . . . at a rate not less than that prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, and

(2) he is in compliance with all applicable Federal, State, and local laws, ordinances, and regulations pertaining to the health and safety of his employees, and

(3) the Secretary of Labor certifies in writing that the recipient is in compliance with the requirements of paragraphs (1) and (2) of this section.

17. H.R. 18546 (Committee on Agriculture).

18. 116 CONG. REC. 27471, 27472, 91st Cong. 2d Sess., Aug. 5, 1970.

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

MR. [WILLIAM R.] POAGE [of Texas]: . . . [The amendment] is not germane to the fundamental purpose of this legislation, which is to adjust agricultural production to national consumption.

It proposes to amend a statute—section 6(a)(1) of the Fair Labor Standards Act of 1938—which is not in this bill, or for that matter is not even under the jurisdiction of the Committee on Agriculture.

Mr. Mikva stated in response:

Mr. Chairman, I would say in support of the amendment that this is a limitation on the subsidy payment that can be made. Title I itself is a payment limitation title and this is another limitation on those payments.

The amendment does not amend the Fair Labor Standards Act in any way. No one is required to pay \$1.60 an hour. The only requirement is that if he desires to obtain more than \$5,000 in subsidies then he must comply with the payment of \$1.60 and with all health and safety regulations.

The Chairman pro tempore,⁽²⁰⁾ in sustaining the point of order, stated:

The gentleman from Illinois [Mr. Mikva], has offered an amendment as a new section of title I of the bill. The committee amendment just adopted established an annual ceiling on payments to producers of upland cotton, wheat, and feed grains. . . .

19. *Id.* at p. 27472.

20. Neal Smith (Iowa).

The Chairman has had an opportunity to examine the gentleman's amendment and would call attention to a decision by Chairman Cox on June 18, 1935—Record, page 9579. In that instance, to a bill providing assistance to farmers through the contractual benefits conferred upon them by the Agricultural Adjustment Act, an amendment prohibiting agreements under provisions of that act unless such contracts established certain minimum wage rates and maximum hours for farm laborers was held not germane.

The Chair feels that this precedent is controlling [and] that the amendment offered by the gentleman from Illinois is not germane. . . .⁽¹⁾

—Compliance With “Applicable” Laws

§ 30.14 To that title of an omnibus agricultural bill establishing an annual ceiling on subsidy payments to producers of cotton, wheat, and feed grains, an amendment prohibiting any price support payments under the bill

1. See §30.14, *infra*, for discussion of a similar amendment which omitted the reference to the minimum wage requirements of the Fair Labor Standards Act. The amendment was held to be germane (where “compliance” with “applicable” laws was the only stated condition, and where compliance with a law arguably not “applicable” was no longer a condition. See also §30.23, *infra*.)

unless such producers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws was held to be germane.

In the 91st Congress, during consideration of the Agricultural Act of 1970,⁽²⁾ the following amendment was offered:⁽³⁾

Amendment offered by Mr. [Abner J.] Mikva [of Illinois]: On page 2, after line 24, add the following new section:

Sec. 102. No person shall be entitled to receive any payments (as defined in sec. 101) under the programs established by titles III, IV, V, and VI of this Act, unless—

(1) he is in compliance with all applicable Federal, State and local laws, ordinances, and regulations pertaining to the health and safety of his employees, and

(2) the Secretary of Labor certifies in writing that the recipient is in compliance with the requirements of paragraph (1) of this section.

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

MR. [WILLIAM R.] POAGE [of Texas]: Mr. Chairman, I make the point of order that the amendment is not germane. It does not go to the purpose of the act and that on the contrary it seeks to impose regulations of another statute without amending the other

2. H.R. 18546 (Committee on Agriculture).
3. 116 CONG. REC. 27472, 91st Cong. 2d Sess., Aug. 5, 1970.

statute, that it comes clearly within the same ruling of Chairman Cox.⁽⁴⁾

In defending the amendment, the proponent, Mr. Mikva, stated:

This does not increase the jurisdiction of any agency in terms of present existing laws. It simply says that no one is entitled to receive Federal funds unless they are complying with existing laws.

The Chairman pro tempore,⁽⁵⁾ in ruling on the point of order, stated:

The Committee already has before it the committee amendment which imposes an overall payment limitation. The pending amendment would add a complete prohibition on payments if certain conditions are not met.

The Chair feels that in view of the concept already introduced into the bill by the committee amendment, the further amendment offered by the gentleman from Illinois is germane. The Chair overrules the point of order.⁽⁶⁾

4. See the ruling cited in Sec. §30.13, *supra*.
5. Neal Smith (Iowa).
6. See §30.13, *supra*, for discussion of an amendment, ruled out as not germane, which contained similar provisions and a further provision relating to compliance with minimum wage requirements of the Fair Labor Standards Act (where the latter statute was not cited as being "applicable" to the producers receiving payments, and where a precedent directly in point suggested that result. See also §30.18, *infra*, relying upon this ruling).

Soil Bank Act—Reporting Requirement

§ 30.15 To a proposal to permit payments in advance under contracts to participate in the acreage reserve program, an amendment to require that all such payments be reported to the Clerk of the House in the same manner as political expenditures was held to be germane.

In the 84th Congress, during proceedings relating to the Soil Bank Act of 1956,⁽⁷⁾ the following amendment was under consideration:⁽⁸⁾

Amendment offered by Mr. [Clifford R.] Hope [of Kansas]: . . . Line 8, after end of section, insert a new subsection as follows:

(b) Notwithstanding any other provision of law, and in order to assist the producer in financing his farming operations, and caring for and improving his farm property, the Secretary may make an advance payment to the producer of not to exceed 50 percent of the compensation which would become due the producer under his contract to participate in the acreage-reserve program; and may in any year make an advance payment to the producer of not to exceed 50 percent of the annual payment for such year which would become due the producer under his contract to participate in the conservation-reserve program.

7. H.R. 10875 (Committee on Agriculture).
8. See 102 CONG. REC. 7434, 84th Cong. 2d Sess., May 3, 1956.

To such amendment, an amendment was offered⁽⁹⁾ to require reports of such payments in the manner described above. Mr. Charles A. Halleck, of Indiana, raised the point of order that the amendment was not germane to the bill or to the pending amendment. The Chairman,⁽¹⁰⁾ in ruling on the point of order, stated:⁽¹¹⁾

It occurs to the Chair that the amendment simply provides that any payments made shall be reported to the Clerk of the House. The amendment to which the amendment is proposed is an amendment providing for and authorizing payments to be made. On the question of germaneness it seems to the Chair that the amendment would be germane and the point of order is overruled.

Issuance of Bonds by Tennessee Valley Authority—Restrictions on Use of Funds

§ 30.16 To a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment placing restrictions on the use of such funds for the purchase of foreign-made equipment was held to be germane.

9. *Id.* at p. 7435.
 10. J. Percy Priest (Tenn.).
 11. 102 CONG. REC. 7435, 7436, 84th Cong. 2d Sess., May 3, 1956.

In the 86th Congress, during consideration of a bill⁽¹²⁾ to amend the Tennessee Valley Authority Act of 1933, an amendment was offered⁽¹³⁾ as described above. A point of order was raised against the amendment, as follows:

MR. [FRANK E.] SMITH [of Mississippi]: Mr. Chairman, I make the point of order that the amendment imposes a duty not consistent with the provisions of the bill.

The Chairman,⁽¹⁴⁾ in ruling on the point of order, stated:

The amendment offered by the gentleman from Pennsylvania is germane to the bill because it deals with the proceeds of the Corporation and the use of the funds. The Chair holds that the amendment is in order.

Conditions Affecting Status of Grain Inspectors as Federal Employees

§ 30.17 To a section of a bill reported from the Committee on Agriculture authorizing the Secretary of Agriculture to employ official grain inspectors without regard to civil service appointment statutes upon his finding of their good moral character

12. H.R. 3460 (Committee on Public Works).
 13. 105 CONG. REC. 7720, 86th Cong. 1st Sess., May 7, 1959.
 14. Ross Bass (Tenn.).

and professional competence, an amendment permitting those employees to credit their prior private service as grain inspectors to their Civil Service retirement was held germane as merely stating a further condition upon their status as federal employees.

On Apr. 2, 1976,⁽¹⁵⁾ during consideration of H.R. 12572⁽¹⁶⁾ in the Committee of the Whole, Chairman Phil M. Landrum, of Georgia, overruled a point of order against an amendment holding that the amendment was germane to the section of the bill to which it was offered:

The Clerk read as follows: . . .

(c) By amending subsection (d) and adding new subsections (e) and (f) to read as follows:

“(d) Persons employed by an official inspection agency (including persons employed by a State agency under a delegation of authority pursuant to section 7(e), persons performing official inspection functions under contract with the Department of Agriculture, and persons employed by a State or local agency or other person conducting functions relating to weighing under section 7A shall not, unless otherwise employed by the Federal Government, be determined to be employees of the Federal Government of the United States: *Provided*, however, That such per-

sons shall be considered in the performance of any official inspection functions or any functions relating to weighing as prescribed by this Act or by the rules and regulations of the Secretary, as persons acting for or on behalf of the United States, for the purpose of determining the application of section 201 of title 18, United States Code, to such persons. . . .

“(e) The Secretary of Agriculture may hire (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service) as official inspection personnel any individual who is licensed (on the date of enactment of this Act) to perform functions of official inspection under the United States Grain Standards Act and as personnel to perform supervisory weighing or weighing functions any individual who, on the date of enactment of this Act, was performing similar functions: *Provided*, That the Secretary of Agriculture determines that such individuals are of good moral character and are technically and professionally qualified for the duties to which they will be assigned.”.

MRS. [LINDY] BOGGS [of Louisiana]:
Mr. Chairman, I offer an amendment.
The Clerk read as follows:

Amendment offered by Mrs. Boggs: Page 19, line 11, insert the following immediately after the first period: “Any individual who is hired by the Secretary pursuant to this subsection shall, for purposes of the annuity computed under section 8339 of title 5, United States Code, be credited (subject to the provisions of sections 8334(c) and 8339(i) of such title) with any service performed by such individual before the date of enactment of this subsection in connection with this Act.”. . .

THE CHAIRMAN: Does the gentleman from Illinois (Mr. Michel) insist upon his point of order?

15. 122 CONG. REC. 9240, 9241, 9253, 9254, 94th Cong. 2d Sess.

16. The Grain Standards Act of 1976.

MR. [ROBERT H.] MICHEL [of Illinois]: I do, Mr. Chairman.

THE CHAIRMAN: The gentleman will state it.

MR. MICHEL: Mr. Chairman, I do so because, in my opinion, the amendment is not germane to this bill, which amends the U.S. Grain Standards Act, and says, on page 18:

The Secretary of Agriculture may hire (without regard to the provisions of title V, United States Code, governing appointments in the competitive service) . . . any individual who is licensed to perform functions on the date of enactment.

Then it is provided further that the individuals be of good moral character and that they be professionally qualified, et cetera.

The amendment of the gentlewoman from Louisiana (Mrs. Boggs), however, seeks to amend title 5, section 8339, 8334(c), and 8339(i).

