

variances, and I think the amendment offered by the gentleman from Utah (Mr. McKay) is very much in order as a substitute.

THE CHAIRMAN PRO TEMPORE:⁽¹⁷⁾ The Chair has heard and considered the point of order and the arguments in support of and in opposition thereto and will now rule.

The McKay amendment is germane as a substitute for the Breaux amendment. The McKay amendment deals with the same subject of variances for sulfur dioxide pollutants. The Breaux amendment is broader insofar as it affects particulate matter pollutants as well as sulfur dioxide. The McKay substitute, while technically containing more language inserted at another place in section 108, nevertheless deals with the same subject in a more limited way.

The point of order is overruled.

Amendment in Guise of Limitation

§ 32.17 A different subject from that under consideration may not be proposed in the guise of a limitation; thus, to propose an amendment in the mere form of a limitation does not make the amendment germane.⁽¹⁸⁾

17. George E. Danielson (Calif.).

18. See Sec. 31.35, supra.

§ 33.—Amendments Affecting Powers Delegated in Bill

To a provision delegating certain powers, a proposal to limit such powers is germane.⁽¹⁹⁾ For example, a proposal to grant the President certain discretionary authority can be amended by a provision limiting such authority.⁽²⁰⁾ And where a bill continues the authority of an official to set maximum interest rates on loans, an amendment placing a limit on such authority is germane.⁽¹⁾

Authority of President To Enter Foreign-Trade Agreements .

§ 33.1 To a bill extending the period during which the President is authorized to enter into foreign-trade agreements, an amendment providing that no such agreements shall become effective until approved by Congress (but not changing the rules of the House) was held to be germane.

19. See Sec. 33.22, 33.32, infra.

20. See Sec. 33.1, 33.7, infra.

1. See Sec. 33.28, infra.

In the 75th Congress, a bill⁽²⁾ was under consideration which stated:⁽³⁾

Resolved, etc., That the period the period during which the President is authorized to enter into foreign-trade agreements under section 350 of the Tariff Act of 1930, as amended by the act (Public No. 316, 73d Cong.) approved June 12, 1934, is hereby extended for a further period of 3 years from June 12, 1937.

The following amendment was offered:

Amendment offered by Mr. [Daniel A.] Reed of New York: Line 8, before the period, insert a colon and the following: "*Provided,* That no foreign trade agreement entered into under the provisions of this act shall become effective until submitted to the Congress by the President and approved by both House and Senate by a majority vote. . . . In the event that Congress shall fail to act within [a] period of 20 days, then said agreement shall thereupon be in full force and effect.

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

MR. [JOHN E.] RANKIN [of Mississippi]: Mr. Chairman, I make the point of order that that amendment is not germane to the bill. It entirely changes the object of the bill and for the first time brings back to the House of Representatives an act of the Execu-

tive to be ratified, not by the Senate alone, but by the House. . . .

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

In the opinion of the Chair the amendment submitted by the gentleman from New York places a limitation upon the President. The pending joint resolution proposes a grant of discretionary power to the Executive by the Congress, and, therefore, this limitation in the judgment of the Chair is germane.

§ 33.2 To a bill to extend the authority of the President to enter into foreign-trade agreements under a section of the Tariff Act, an amendment was held to be not germane which sought to establish specific limits on imports of certain hand-made articles.

On Feb. 9, 1949, the Trade Agreements Act of 1949⁽⁵⁾ was under consideration, which provided in part:⁽⁶⁾

Sec. 3. The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended and extended, is hereby extended for a further period of 3 years from June 12, 1948.

2. H.J