Mr. Chairman, an amendment to another statute does not make it germane to this bill, and I would cite as my authority on that, the Record of August 17, 1972, page 28913, as follows:

Under rule 16, to a bill reported from the Committee on Agriculture providing price support programs for various agricultural commodities, an amendment repealing price-control authority for all commodities under an Act reported from the Committee on Banking and Currency is not germane. July 19, 1973, etc.

If the amendment of the gentlewoman from Louisiana were in the form of a bill, it would undoubtedly be referred to the Committee on Post Office and Civil Service, because it has to do with the retirement benefits of em-

ployees that would be selected by the section. . . .

MRS. BOGGS: . . . The language of section 6(e), I feel, is sufficiently broad and certainly the committee report language is sufficiently broad to insist that the workers who are of good moral character, as the bill says, could be employed without regard to various Civil Service regulations in order to quickly be able to put into effect a service that will be highly necessary for the Government if we indeed are going to take over the work of the private agencies and the State agencies.

Mr. Chairman, the language is sufficiently broad where it goes on to suggest that positions of at least comparable responsibility and rank to those enjoyed in the private and State systems be given to them and that in setting their pay within the appropriate grade, to the extent possible, cognizance should be taken in order to take into consideration these rank and longevity benefits, so that the employees had, under the system where employed, the benefits that they had under longevity. The benefit system under which they were employed certainly included an annuity provision, and I think that this language that this amendment extends to the bill simply points that out.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has read the language on the page of the committee report and section 6(e) of the bill already deals with the status of the Civil Service requirements with respect to appointments of Federal inspectors. The amendment does not directly amend title 5 U.S. Code, and it would further

affect the status of those Federal employees under the Civil Service law by permitting them to credit the prior private service to their Civil Service retirement if they become Federal employees. The amendment imposes a further condition upon their hiring.

Therefore, the Chair rules that as far as germaneness is concerned, the amendment is germane to section 6(e) of the bill, and overrules the point of order.

Eligibility for Agricultural Price Support Programs Conditional on Compliance With Requirements for Protection of Labor

§ 30.18 To an omnibus agricultural bill authorizing a variety of commodity price support and payment programs within the jurisdiction of the Agriculture Committee, but amended to include provisions on subjects within the jurisdiction of other committees, such as ethanol (within the jurisdiction of the Committee on Energy and Commerce) and cargo preference (the Committees on Merchant Marine and Fisheries and Foreign Affairs), an amendment conditioning eligibility in such price support and payment programs upon the furnishing by agricultural employers of specified labor protection (normally

within the jurisdiction of the Committee on Education and Labor) was held germane, as the bill had been amended to include matter beyond the exclusive jurisdiction of the Committee on Agriculture.

On Oct. 8, 1985,⁽¹⁷⁾ during consideration of H.R. 2100⁽¹⁸⁾ in the Committee of the Whole, the Chair, in overruling points of order against an amendment, reiterated the principle that committee jurisdiction is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committee's jurisdictions. The proceedings were as follows:

Amendment offered by Mr. Miller of California: At the end of the bill add a new Title XXI.

LIMITATION ON PARTICIPATION IN CERTAIN COMMODITY PRICE SUPPORT AND PAYMENT PROGRAMS

Sec. 21. (a) Any person who violates subsection (b), (c), or (d) shall be ineligible, as to any commodity produced by that person during the crop year which follows the crop year in which such violation occurs, for any type of price support, payment or any other program or activity described in any of paragraphs 1 through 5 of section 1202(a).

(b) Any agricultural employer shall provide the following to agricultural

17. 131 CONG. REC. 26548-51, 99th Cong. 1st Sess.

18. The Food Security Act of 1985.

employees engaged in hand-labor operations in the field, without cost to such employees:

(1) Potable drinking water. . . .

(2) With respect to toilets and handwashing facilities—

(A) one toilet and one handwashing facility provided for each group of 20 employees, or any fraction thereof;

(B) toilet facilities with doors which can be closed and latched from the inside and constructed to ensure privacy; . . .

MR. [ARLEN] STANGELAND [of Minnesota]: Mr. Chairman, I make the point of order that the Miller amendment is not germane to H.R. 2100. . . .

One underlying rationale for the rule of germaneness is to preclude the consideration of subjects that were not considered by the appropriate committee when the bill was being considered by the Agricultural Committee; this is H.R. 2100. No such hearings were held by the Committee on Agriculture.

The primary jurisdiction over the subject matter of the Miller amendment is with the Committee on Education and Labor. A bill similar to the Miller amendment, H.R. 3295, was cosponsored by my colleague from California on September 12, 1985, and was only referred to the Committee on Education and Labor.

This amendment is an attempt to circumvent the rules of the House in the consideration of legislation by a major committee and to introduce a new subject, labor standards, into the agricultural legislation. . . .

MR. [GEORGE] MILLER of California: . . . Clearly, the amendment is germane, because the amendment provides the conditions upon which the

benefits under this program shall be derived by farm owners throughout this country. It is the conditions upon which the agricultural benefits that are put together, the billions of dollars in this program, shall be distributed.

It is also germane because it does not expand the jurisdiction of American labor law, it does not expand any existing law, it is clearly stated and it is a well-ordered point of law that the OSHA Act, under which the Secretary of Labor has the ability to extend the protection for health and safety benefits, is well settled that it already applies to the agricultural field.

There are a number of provisions of OSHA which are already settled in the law as provided to them, and this is one of them. This is one of them. So clearly we have the ability to take already existing law, with no extension of authority, and condition the distribution of agricultural benefits and participations in this program on that already-existing law. . . .

This amendment simply says that those standards, which have already been promulgated, which have already been settled, which have already been published, shall be one of the conditioning of the reasons for which there will be distribution of the benefits of this program. . . .

MR. [RICHARD] ARMEY [of Texas]: Mr. Chairman, the gentleman's amendment imposes field sanitation regulations on certain agricultural employers; mandates that the head of the Federal Department, Secretary of Agriculture, delegate the making of further rules and the investigation of violations to the head of another Federal Department, the Secretary of Labor,

and renders violations of the regulations ineligible for the commodity price support.

First, the amendment does not meet the fundamental purpose of germaneness. The general rule is that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The basic purpose of this bill is to reauthorize the commodity and Farm Credit Programs and the Food Stamp Programs. Regarding the commodity price supports, the bill's objective is to bring crop price supports closer to market prices in order to make U.S. crops more competitive in the world market and additionally, as a result, to continue to protect farm income in certain ways.

There is no logical connection between the fundamental purpose of this bill and the basic purpose behind the gentleman's amendment. . . .

In effect, his amendment's real purpose is to establish a new, special occupational health and safety statute applicable to a limited class of agricultural workplaces. His amendment does not seek to further the legislative end of the matter sought to be amended but, rather, he is using the vehicle of the Commodity Price Support Program to simply enact his new agricultural field sanitation law and to create a penalty device to enforce it. . . .

MR. MILLER of California: Mr. Chairman, on the point of order raised, let us talk about whether or not this amendment is fundamental to this legislation that was raised by the gentleman from Texas. The fact of the matter is, this is absolutely fundamental to this legislation. The pur-

poses of this legislation are to determine the conditions and the basis on which the benefits under this program, whether it is an allotment program that we just determined here or whether it is the Commodity Program, whether it is support crisis, crop insurance, loans that are made to the agricultural community, the terms and conditions upon which these benefits will be made. . . .

This bill is riddled with conditions upon which those benefits will be addressed or which those benefits will be distributed. So this adds nothing new in terms of new law. It simply provides an additional benefit. If you read through this legislation, throughout the legislation, there are conditions placed upon the size of the farm, the wealth of the farmers, the kind of land they till, the kind of land they set aside, whether or not they participate, whether or not they ship their crops overseas on American bottoms or not. All of those are conditions because we do not allow billions and billions of dollars to be distributed without some say so. So I suggest to you that is absolutely germane, Mr. Chairman, to have this condition be made a part of this legislation and a condition under the existing programs on which the benefits are distributed. . . .

THE CHAIRMAN:⁽¹⁹⁾ The Chair is prepared to rule on the points of order. . . .

The gentlemen from Minnesota and Texas make a point of order that the amendment offered by the gentleman from California [Mr. Miller] is not germane to the bill. Since the amendment is in the form of a new title to be in-

19. David E. Bonior (Mich.).

serted at the end of the bill, the Chair must consider the relationship of the amendment to the bill as a whole and as modified by the Committee of the Whole. The amendment would condition the availability of price support and payment programs authorized by the bill upon the furnishing by certain agricultural employers of specified labor protections. While it is true that jurisdiction over labor standards for agricultural employees is a matter within the purview of the Committee on Education and Labor and while the bill contains subject matter primarily within the jurisdiction of the Committee on Agriculture, the bill, as amended, also includes provisions within the jurisdiction of other committees including the Committee on Energy and Commerce, on ethanol, the amendment of Mr. Leach, the Committee on Merchant Marine and Fisheries which had the question of cargo preference and also the Committees on Ways and Means and Foreign Affairs. As indicated in Deschler's Procedure, chapter 28, section 4.1, committee jurisdiction over the subject of an amendment is not the exclusive test of germaneness where the proposition being amended contains provisions so comprehensive as to overlap several committees' jurisdictions.

The Chair is also aware that regulations have been ordered to be promulgated by the Secretary of Labor pursuant to existing law to accomplish the purpose of the amendment. This situation is similar to the precedent cited in Deschler's chapter 28, section 23.6 [see Sec. 30.14, supra], where, to an omnibus agricultural bill, an amendment prohibiting any price support payments under the bill unless such pro-

ducers are certified by the Secretary of Labor to be in compliance with applicable health and safety laws was held to be germane. For these reasons the question that was raised by the gentlemen from Minnesota and Texas on germaneness will not be sustained.

Expenditures for Missile System Made Contingent on Findings by Secretary of Defense as to Impact of Grain Sales

§ 30.19 To a title of a bill authorizing the procurement, research and development of certain military missile systems for one fiscal year, broadened by amendment to restrict deployment beyond that fiscal year of one system pending tests and requiring reports to Congress, an amendment permanently making expenditure of any funds for that missile system contingent upon findings by the Secretary of Defense with respect to the impact of United States grain sales on Soviet military preparedness was held to be not germane, since it was an unrelated contingency involving agricultural exports.

During consideration of H.R. 2969 in the Committee of the

Whole on July 21, 1983,⁽²⁰⁾ the Chair, in sustaining a point of order against the amendment described above, reaffirmed that it is not germane to make the authorization of funds in a bill contingent upon unrelated events or policy determinations. The pending title of the bill⁽¹⁾ and the ensuing proceedings were as follows:

TITLE III—LAND-BASED STRATEGIC BALLISTIC MISSILE MODERNIZATION PROGRAM

PROCUREMENT OF MX MISSILE

Sec. 301. In addition to the amount authorized to be appropriated in section 103 for procurement of missiles for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for procurement of missiles the sum of \$2,557,800,000 to be available only for the MX missile program. . . .

Sec. 302. (a) In addition to the amount authorized to be appropriated in section 201 for research, development, test, and evaluation for the Air Force, there is hereby authorized to be appropriated to the Air Force for fiscal year 1984 for research, development, test, and evaluation for the land-based strategic ballistic missile modernization program—

(1) \$1,980,389,000 to be available only for research, development, test, and evaluation for the MX missile program; and. . . .

THE CHAIRMAN PRO TEMPORE:⁽²⁾ Are there amendments to title III?

20. 129 CONG. REC. 20184, 20187, 20189, 20190, 98th Cong. 1st Sess.

- 1. *Id.* at p. 20050, July 20, 1983.
2. Marty Russo (Ill.).

Amendment offered by Mr. Price: Page 16, after line 18, insert the following new section:

LIMITATION ON EXPENDITURE OF FUNDS

Sec. 303. (a) None of the funds authorized by clause (2)) of section 302(a) may be obligated or expended for research, development, test, or evaluation for an intercontinental-range mobile ballistic missile that would weigh more than 33,000 pounds or that would carry more than a single warhead.

(b) The Secretary of Defense may not deploy more than 10 MX missiles until—

(1) demonstration of subsystems and testing of components of the small mobile intercontinental ballistic missile system (including missile guidance and propulsion subsystems) have occurred. . . .

(d)(1) Not later than January 15 of each year from 1984 through 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report—

(A) on the progress being made with respect to the development and deployment of the MX missile system.

The amendment was agreed to.

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

The Clerk read as follows:

Amendment offered by Mr. Weaver: At the end of title III, add the following new section:

LIMITATION ON MX PROGRAM

Sec. 303. No funds may be expended for the MX missile program during any fiscal year during which United States grain suppliers make sales of grain to the Soviet Union, except that the preceding limitation

shall not apply during any fiscal year if the Secretary of Defense certifies to Congress that the sale of grain to the Soviet Union by United States grain suppliers during that year will not assist the Soviet Union in preparing, maintaining, or providing for its armed forces. . . .

MR. [MELVIN] PRICE [of Illinois]: . . . I make a point of order that the amendment is not germane to title III. . . .

The Chairman Pro Tempore: The Chair is prepared to rule.

The Chair rules that the amendment is not germane to title III. Although title III was originally a 1-year authorization, it has been amended by the Price amendment to go beyond fiscal year 1984.

The amendment of the gentleman from Oregon (Mr. Weaver) would be a permanent change in the law making the MX program conditional upon an unrelated contingency involving agricultural exports. Under the precedents the amendment is not germane and the Chair sustains the point of order of the gentleman from Illinois (Mr. Price).

Members' Salary Adjustments Based on Changes in Public Debt

§ 30.20 To a federal employees pay bill providing, in part, a salary increase for Members of Congress, an amendment relating the Members' salary to a certification of the level of the national public debt and requiring a yearly ad-

justment of such salary to reflect any increase or decrease in the debt, was held to be not germane.

In the 88th Congress, a bill⁽³⁾ was under consideration relating to salary increases for federal employees. The following amendment was offered to the bill:⁽⁴⁾

Amendment offered by Mr. Brock: On page 41, line 11, amend section 204 by adding a new subsection, Subsection (B) to read as follows: . . .

(A) Such rate of compensation shall be increased at the rate of 1 per centum per annum for each \$1,000,000,000 by which the public debt was decreased, as certified by the Secretary of the Treasury.

(B) Such rate of compensation shall be decreased at the rate of 1 per centum per annum for each \$1,000,000,000 by which the public debt was increased, as certified by the Secretary of the Treasury.

A point of order was raised against the amendment, as follows:⁽⁵⁾

MR. [MORRIS K.] UDALL [of Arizona]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to this title or to this bill. The subject matter of the amendment is obviously one within the jurisdiction of the Committee on Ways and Means.

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

3. H.R. 8986 (Committee on Post Office and Civil Service).
4. 110 CONG. REC. 5126, 88th Cong. 2d Sess., Mar. 12, 1964.
5. *Id.* at p. 5127.

MR. [WILLIAM E.] BROCK [3d, of Tennessee]: Mr. Chairman, we have in section 204 on page 41 offered an amendment to the Legislative Reorganization Act, United States Code 31. This amendment applies to that particular act and is an addition to that section. It would simply add an additional subsection; therefore, I think it is germane.

The Chairman,⁽⁶⁾ in ruling on the point of order, stated:

The amendment of the gentleman from Tennessee clearly sets forth additional tests and duties which are not contemplated in the original act. Therefore, the Chair is constrained to sustain the point of order.

Washington Metropolitan Area Transit Compact—Submission of Certain Proposals to Committees on Judiciary Required

§ 30.21 To a bill granting the consent of Congress for Virginia, Maryland, and the District of Columbia to amend the Washington Metropolitan Area Transit Compact to establish a transit authority for the region, a committee amendment requiring the submission of certain proposals to and approval by the House and Senate Committees on the Judiciary (but not constituting a rules

6. Chet Holifield (Calif.).

change), thereby adding another condition to those contained in the bill with respect to the establishment of a transit authority, was held germane and in order.

In the 89th Congress, a bill⁽⁷⁾ was under consideration to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region. The bill provided in part:

H.J. RES. 1163

Joint resolution to grant the consent of Congress for the States of Virginia and Maryland and the District of Columbia to amend the Washington Metropolitan Area Transit Regulation Compact to establish an organization empowered to provide transit facilities in the National Capital Region and for other purposes and to enact said amendments for the District of Columbia

Whereas Congress heretofore has declared in the National Capital Transportation Act of 1960 (Public Law 86-669, 74 Stat. 537) and in the National Capital Transportation Act of 1965 (Public Law 89-173, 79 Stat. 663) that a coordinated system of rail rapid tran-

7. H.J. Res. 1163 (Committee on the Judiciary); see 112 CONG. REC. 25668-77, 89th Cong. 2d Sess., Oct. 7, 1966.

sit, bus transportation service, and highways is essential in the National Capital Region for the satisfactory movement of people and goods . . . the comfort and convenience of the residents and visitors to the Region, and the preservation of the beauty and dignity of the Nation's Capital and that such a system should be developed cooperatively by the Federal, State, and local governments of the National Capital Region, with the costs of the necessary facilities financed, as far as possible, by persons using or benefiting from such facilities and the remaining costs shared equitably among the Federal, State, and local governments. . . .

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby consents to, adopts and enacts for the District of Columbia an amendment to the Washington Metropolitan Area Transit Regulation Compact, for which Congress heretofore has granted its consent (Public Law 86-794, 74 Stat. 1031, as amended by Public Law 87-767, 76 Stat. 764) by adding thereto title III, known as the Washington Metropolitan Area Transit Authority Compact (herein referred to as title III), substantially as follows:

“TITLE III

Article I

“Definitions

“1. As used in this Title, the following words and terms shall have the following meanings, unless the context clearly requires a different meaning:

“(a) ‘Board’ means the Board of Directors of the Washington Metropolitan Area Transit Authority. . . .

“Adoption of mass transit plan

“15. (a) Before a mass transit plan is adopted, altered, revised or amended, the Board shall transmit such proposed plan, alteration, revision or amendment for comment to the following and to such other agencies as the Board shall determine:

“(1) the Commissioners of the District of Columbia, the Northern Virginia Transportation Commission, and the Washington Suburban Transit Commission;

“(2) the governing bodies of the Counties and Cities embraced within the Zone;

“(3) the highway agencies of the Signatories . . .

“(9) the Northern Virginia Regional Planning and Economic Development Commission;

“(10) the Maryland State Planning Department; and

“(11) the private transit companies operating in the Zone and the Labor Unions representing the employees of such companies and employees of contractors providing service under operating contracts. . . .

“Effective date; execution

“86. This Title shall be adopted by the signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with laws of the State in which the filing is made, and one copy shall be filed and retained in the archives of the Authority upon its organization. This Title shall become effective ninety days after the enactment of concurring leg-

isolation by or on behalf of the District of Columbia, Maryland and Virginia and consent thereto by the Congress and all other acts or actions have been taken, including the signing and execution of the title by the Governors of Maryland and Virginia and the Commissioners of the District of Columbia. . . .

“Section 6. (a) The right to alter, amend or repeal this Act is hereby expressly reserved.

“(b) The Authority shall submit to Congress and the President copies of all annual and special reports made to the Governors, the Commissioners of the District of Columbia and/or the legislatures of the compacting States.

“(c) The President and the Congress or any committee thereof shall have the right to require the disclosure and furnishing of such information by the Authority as they may deem appropriate. Further, the President and Congress or any of its committees shall have access to all books, records and papers of the Authority as well as the right of inspection of any facility used, owned, leased, regulated or under the control of said Authority.”

An amendment was offered to the bill which sought to transfer duties and functions to the specified new transit authority 'whenever the Authority demonstrates to the satisfaction of the Committees on the Judiciary of the United States Senate and House of Representatives a readiness to set into operation a workable financial plan, a physical plan for a regional transit system, and a

program for taking over the functions and duties of the Agency.”⁽⁸⁾ A point of order was raised against the amendment, as follows:

MR. [HOWARD W.] SMITH [of Virginia]: Mr. Chairman, I make the point of order that the amendment is not germane in that the amendment proposes duties on a committee of Congress that are legislative, and should be resolved by the Congress itself, and not left to the future for some committee to make decisions that would change vital functions.

The Chairman,⁽⁹⁾ in ruling on the point of order, stated:

. . . The Chair holds that the amendment is germane because it provides a different condition in the matter of agreement to the compact.

As to the question of constitutionality, the Chair holds that the Chair does not pass upon a constitutional question. . . .

Congressional Intent Regarding Award of Construction Contracts

§ 30.22 To that section of a bill stating the congressional intent of proposed legislation, an amendment to insert a further statement of intent was held to be germane.

In the 84th Congress, a bill⁽¹⁰⁾ was under consideration com-

8. *Id.* at p. 25677.

9. Charles M. Price (Ill.).

10. H.R. 10660 (Committee on Public Works).

prising the Federal Highway and Highway Revenue Acts of 1956. The bill contained the following declaration of intent:⁽¹¹⁾

(c) Declaration of intent: Recognizing it to be in the national interest to foster and accelerate the construction of a safe and efficient system of Federal-aid highways in each State, it is hereby declared to be the intent of Congress progressively to increase the annual sums herein authorized . . . by amounts which in each succeeding year shall provide an increase over the total amounts authorized for each immediately preceding year of not less than \$25 million. . . .

The following amendment was offered to the bill:⁽¹²⁾

Amendment offered by Mr. Multer: Page 4, line 14, insert: 'It being in the national interest to preserve and expand full and free competition, it is further declared to be the intent of Congress to realize this goal that the actual and potential capacity of small business be encouraged and developed by permitting this segment of our economy to aid in the construction of such a safe and efficient system of Federal highways and that in order to carry out these policies and the intent of Congress the Government should aid, counsel, assist, and protect, insofar as possible, the interest of small business concerns in order to preserve free competitive enterprise, to assure that a fair proportion of the contracts awarded in the construction of a safe and ef-

ficient system of Federal-aid highways, and that a fair proportion of the total contracts and purchases for supplies and services for such Federal-aid highways be placed with small business enterprises to maintain and strengthen the overall economy of the Nation.'

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

MR. [GEORGE H.] FALLON [of Maryland]: . . . (M)y point of order is that these contracts are not let by the Federal Government; they are let by State governments and here we are directing the State governments on how they should award contracts. . . .

MR. [ABRAHAM J.] MULTER [of New York]: . . . The bill before the House already has a similar provision affecting what will be done with these highways after they are constructed. . . . In the report under "Free Competition" you will find recognition of the principle in part. This is merely an extension of that same principle, and a further declaration that we should aid small business.

THE CHAIRMAN:⁽¹³⁾ In the opinion of the Chair this is not a direction. It is merely an indication of the intention of the Congress. It is not binding on anybody and for that reason the point of order is overruled.

Funds for Procurement Contracts—Availability Conditional on Compliance With Laws Regarding Discrimination .

§ 30.23 An amendment conditioning the availability to

11. See 102 CONG. REC. 7178, 84th Cong. 2d Sess., Apr. 27, 1956.

12. *Id.* at p. 7211.

13. Francis E. Walter (Pa.).

certain recipients of funds in an authorization bill upon their compliance with federal law not otherwise applicable to those recipients and within the jurisdiction of other House committees may be ruled out as not germane; thus, an amendment to the Defense Department authorization bill, prohibiting the use of funds for certain procurement contracts with contractors, including foreign contractors, who do not comply with all domestic United States laws regarding discrimination, was held not germane since requiring compliance with laws which were not otherwise applicable to the recipients of those funds, which were within the jurisdiction of other committees, and which were not related to the bill.

During consideration of H.R. 2969 in the Committee of the Whole on June 16, 1983,⁽¹⁴⁾ the Chair sustained a point of order against the following amendment:

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

14. 129 CONG. REC. 16059, 16060, 98th Cong. 1st Sess.

Amendment offered by Mr. Vento: Page 7, after line 14, insert the following new subsection:

(e) No funds authorized under this title may be used in connection with the European Distribution System Aircraft unless, after preliminary selection of a contractor for production of such Aircraft but before final selection and announcement of the contractor selected, the Inspector General of the Department of Defense certifies to the Secretary of the Air Force that—

(1) the employment practices of the contractor selected meet all applicable United States laws regarding discrimination on the basis of religion or race; and

(2) the selection of that contractor was not determined by prior foreign sales of United States-produced defense equipment. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I make a point of order that the amendment is not germane to the subject matter of the bill.

The amendment deals with the employment practices of foreign contractors not under the jurisdiction of U.S. law and as such the amendment deals with matters not within the jurisdiction of the House Armed Services Committee.

The amendment, Mr. Chairman, also requires a determination as to whether the selection of a foreign contractor was determined by prior foreign sales of U.S.-produced defense equipment.

Foreign military sales issues are also not within the jurisdiction of the Armed Services Committee. . . .

MR. VENTO: . . . Mr. Chairman, the precedents of the House indicate that this amendment is germane and should be ruled in order as a legiti-

mate limitation on the authority of the Secretary of the Air Force to procure certain aircraft.

The amendment would require the Department to make certain certifications before selecting a final contractor for an aircraft specifically authorized by this legislation. The amendment on its face does not attempt to expand the applicability of law regarding nondiscrimination in employment to new areas, instead it conditions the use of the authorized funds upon a certification of the employment practices of the selected contractor. Precedence is found for this in Deschler's Procedure, chapter 28, section 23.6 ruling of the Chair, August 5, 1970. In that instance, the Chair ruled that, to a bill providing for an annual ceiling on subsidies for crop producers, an amendment prohibiting those payments unless the Secretary of Labor certified such producers to be in compliance with applicable health and safety laws was germane.

In addition, this amendment limits the authority granted under this legislation. General direction on this can be found in Deschler's Procedure, chapter 28, section 25.1. A ruling of the Chair on July 17, 1978, Deschler's Procedure, chapter 28, section 26.1 relates more specifically to the pending amendment.

. . . an amendment limiting the exercise of a discretionary power conferred in a bill may be germane even though it incorporates as a term of measurement a qualification or condition applicable to entities beyond the scope of the bill.

Finally, the restriction contained in the amendment relates solely to funds authorizing in this bill and does not apply to another category of funds, or

funds authorized in other bills or in previous years. Generally, this is stated in Deschler's Procedure, chapter 28, section 27.1. A ruling of the Chair on July 26, 1979, Deschler's Procedure, chapter 28, section 27.8 more specifically parallels this situation.

For these reasons, Mr. Chairman, I would urge that this amendment is germane and places a legitimate condition and restriction on the use of funds authorized in this bill. . . .

THE CHAIRMAN PRO TEMPORE:⁽¹⁵⁾ The Chair would suggest to the gentleman from Minnesota, the precedents that he read apply to domestic recipients who are already covered by applicable U.S. law rather than foreign recipients to whom U.S. laws are not applicable. The Chair would under the precedents be constrained to sustain the point of order by the gentleman from New York.

Liquidation of Assets of Federal Credit Agencies—Amendment Providing Government Guarantees on Obligations

§ 30.24 To a bill enabling certain federal credit agencies to enter into trust agreements with the Federal National Mortgage Association and permitting that Association to sell participation certificates based on a pool of the credit agencies' loans, an amendment providing that such participation certifi-

15. John P. Murtha (Pa.).

cates be obligations guaranteed as to principal and interest by the United States was held to be germane.

On May 18, 1966, the Committee of the Whole was considering the Participation Sales Act of 1966,⁽¹⁶⁾ which was a bill to promote private financing of credit needs and to provide for an efficient method of liquidating financial assets held by federal credit agencies. An amendment was offered⁽¹⁷⁾ as described above. A point of order was raised against the amendment, as follows:

MR. [WRIGHT] PATMAN [of Texas]:
Mr. Chairman, I make the point of order that the gentleman from New Jersey is trying to change the national debt limit. . . .

Mr. Chairman, the law is very plain, I believe, as to what shall be included in the public debt. . . .

. . . [T]his is an attempt to change the law relating to the public debt in a bill that does not contain the subject matter now pending before the House.

The Chairman,⁽¹⁸⁾ in ruling on the point of order, stated:

In the opinion of the Chair, the language of the pending amendment would be germane to the pending bill and the Chair overrules the point of order.

16. H.R. 14544 (Committee on Banking and Currency).

17. 112 CONG. REC. 10908, 89th Cong. 2d Sess., May 18, 1966.

18. Eugene J. Keogh (N.Y.).

Conditions Attached to Loan Guarantees for Chrysler Corporation

§ 30.25 Where a proposal authorized loan guarantees to the Chrysler Corporation, for purposes of enabling the corporation to remain economically viable and to continue to furnish goods and services, thereby avoiding adverse effects on the economy and domestic employment, but set a variety of conditions on such loan guarantees (such as a prohibition against paying dividends during the term of the loan guarantee), an amendment providing that during that term the corporation shall not purchase or develop manufacturing facilities outside the United States was held germane as a further condition related to the stated purposes of the bill as a whole.

During consideration of H.R. 5860 in the Committee of the Whole on Dec. 18, 1979,⁽¹⁹⁾ the Chair overruled a point of order against the amendment described

19. 125 CONG. REC. 36791-93, 36818, 36819, 96th Cong. 1st Sess.

above. The proceedings were as follows:

AUTHORITY FOR COMMITMENTS FOR
LOAN GUARANTEES

Sec. 4. (a) The Board, on such terms as it deems appropriate, may make commitments to guarantee either the principal amount of loans to a borrower or the principal amount of, and interest on, loans to a borrower. A commitment may be made only if, at the time the commitment is issued, the Board determines that—

(1) there exists an energy-savings plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrowers;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof . . .

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranteed assistance of at least \$1,830,000,000—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale or securities, or otherwise after October 17, 1979 . . .

(6) the Board has received assurances from existing creditors that they will continue to waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4). . . .

TERMS AND CONDITIONS OF LOAN
GUARANTEES

Sec. 8. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's prior consent. . . .

(4) The Corporation may not pay any dividends on its common or preferred stock during the period beginning on the date of the enactment of this Act and ending on the date on which loan guarantees issued under this Act are no longer outstanding . . .

MR. [FORTNEY H.] STARK [of California]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute. . . .

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Stark to the amendment in the nature of a substitute offered by Mr. Moorhead of Pennsylvania: At the end of section 4 of the matter proposed to be inserted, insert the following new subsection:

“(o) During the period in which any loan guarantee is outstanding

under this Act, the Corporation shall not spend any funds to purchase or expand manufacturing facilities which are not located in the United States.”

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I make a point of order that the amendment is not germane. . . .

[T]he rules of the House require that the amendment be germane to both the bill and the amendment to which it is offered, as well as to the particular portion of the amendment to which the proposal is offered. This amendment, I think, fails to meet all three of these requirements.

The particular section of the amendment to which this amendment is offered reads as follows: “Authority for Commitments for Loan Guarantees.” This section deals with two things: No. 1, that the builder of the automobile to receive the loan guarantee shall have an energy savings plan. That is the first one. It shall have such a plan as a part of both its operating and its financial plan.

The section subsequently goes on and lays down what goes into a satisfactory financing plan. If the Chair will follow this, he will find that the particular section deals with the financing plan clear through the section and deals with the actions of the corporation which will be taken to satisfy a satisfactory financing plan and a plan which will assure the protection of the United States and the interest of the taxpayers in the loan.

The proposal that is offered by the gentleman from California (Mr. Stark) dictates what shall be done by Chrysler, not what will respond to the requirements of this particular section

which deal with the financial capability and financial ability of the corporation to repay and as to what constitutes a satisfactory financing plan by the corporation. . . .

Mr. Chairman, I point out that the amendment is not germane because it does not fall in the category of conditions that are met in . . . the bill, the amendment to the bill or the particular section to which it is made.

MR. STARK: Mr. Chairman, if the Chair will bear with me, my amendment, I believe, is to section 40. The gentleman from Michigan is quite correct that that is the authority for commitments under loan guarantees. On page 4 of the committee print of the amendment in the nature of a substitute, on line 14, under the sections which the gentleman from Michigan stated:

. . . the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof.

Going along further, under the financial plan, which the gentleman said should be submitted, on page 6, paragraph (8):

. . . the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the corporation.

I certainly presume that domestic economic viability of the corporation relates to expenditures in the United States and not overseas.

So I would submit that my amendment deals directly with assuring that the intent of section (4) will be carried

out by the Board and, therefore, is of the most germane nature and very important to the bill. . . .

THE CHAIRMAN: ⁽²⁰⁾ . . . [T]he Chair is ready to rule.

The Chair feels that the argument made by the gentleman from California (Mr. Stark) is to the point, that both the provisions mentioned are pertinent, and that the amendment is pertinent to the general purposes of the Moorhead amendment in the nature of a substitute, as indicated by related provisions in the section in question and especially by the substitute as a whole.

Therefore, the Chair overrules the point of order.

Credit Terms for Assistance to India—Amendment Providing That Interest Paid Be Available for Certain State Department Expenditures

§ 30.26 To a bill authorizing assistance to India on specified credit terms, an amendment providing that interest payable by India on any debt incurred under the program be deposited in a special account in the Treasury and be made available for certain types of expenditure by the Department of State was held to be not germane.

In the 82d Congress, a bill⁽¹⁾ was under consideration relating

20. Richard Bolling (Mo.).

1. H.R. 3791 (Committee on Foreign Affairs).

to emergency food relief assistance to India. An amendment was offered to the bill by Mr. William G. Bray, of Indiana: ⁽²⁾

Sec. 4(a) Any sums payable by the Government of India, under the interest terms agreed to between the Government of the United States and the Government of India . . . shall, when paid, be placed in a special deposit account in the Treasury of the United States, notwithstanding any other provisions of law, to remain available until expended. This account shall be available to the Department of State for the following uses:

(1) Allocation, for designated educational, agricultural, experimental, scientific, medical, or philanthropic activities, to American institutions engaged in such activities in India. . . .

A point of order was raised against the amendment, as follows: ⁽³⁾

MR. [JOHN M.] VORYS [of Ohio]: . . . I submit the gentleman's amendment goes far beyond the scope of the legislation. It introduces a great deal of new matter and provides for an appropriation in a legislative act, and is therefore not in order. . . .

Mr. Jacob K. Javits, of New York, who was among those speaking in defense of the amendment, stated:

. . . We are providing for a loan in the bill . . . and it appears to me the

2. 97 CONG. REC. 5837, 82d Cong. 1st Sess., May 24, 1951.

3. *Id.* at p. 5838.

Chair could consistently sustain this amendment on the ground that it is a direction to the negotiators as to what they should write into the terms and conditions of that loan in making their agreement.

The Chairman,⁽⁴⁾ in ruling on the point of order, stated:

The gentleman from Indiana offers an amendment, which the Clerk has reported, providing certain conditions relating to the assistance proposed to be granted under the pending bill; in addition it proposes the creation of a fund and makes available those funds for certain specific purposes.

The gentleman from Ohio makes a point of order against the amendment on two grounds: One, that it is not germane; two, that it seeks to make an appropriation.

The Chair would call attention to page 88 of Cannon's Precedents where the following statement is made:

The mere fact that an amendment proposes to attain the same end sought to be attained by the bill to which offered—

Which is the contention of the gentleman from Indiana—

does not render it germane. . . .

The Chair . . . sustains the point of order made by the gentleman from Ohio in both respects⁽⁵⁾

4. Albert A. Gore (Tenn.).
5. For discussion of the prohibition against appropriations in legislative bills, see Ch. 25 Sec. 4, *supra*.

Humanitarian Assistance to Vietnam War Victims—Amendment Prohibiting Specified Uses of Assistance in High Unemployment Areas in United States

§ 30.27 To a substitute dealing with humanitarian and evacuation assistance to war victims of South Vietnam, an amendment prohibiting the use of such assistance to relocate or to create employment opportunities for evacuees in high unemployment areas in the United States was held to raise issues beyond the scope of the bill and was ruled out as not germane.

On Apr. 23, 1975,⁽⁶⁾ during consideration of H.R. 6096,⁽⁷⁾ in the Committee of the Whole, an amendment was offered to which a point of order was made and sustained. The proceedings were as follows:

MR. [WILLIAM] CLAY [of Missouri]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Clay to the amendment offered by Mr.

6. 121 CONG. REC. 11512, 94th Cong. 1st Sess.
7. The Vietnam Humanitarian Assistance and Evacuation Act.

Eckhardt, as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Add a new section to the end of the bill which reads:

“No funds authorized under this act shall be used directly or indirectly to transport Vietnamese refugees to any congressional district or create employment opportunities in any congressional district where the unemployment rate exceeds the national unemployment rate as defined by the Bureau of Labor statistics of the United States Department of Labor.”. . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. It goes greatly beyond the scope of the bill and the amendment in the nature of a substitute. Nothing in the bill or in the amendment in the nature of a substitute deals with the national unemployment rate. . . .

MR. CLAY: . . . The amendment simply imposes a condition that none of the money may be used, or a limitation on the way the money will be spent. I do not know how it goes beyond the scope of this bill or the amendment in the nature of a substitute.

THE CHAIRMAN:⁽⁸⁾ The Chair is ready to rule. For the reasons stated by the gentleman from Pennsylvania (Mr. Morgan) and for the fact that the contingency set forth in the gentleman's amendment is not related to the purposes of the bill, the point of order is sustained.

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

Establishment of Petroleum Reserves—President Given Authority Pursuant to Any Program “Subsequently Authorized” by Congress

§ 30.28 To a proposition reported from the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands, including naval petroleum reserves, an amendment in the nature of a substitute containing similar provisions and authorizing the President to place petroleum reserves in strategic storage facilities “pursuant to any program subsequently authorized by Congress” was held germane, since it did not itself establish a strategic storage facility (a matter within the jurisdiction of the Committee on Armed Services) but merely conditioned the President's authority upon separate enactment of such program.

On July 8, 1975,⁽⁹⁾ during consideration of H.R. 49, Chairman Neal Smith, of Iowa, overruled a

9. 121 CONG. REC. 21631–33, 94th Cong. 1st Sess.

point of order against the following amendment:

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

The Clerk read as follows:

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

That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States. . . .

Sec. 2. No national petroleum reserve that includes all or part of an existing naval petroleum reserve shall be established without prior consultation with the Secretary of Defense, and when so established, the portion of such naval reserve included shall be deemed to be excluded from the naval petroleum reserve. . . .

(d) Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that not more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities. . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress

on his plan for exploration of such reserve, *Provided*, That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve. . . .

MR. [F. EDWARD] HÉBERT [of Louisiana]: Mr. Chairman, I have a point of order against the amendment on the basis that the amendment offered includes a sentence relating to strategic defense. The original bill, H.R. 49, has no such reference.

THE CHAIRMAN: Will the gentleman specify the language he refers to?

MR. HÉBERT: The language which I read, from section (d):

Pursuant to any program hereafter authorized by the Congress, the President may, in his discretion, direct that no more than 25 percentum of the oil produced from such national petroleum reserves shall be placed in strategic storage facilities or exchanged for oil and gas products of equal value which shall be placed in such strategic storage facilities.

I point out, Mr. Chairman, that the original bill, as presented to the Committee on Rules, did not contain any such reference at all. Therefore, it is not germane. . . .

MR. MELCHER: Mr. Chairman, I feel that the section that the gentleman from Louisiana (Mr. Hébert) has referred to is indeed germane to the bill. It involves the discretionary right of the President to designate a portion of the Elk Hills production for strategic storage reserves. It deals with production of Elk Hills oil, and all through the bill we were determining what we could do in the best interest of the Nation. . . .

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

The Chair would note that the language of the Melcher amendment referred to states "pursuant to any program hereafter authorized by the Congress."

The Melcher amendment does not set up a program nor authorize a program for strategic storage of petroleum; it merely refers to a program which may hereafter be authorized. If it did attempt to authorize a program not related to the committee amendment, then the decision on the point of order would be different.

However, since it does not, the point of order is overruled.

Assistance to Community Health Centers—Denial to Health Centers Located in States Which Permit Public Bath Houses

§ 30.29 It is not germane to condition assistance to a particular class of recipient covered by a bill upon an unrelated contingency, such as action or inaction by another class of recipient or agent not covered by the bill; thus, to a bill only relating to federal funding and programs for community and migrant health centers not operated by state governments, an amendment denying assistance under the bill to any health center located in any

state which permitted the operation of public bath houses was ruled out as imposing a nongermane contingency to bar the use of funds, since state governments were not recipients of funds in, or otherwise affected by, the provisions of the bill.

During consideration of H.R. 2418 (Health Services Amendments of 1985) in the Committee of the Whole on Mar. 5, 1986,⁽¹⁰⁾ the Chair sustained a point of order against the following amendment:

MR. [WILLIAM E.] DANNEMEYER [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 5, after line 23 insert the following:

Sec. 7. Grant Condition.

Effective 6 months after the date of the enactment of this Act, no grant may be made under section 329 of the Public Health Service Act for a migrant health center or under section 330 of such Act for a community health center if such center is located in a State which permits the operation of any public bath which is determined by the State or a local health authority to be hazardous to the public health or used for sexual relations between males. . . .

MR. [HENRY A.] WAXMAN [of California]: Mr. Chairman, I assert my point of order.

10. 132 CONG. REC. 3613, 99th Cong. 2d Sess.

Mr. Chairman, the amendment offered by our colleague, the gentleman from California, is not germane to this bill. This bill provides for the operation of community health centers and migrant health centers. To our knowledge, no community or migrant health centers are operated by State governments. This amendment would delay the operation of the legislation until a contingency not related to the purposes of this bill is carried out by States. This amendment is not germane. . . .

MR. DANNEMEYER: . . . Mr. Chairman, the point of order that is being asserted by my friend from Los Angeles may have some merit if the prescription of the amendment had general applicability to all health care funds. It does not.

It is limited exclusively to any funding that may be available under the two programs. Community Health Centers and Migrant Health Centers. With that limitation, I think it is most appropriate to say in this authorization bill that none of the funds can be used unless, within 6 months, States of the Union who seek to apply for these funds have shut down bathhouses in their jurisdictions. In that narrow area, I believe it should pass muster as having germaneness and applicability.

MR. WAXMAN: Mr. Chairman, if I might be heard further on this amendment. An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. The funds granted under this program are to private entities, not to State governments.

To permit that those funds be cut off to private entities because of the inaction by State government is not ger-

mane because it is a contingency that cannot be met by the organization to which the funds would be granted. Chapter 28, section 24, provides that an amendment making the implementation of Federal legislation contingent upon the enactment of unrelated State legislation is not germane.

MR. [BARNEY] FRANK [of Massachusetts]: . . . There is reference in this amendment that would close down these programs if something was "used for sexual relations between males." There is nothing in this bill dealing with that. It introduces an entire new subject and would require the ascertainment of a fact that has nothing to do with the subject matter of this bill and would delay the enactment of the program on that basis. . . .

THE CHAIRMAN:⁽¹¹⁾ The Chair is prepared to rule.

This bill, H.R. 2418, is a categorical grant program. The money that is authorized under the bill, if appropriated, goes to community and migrant health centers and not to the States. The bill was narrowed earlier in these proceedings to remove from the bill the only paragraph that referred to the States.

This amendment by the gentleman from California, Mr. Dannemeyer, seeks to impose a condition upon a State which must be met by the State government before community health centers that may be in that State or partly in that State can receive the funds. States are not recipients of the funds provided in the bill or otherwise within the purview of the bill.

An earlier ruling of September 25, 1975, which appears in Deschler's Pro-

11. Neal Smith (Iowa).

cedures of the House at page 596, states, "That an amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination."

Therefore, the amendment is not germane and the point of order is sustained.

Grants for Improvement of Law Enforcement—Amendment To Require Establishment of Officers' Grievance System as Prerequisite

§ 30.30 To a bill authorizing the funding of a variety of programs which satisfy several stated requirements, in order to accomplish a general purpose, an amendment conditioning the availability of those funds upon implementation by their recipients of another program related to that general purpose is germane; thus, to a bill providing a comprehensive grant program for improvement of state and local law enforcement and criminal justice systems, including within its scope the subject of welfare of law enforcement officers, an amendment requiring states to enact a law enforcement officers' grievance system as a prerequisite to receiving grants under the bill was held to

come within the general subject of law enforcement improvement covered by the bill and was held germane.

During consideration of H.R. 8152⁽¹²⁾ in the Committee of the Whole on June 18, 1973,⁽¹³⁾ the Chair overruled a point of order against the following amendment:

The Clerk read as follows:

Amendments offered by Mr. Biaggi: Page 15, line 8, strike out "and".

Page 15, immediately after line 8, insert the following:

"(13) provide a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government and public agencies. . . .

"PART J—LAW ENFORCEMENT OFFICERS' GRIEVANCE SYSTEM AND BILL OF RIGHTS

"Sec. 701. Beginning one year after the date of enactment of this section, no grant under part B or part C of this title shall be made to any State, unit of general local government or public agency unless such State, unit of general local government, or public agency has established and put into operation a system for the receipt, investigation, and determination of complaints and grievances submitted by law enforcement officers of the State, units of general local government, and public agencies operating within the State and has enacted into law a 'law enforce-

12. The Law Enforcement Assistance authorization.

13. 119 CONG. REC. 20099-101, 93d Cong. 1st Sess.

ment officers' bill of rights, which includes in its coverage all law enforcement officers of the State, units of general local government and public agencies operating within the State.

"BILL OF RIGHTS

"The law enforcement officers' bill of rights shall provide law enforcement officers of such State, units of general local government, and public agencies statutory protection for certain rights enjoyed by other citizens. The bill of rights shall provide, but shall not be limited to, the following:

"(a) Political Activity by Law Enforcement Officers.—Except when on duty or when acting in his official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in political activity. . . .

"(i) In addition to any procedures available to law enforcement officers regarding the filing of complaints and grievances as established in this section, any law enforcement officer may institute an action in a civil court to obtain redress of such grievances." . . .

MR. [WALTER] FLOWERS [of Alabama]: Mr. Chairman, my point of order is based on the nongermaneness of the amendment offered by the gentleman from New York. . . .

On the point of order, Mr. Chairman, on germaneness, this embarks on an entirely new direction. It establishes rights and duties for law enforcement officers and personnel which are not a part of the thrust of the LEAA law. . . .

MR. [MARIO] BIAGGI [of New York]: . . . The fact of the matter is that this is consistent with the proposal being made today, as to establishing guidelines. Guidelines have been established in the past. . . .

This is just an extension. What we are trying to do is to include among all of the people of our country a particular segment that has been eliminated or disregarded.

This is a question of civil rights as much as any other question is, as it relates to anybody else.

So far as germaneness is concerned, I obviously have to disagree with the gentleman. We have many guidelines already established. This will establish another guideline. There is no imposition here on any State or political subdivision. It is a prerogative they can exercise.

If they seek Federal funds they must comply. Right now the same obligation is imposed upon them. If they seek Federal funds they must comply with the civil rights law and all the prohibitions we have imposed upon them. All we are doing is including the law-enforcement officers. . . .

THE CHAIRMAN:⁽¹⁴⁾ The Chair is ready to rule on the point of order raised by the gentleman from Alabama.

As indicated on page 4 of the committee report, a fundamental purpose of H.R. 8152 is to authorize Federal funding of approved State plans for law enforcement and criminal justice improvement programs. The bill attempts to address "all aspects of the criminal justice and law enforcement system—not merely police, and not merely the purchase of police hardware" and requires State plans to develop "a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State."

14. Dan Rostenkowski (Ill.).

The amendment offered by the gentleman from New York would require that State plans submitted for LEAA approval contain, in addition to the 13 requirements spelled out in the committee bill as amended, provisions for a system of receipt, investigation, and determination of grievances submitted by State and local law enforcement officers. The second amendment would insert on page 52 a provision spelling out a "law enforcement officers' bill of rights" which must be enacted into law by any State seeking LEAA grants under that act in order to be eligible for such grants.

The committee bill seeks to establish a comprehensive approach to the financing of programs aimed at improving State and local law enforcement systems. Included in this comprehensive approach is the subject of the welfare of law enforcement officers as it relates to their official duties, including their salaries, equipment, et cetera. The issue of a grievance system for law enforcement officers is within the general subject of the improvement of State and local law enforcement systems, and the amendments are, therefore, germane to the pending bill.

The Chair overrules the point of order.

Indemnification of Operators of Nuclear Energy Facilities—Benefits Conditional Upon Agreement Concerning Safety Regulations

§ 30.31 While a bill providing procedures for determining benefits based upon liability

and indemnification does not ordinarily admit as germane amendments which address the issue of regulation of an activity, an amendment which makes receipt of a benefit conditional upon an agreement to be governed by certain safety regulations may be germane, if related to the activity giving rise to the liability.

During consideration of H.R. 1414⁽¹⁵⁾ in the Committee of the Whole on July 29, 1987,⁽¹⁶⁾ the Chair overruled a point of order against the following amendment:

MR. [RON] WYDEN [of Oregon]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wyden: Page 33, insert after line 7 the following new sections (and redesignate the succeeding sections accordingly):

SEC. 16. FINANCIAL ACCOUNTABILITY.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as amended by this Act, is further amended by adding at the end the following new subsection:

"u. Financial Accountability.—(1)(A) The Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by

15. The Price-Anderson Act Amendments of 1987.

16. 133 CONG. REC. 21445-48, 100th Cong. 1st Sess.

the Federal Government under an agreement of indemnification under subsection d. for public liability resulting, in whole or part, from the gross negligence or willful misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor). . . .

Chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 2271-2284) is amended by adding at the end the following new section:

“SEC. 237. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—

“a. In general.—(1) Any person subject to an agreement of indemnification under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), shall, as a condition of such indemnification be subject to the nuclear safety and civil penalties provisions of this section.

“(2)(A) Except as provided in subparagraph (B), the Nuclear Regulatory Commission may impose a civil penalty of an amount not to exceed \$100,000, per violation, upon any person who has entered into an agreement of indemnification under section 170 d. who violates—

“(i) any rule, regulation, or order of the Department of Energy relating to nuclear safety; or

“(ii) any term, condition, or limitation relating to nuclear safety of any contract that is the subject of any such agreement. . . .

MR. [BUTLER] DERRICK [of South Carolina]: Mr. Chairman, I make a point of order that the Wyden amendment is nongermane to the amendment in the nature of a substitute that is pending before the Committee of the Whole. It is nongermane because the fundamental purpose of the amendment is different from the fundamental purposes of either the substitute or the underlying Price-Anderson law.

The fundamental purposes of both the pending substitute and the underlying law are:

First, to ensure adequate and prompt compensation of any victim of a serious nuclear accident; and

Second, to indemnify both the operators of commercial nuclear reactors and contractors which operate Department of Energy nuclear facilities against damages which might arise from a nuclear accident. This is intended to encourage participation in nuclear activities.

The fundamental purpose of the Wyden amendment, however, is regulatory in nature. According to the proponents of the amendment, it is intended to ensure the safe operation of contractor-operated DOE nuclear facilities. To achieve this regulatory end, the Wyden amendment would authorize the Attorney General to sue DOE contractors to recover damages paid by the Government as a result of an accident caused by the “gross negligence or willful misconduct” of the contractor and would authorize the Secretary of Energy to assess civil penalties against contractors for violation of DOE safety regulations.

Allowing the Attorney General to sue to recover damages from a contractor would neither affect the payment of compensation to victims nor further the purpose of indemnifying contractors in order to encourage participation in nuclear activities.

Providing for civil penalties for safety violations clearly does not relate to either of the purposes of the substitute and Price-Anderson. The civil penalties are purely regulatory, intended to enforce safe operation of DOE nuclear fa-

ilities. Neither the substitute nor Price-Anderson deals with the issue of safety in nuclear facilities. They deal only with what happens after a nuclear accident occurs. Amendments intended to promote safety at nuclear facilities should be considered in connection with legislation which deals with the operations of such facilities. Allowing the Wyden amendment to be offered to this legislation would be like allowing an amendment to provide penalties for driving faster than 55 miles per hour to legislation establishing a no-fault automobile insurance system.

While both issues concern automobiles, there is a fundamentally different purpose in each case.

Mr. Chairman, I believe that the Wyden amendment is nongermane to this substitute because its fundamental purpose is different from the fundamental purpose of the substitute and the underlying Price-Anderson Act and that my point of order should be sustained. . . .

MR. WYDEN: Mr. Chairman, the amendment before us is germane to the bill. The bill before us deals with procedures for liability and indemnification for nuclear accidents.

Price-Anderson provides for mechanisms under which commercial nuclear powerplants and Government nuclear contractors may be indemnified for liability resulting from a nuclear accident. In providing a scheme for nuclear insurance, it is natural to impose certain conditions upon the granting of indemnification.

For example, private insurers of a building may require as a condition of an insurance policy that the owners of

the building have it inspected by appropriate authorities. These conditions are directly related to the insurance policy. By requiring the insured party to conduct himself in a safe manner, the exposure of the insurer is reduced.

In this case, the amendment imposes conditions and limitations upon the contractor covered by indemnification agreements. In the first section of the amendment the contractor would be held financially liable for damages resulting from the contractor's gross negligence or willful misconduct. In the second section, the contractor's indemnification is subject to the qualification that should he break safety rules of DOE or other contract conditions, he will be subject to a civil penalty. These civil penalties, and the threat of civil penalties will raise the safety consciousness of the contractor, thereby reducing the potential Government liability under an indemnity agreement.

I refer the Chairman to chapter 28, section 23 of Deschler/Brown's Precedents. The precedents cited stand for the proposition that amendments providing conditions or qualifications for the grant of various authorities are germane. For example, to a bill making grants to medical schools to be used for student scholarships, an amendment establishing a national commission to prepare and evaluate examinations for purposes of testing qualifications of scholarship applications was held to be germane—section 23.5. Similarly, an amendment to a bill relating to subsidy payments for agricultural goods, an amendment prohibiting support payments unless the producers were in compliance with health and safety laws was held to be germane—section 23.6.

In summary, Mr. Chairman, indemnification of contractors under the bill is a benefit to contractors that can properly be conditioned upon compliance with various regulations. The concept is not novel. Indeed, NRC contractors are subject to civil penalties under other provisions of the act we are amending today. Similarly, we place conditions on utilities indemnified under the act. For example, section 2 of the bill requires licensees to maintain the maximum amount of liability insurance available from private sources. . . .

THE CHAIRMAN PRO TEMPORE:⁽¹⁷⁾
The Chair will rule on the point of order.

The gentleman from South Carolina [Mr. Derrick] makes the point of order that the amendment offered by the gentleman from Oregon (Mr. Wyden) is not germane to the pending amendment in the nature of a substitute. It is agreed that the fundamental purpose of the pending text involves procedures for liability and indemnification for nuclear accidents, and does not go to the regulation of the domestic nuclear industry as a measure to prevent the occurrence of nuclear accidents.

In the opinion of the Chair, the question of subrogation is related to the concept of indemnification by the U.S. Government. The question of the party ultimately liable for the payment of damage costs is germane to the pending bill. The Wyden amendment does not seek to separately impose a civil penalty upon nuclear contractors as a regulatory scheme, but rather seeks to condition the indemnification provided by the bill for such contractors upon

their agreement to be subject to certain nuclear safety and civil penalties. The fact that the bill requires licensees to maintain the maximum amount of liability insurance available from private sources as a condition on indemnification is an indication that other conditions on indemnification are already contained in the bill. The precedents cited by the gentleman from Oregon are supportive of the concept that a grant of authority can be made contingent upon agreement to comply with certain related conditions. The Chair holds that the amendment is germane to the pending text and overrules the point of order.

Government Indemnification for Liabilities—Amendment Requiring Subrogation of Rights

§ 30.32 To a proposition providing for government indemnification of liabilities, an amendment requiring subrogation of corresponding rights is germane as relating to the question of ultimate liability for payment of damages.

The proceedings of July 29, 1987, relating to H.R. 1414, the Price-Anderson Act Amendments of 1987, are discussed in § 30.31, *supra*.

17. Dan Mica (Fla.).

Registration of Foreign Agents—Modification of Definition of Terms

§ 30.33 To a bill relating to registration of foreign agents, an amendment was held to be germane which qualified the definitions of terms in the bill by adding the names of specific groups to be included within the definition of one of such terms.

In the 77th Congress, a bill⁽¹⁸⁾ was under consideration relating to registration of foreign agents. The bill stated in part:⁽¹⁹⁾

DEFINITIONS

Section 1. As used in and for the purposes of this act—

(a) The term “person” includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term “foreign principal” includes—

(1) a government of a foreign country and a foreign political party. . . .

The following amendment was offered to the bill:⁽²⁰⁾

Amendment offered by Mr. [Martin] Dies [Jr., of Texas]: Page 2, line 17, after the word “individuals”, strike out

- 18. H.R. 6269 (Committee on the Judiciary).
- 19. See 87 CONG. REC. 10058, 77th Cong. 1st Sess., Dec. 19, 1941.
- 20. *Id.* at p. 10061.

the semicolon, insert a comma and the following: “including but not limited to the Communist Party of the United States, the German-American Bund, and the Kyffhauser-bund.”

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

MR. [VITO] MARCANTONIO [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. I submit that the section of the bill dealing with definitions is limited to persons who are to constitute the foreign principals.

The Chairman,⁽¹⁾ in ruling on the point of order, stated:

The section deals with definitions. This being so, it would be appropriate and in order to add another definition.

The Chair overrules the point of order.

Juvenile Delinquency Prevention and Control Act—Modification of Definition of Terms

§ 30.34 To a bill containing definitions of several of the terms used therein, an amendment modifying one of the definitions and adding another may be germane; thus, to a bill authorizing funds for the control and prevention of juvenile delinquency, an amendment to

- 1. Orville Zimmerman (Mo.).

that portion of the bill containing definitions, which modified one of the definitions and added another was held to be germane.

In the 90th Congress, the Juvenile Delinquency Prevention and Control Act of 1967,⁽²⁾ was under consideration, which stated in one portion as follows:⁽³⁾

DEFINITIONS

Sec. 404. For purposes of this Act—

(1) The term “Secretary” means the Secretary of Health, Education, and Welfare. . . .

(4) The term “private nonprofit agency” means any accredited institution of higher education, and any other agency or institution which is owned and operated by one or more nonprofit corporations or organizations. . . .

The following proceedings related to amendments offered by Mr. Joe D. Waggoner, Jr., of Louisiana:

MR. WAGGONER: Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc. . . .

Amendments offered by Mr. Waggoner: After the words “under this Act” on line 21 of page 15 add the following:

The term “private nonprofit agency” shall not be construed to include

2. H.R. 12120 (Committee on Education and Labor).
3. See 113 CONG. REC. 26878, 90th Cong. 1st Sess., Sept. 26, 1967.

the Office of Economic Opportunity or any . . . agency . . . created by . . . or in any part funded by or contracted with the Office of Economic Opportunity in accomplishing the purposes of this act. . . .

After line 6 on page 16 add a new subsection numbered (7):

(7) The term “public agency” means a duly elected political body of a subdivision thereof and shall not be construed to include the Office of Economic Opportunity or any . . . other agency or program created by . . . or in any part funded by or contracted with the Office of Economic Opportunity.

MR. WAGGONER: Mr. Chairman, these two amendments—

MR. [CARL D.] PERKINS [of Kentucky]: Mr. Chairman, a point of order. . . .

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, I make the point of order that the gentleman's point of order comes too late.

The gentleman from Louisiana had started his discussion of the amendment, and there was no previous point of order made prior to the discussion.

MR. PERKINS: Mr. Chairman, I was on my feet seeking recognition at the time the gentleman commenced to address the Chair.

THE CHAIRMAN:⁽⁴⁾ Was the gentleman from Kentucky on his feet seeking recognition?

MR. PERKINS: I was, Mr. Chairman.

THE CHAIRMAN: The Chair then overrules the point of order made by the gentleman from Michigan, and the Chair will hear the gentleman from Kentucky on his point of order. . . .

4. Charles E. Bennett (Fla.).

MR. PERKINS: Mr. Chairman, I make the point of order that the amendment is not germane because the gentleman, by his amendment, is seeking to exclude some other agency created by the Economic Opportunities Act from participation. . . .

MR. WAGGONER: . . . The point of order is totally without merit. Section 404 of this proposal, H.R. 12120, is entitled "Definitions." The first amendment is a further extension of the definition of what a private nonprofit agency actually is. . . .

Reference is continually made to private nonprofit agencies and public agencies on page after page of this bill. If we are to say that an amendment is not germane which defines a public agency, when a definition does not exist . . . if we are to preclude the possibility of clarifying a definition of a private nonprofit agency, then what is germane? . . .

THE CHAIRMAN: . . . The Chair will state that this section of the bill relates to definitions of these various terms—public agency and private nonprofit agencies or groups—and goes into a particularization of each; therefore, the Chair thinks the amendments are germane and overrules the point of order.

Definition of Terms as Providing Exception to Limitation on Authority

§ 30.35 To a section containing "definitions" of two terms referred to in a bill, an amendment adding a further definition of other terms contained

in the bill was held germane, although its effect was to provide an exemption from a limitation on authority contained in another section of the bill.

On Mar. 7, 1974,⁽⁵⁾ during consideration of H.R. 11793⁽⁶⁾ in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [GILLIS W.] LONG of Louisiana: Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. Long of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares."

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I should like to make a point of order against this amendment.

[T]his matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentle-

5. 120 CONG. REC. 5640, 5641, 93d Cong. 2d Sess.

6. The Federal Energy Administration Act.

man's concern, but these words included are probably included in statutes. It seems to me what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

MR. LONG of Louisiana: Mr. Chairman, the gentleman from New York (Mr. Horton) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and specific place for an amendment of this type to be introduced.

THE CHAIRMAN:⁽⁷⁾ The Chair is prepared to rule.

The gentleman from Louisiana (Mr. Long) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. Long).

The Chair will state that subsection (1) of section 11 reads as follows:

Any reference to "function" or "functions" shall be deemed to include—
and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. Long) starts as follows:

Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

And so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Incidental Conditions or Exceptions Related to Fundamental Purpose of Bill

§ 30.36 For a bill proposing to accomplish a result by methods comprehensive in scope, a committee amendment in the nature of a substitute which was more detailed in its provisions but which sought to achieve the same result was held germane, where the additional provisions not contained in the original bill were construed

7. John J. Flynt, Jr. (Ga.).

to be merely incidental conditions or exceptions that were related to the fundamental purpose of the bill.

On Aug. 2, 1973,⁽⁸⁾ the Committee of the Whole had under consideration H.R. 9130, a bill authorizing the construction of a trans-Alaska oil and gas pipeline under the authority of the Secretary of the Interior, and pursuant to procedural safeguards promulgated by the Secretary. The bill included a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted. A committee amendment in the nature of a substitute was reported as an original bill for purposes of amendment. The committee amendment contained procedures and safeguards similar to those in the bill, and included an exception from the prohibition against judicial review, to provide a mechanism for expediting other types of actions challenging pipeline permits. The amendment also included the condition that all persons participating in construction or use of the pipeline be assured rights against discrimination as set forth in the Civil Rights Act. Points of order were raised against the amendment on

8. 119 CONG. REC. 27673-5, 93d Cong. 1st Sess.

the grounds that its provisions were not germane:

THE CHAIRMAN:⁽⁹⁾ Pursuant to the rule, the Clerk will now read by title the substitute committee amendment printed in the reported bill as an original bill for the purpose of amendment.

MR. [JOHN D.] DINGELL [Jr., of Michigan]: Mr. Chairman, I wish to reserve a point of order to the committee amendment.

The Clerk read as follows: . . .

TITLE I

Section 1. Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), is further amended by striking out the following: “, to the extent of the ground occupied by the said pipeline and twenty-five feet on each side of the same under such regulations and conditions as to survey, location, application, and use as may be prescribed by the Secretary of the Interior and upon,” and by inserting in lieu thereof the following “: *Provided*, That—

“(a) the width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary finds, and records the reasons for his finding, that in limited areas a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. . . .

Sec. 4. (a) Pipelines on public lands subject to this Act are subject to the provisions of the Gas Pipeline Safety Act of 1968. . . .

(c) The Secretary of the Interior shall report annually to the President, the Congress, the Secretary of Transportation and the Interstate

9. William H. Natcher (Ky.).

Commerce Commission any potential dangers of or actual explosions or potential or actual spillage on public lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

MR. DINGELL: Mr. Chairman, I rise to make a point of order against the committee amendment just read.

THE CHAIRMAN: The Chair will hear the gentleman on his point of order.

MR. DINGELL: Mr. Chairman, I note first that the rule did not waive points of order.

Mr. Chairman, I cite now rule XVI, clause 7, and I note particularly section 794 relating to germaneness which reads as follows:

And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

I note as follows, Mr. Chairman, that the committee amendment provides for the establishment of a three-judge court and establishes certain conditions with regard to review which are not found in the original bill.

I note for the assistance of the Chair, that that language is not only not found in the bill, but that language, in my view, at least under the Rules of the House of Representatives, had it been introduced as a separate piece of legislation, would have been referred to the Committee on the Judiciary.

I note further, Mr. Chairman, that the committee amendment as presented to us today provides also language relating to conditions of employment and civil rights of persons, and the duty of the pipeline company to hire without discrimination as to race or creed or color.

I note, Mr. Chairman, that legislation relating to that matter, were it introduced as separate legislation, would have properly under the Rules of the House of Representatives have been referred to the Committee on the Judiciary.

I make the further comment with regard to the point of order just raised, Mr. Chairman, citing now Cannon's Precedents, page 203 2(b), and I quote:

A specific subject may not be amended by a general provision even when of the same class.

Section 203 of the bill addresses itself to the relationship of NEPA to the bill and judicial review of the Secretary of the Interior's actions for compliance with NEPA. Specifically 203(d) of the bill limits judicial review on the basis of NEPA noncompliance.

Section 203(f) which was added by amendment, referred to earlier, is far broader in scope than section 203 as contained in the original bill.

Section 203(f) sets forth a unique procedure for judicial review of non-NEPA-related challenges.

Keeping in mind the fact that section 203(d) is itself part of an amendment and section 203(f) is a new provision as part of the same amendment it becomes clear that judicial review dealt with by section 203 of the original bill was limited to judicial review on the basis of NEPA.

The amendment, by incorporating the provisions found in section 203(f), deals with all forms of judicial review. Thus NEPA-related review is handled by the specific provision of section 203(d) and all other judicial review by section 203(f).

Therefore, the amendment is a general provision; that is, it deals with all

forms of judicial review and is not germane to the specific provision found in the original bill which deals solely with judicial review on the basis of the National Environmental Policy Act.

I cite again Cannon's Precedents at page 203. I cite further with regard to the germaneness, now referring to page 202 in Cannon's Precedents that—

One individual proposition may not be amended by another individual proposition even though the two may belong to the same class.

The individual proposition in the original bill was that the Secretary of the Interior's actions were exempted from judicial review under NEPA.

The individual proposition contained in the amendment goes on to add that any other challenge to the right-of-way to which the United States is a party must be brought, according to subsection (f), to a three-judge district court referred to in the amendment.

These propositions are of the same class because both relate to judicial review.

The first proposition may be viewed as a negative proposition in that it exempts certain action from judicial review on the basis of NEPA.

The second is a positive proposition; it establishes a special tribunal and special procedures for non-NEPA-based court challenges.

I again refer the Chair to Cannon's Precedents on page 202.

I cite further, Mr. Chairman—

If a portion of an amendment is out of order because not germane, then all must be ruled out.

I would cite Cannon's Precedents at page 201. I would point out that—

The burden of proof as to the germaneness of a proposition has been held to rest upon its proponents.

. . .

MR. [JOHN] MELCHER [of Montana]: . . . The gentleman from Michigan is raising a point of order on the basis of the germaneness of . . . the entire committee amendment, but he refers to specific sections and his point of order should be limited to his reference to those sections. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from Michigan (Mr. Dingell) makes the point of order the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill is not germane to the original bill on several grounds, one of which is that 203(f) of the committee amendment provides a procedure for expediting litigation of right-of-way, permit, or other authorization disputes in Federal courts which is not contained in the original bill.

The Chair has had an opportunity to examine the original bill and the committee amendment in the nature of a substitute, and notes that the original bill and the committee amendment both provide comprehensive schemes for the construction of the Alaska pipeline under the authority of the Secretary of the Interior. Both the bill and the committee amendment provide a series of safeguards to be followed by the Secretary in the issuance of permits and grants of rights-of-way. Included in the original bill—in section 203, is the prohibition against judicial review of any authorization granted by any Federal agency with respect to rights-of-way, construction, public land

use, or highway or airfield construction on the basis of the National Environmental Policy Act of 1969.

This restriction against judicial review on the basis of environmental impact is also contained in section 203(d) of the committee amendment in a more limited form. Section 203(f) of the committee amendment then provides, in litigation not barred by section 203(d), a mechanism for expediting other actions challenging pipeline permits or authorizations.

On March 8, 1932, Chairman O'Connor ruled that to a bill restricting Federal court jurisdiction in certain cases, an amendment providing an exception from that prohibition was germane—Cannon's volume VIII, section 3024.

The Chair has also examined the decision of the present occupant of the Chair on October 20, 1971 (Congressional Record, page H37079) on the Alaska Native land claims bill, where, to a committee amendment seeking to accomplish a broad purpose by a method less detailed in its provisions, an amendment more definitive but relating to the same purpose implicit in the committee's approach was held germane.

For these reasons, and because committee jurisdiction is not the exclusive or absolute test of germaneness, the Chair is of the opinion that the provision in the committee amendment relating to the expediting of litigation involving the pipeline permits or authorizations is merely incidental to the purpose of the original bill and is indeed directly related to the concept of judicial review contained in the bill. With respect to the other provisions of the committee amendment to which

the gentleman from Michigan has made reference, the Chair is of the opinion that they, too, are incidental to the overall purpose of the bill. The Chair holds that the committee amendment is germane and overrules the point of order.

MR. DINGELL: Mr. Chairman, I rise to a further point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. DINGELL: Mr. Chairman, citing again the language used by myself with regard to the earlier point of order, I would point now to the specific language of the committee amendment at page 15, line 23(e), and all that follows through page 16, line 11, at the conclusion of the words "the Civil Rights Act of 1964."

Mr. Chairman, I would point out again the same arguments are available to me with regard to the first jurisdiction of committees. Second, with regard to the other matters cited by me earlier under the rules of germaneness as embodied in the rules and the precedents of this body, I would point out, Mr. Chairman, that where the language referred to in the amendment is part of a separate piece of legislation, it would have been referred again to the Judiciary Committee and not to the Committee on Interior.

I would point out further, Mr. Chairman, that this language is not found in the original bill, although it is found in the amendment. I would point out that again the failure of the committee to have that language in both the original bill and in the committee amendment renders the committee amendment subject to a point of order.

I would call particular attention of the Chair to the fact that the rule of

germaneness was established by the wise men of this body throughout the years, that all Members of this body might have full notice of matters coming to the floor of the House and would not be surprised by matters which might be irrelevant to the jurisdiction of the committee which authored the legislation.

The rule of germaneness applies, Mr. Chairman, with equal validity to proceedings on the floor as well as to proceedings within the committee.

I again reiterate my point of order on the basis not only of matters cited by me now but cited by me in connection with the earlier point of order made by me. . . .

MR. MELCHER: . . . The title and section of the committee's amendment which the gentleman from Michigan refers to deals with construction of the Alaskan pipeline. Employment of people for that purpose is, indeed, part and parcel of the construction of the pipeline. The incidental feature of our committee handling and including such language in our amendment is only incidental to the bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair has just ruled that the committee amendment is germane, and the ruling that was given by the Chair is broad enough to now cover the point of order just made by the gentleman from Michigan.

Therefore, the Chair for the reasons previously stated overrules the point of order.

***Authorization for Program—
Amendment Proposing, as Alternative, Study of Feasibility of Program***

§ 30.37 To an amendment authorizing a program to be

undertaken, a substitute providing for a study to determine the feasibility of undertaking the same type of program may be germane; thus, to an amendment authorizing Department of Defense personnel to assist federal law enforcement officials including the Coast Guard under existing law, in drug interdiction operations outside the continental United States, a substitute amendment directing the Secretary of Defense to study the effectiveness of assigning military personnel to assist those federal law enforcement officials was held germane as a more limited approach involving the same officials.

On June 26, 1985,⁽¹⁰⁾ during proceedings relating to the defense authorization for fiscal 1986,⁽¹¹⁾ the Committee of the Whole had under consideration the following amendment and substitute therefor:

MR. [CHARLES E.] BENNETT [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bennett. At the end of the bill, add the following new section:

10. 131 CONG. REC. 17453, 17458, 17460, 99th Cong. 1st Sess.

11. H.R. 1872.

SEC. —DRUG/INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT OFFICIALS.

(a) In General—Section 374 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

“(d) The Secretary of Defense, upon request from the head of a Federal agency with jurisdiction to enforce the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), may assign members of the armed forces under the Secretary’s jurisdiction to assist drug enforcement officials of such agency in drug searches, seizures, or arrests outside the land area of the United States (or of any territory or possession of the United States) if—

“(1) that assistance will not adversely affect the military preparedness of the United States. . . .

MR. [GLENN LEE] ENGLISH [Jr., of Oklahoma]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. English as a substitute for the amendment offered by Mr. Bennett: Page 200, after line 4, insert the following new section:

SEC. 1050. STUDY ON DRUG-INTERDICTION ASSISTANCE TO CIVILIAN LAW ENFORCEMENT PERSONNEL.

(a) Study.—The Secretary of Defense shall conduct a study comparing—

(1) the potential effectiveness of assigning members of the armed forces under the Secretary’s jurisdiction, with

(2) the potential effectiveness of increasing the number of tactical law enforcement teams on naval vessels,

for the purpose of determining ways to assist civilian law enforcement personnel in the interdiction of the illegal importation of narcotics into the United States. The Secretary shall submit the results of the study to the Congress not more than sixty days after the date of the enactment of this Act.

Mr. Bennett having reserved a point of order against the substitute amendment, the following proceedings took place:

THE CHAIRMAN PRO TEMPORE:⁽¹²⁾ Does the gentleman from Florida [Mr. Bennett] insist on his point of order?

MR. BENNETT: I do. Mr. Chairman, I would like to say why I believe that it is not germane and it is not proper.

The thrust of the amendment, particularly as explained by the gentleman on the floor, is a Coast Guard amendment. This bill does not deal with the Coast Guard. He wants the Secretary to come with increasing the number of tactical law enforcement teams from the Coast Guard.

If I thought that was a possibility of being achieved by anything he is doing, I would be glad to do it. But he has already said they are cutting the Coast Guard personnel; they are not raising the Coast Guard personnel, they are cutting.

These people are not in existence.

So my point of order against it is the fact that it is really a Coast Guard amendment; it is not germane to this bill. . . .

MR. ENGLISH: Mr. Chairman, first of all I would point out that the amendment does not have the words “Coast

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Guard” in it. I think we all recognize and understand what is meant by the amendment, but the words “Coast Guard” are not here. It directs the Secretary of Defense to conduct the study, and no one else.

The second point is that this was a recommendation by the administration that these people be cut.

As the gentleman aptly pointed out, the Congress has control over whether or not those cuts are going to take place; the Congress has the decision as to what those people will be used for, and the Congress can certainly designate 500 of these people to be used in tactical positions on Navy ships. . . .

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

In reviewing both the Bennett amendment and the substitute by Mr. English to the Bennett amendment, the Chair finds that the original amendment is a comprehensive authority, using Department of Defense personnel to assist Coast Guard and other law enforcement personnel for the purposes stated.

The English substitute however, does narrow the scope of the Bennett amendment by only calling for a study on the same subject matter.

On page 2 of the Bennett amendment the language on lines 1 and 2 does refer to Federal drug enforcement officials, maintaining ultimate control, which does include the role not only of DEA but also the Coast Guard.

Therefore, the point of order is overruled. The substitute amendment by Mr. English is germane.

Parliamentarian’s Note: The above ruling effectively overrules that found at 8 Cannon’s Prece-

dents Sec. 2989, wherein the Chair held that, to a river and harbor authorization, a substitute providing for a commission to consider and report on that subject was not germane. Under current practice, where it is proposed to undertake a given program, an alternative proposal to study the feasibility of undertaking that program should be held to be germane.

§ 31.—Amendment Postponing Effectiveness of Legislation Pending Contingency

The precedents indicate that an authorization may be made contingent on a future event; but the event must be related to the subject matter before the House.⁽¹³⁾ Therefore, it is frequently stated that an amendment that delays the effectiveness of proposed legislation pending an unrelated contingency is not germane. As an example, it has been held that, to a bill authorizing an appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane.⁽¹⁴⁾ And an amendment making the implementation

13. See, for example, Sec. 31.32, *infra*.

14. See Sec. 35.8, *infra*.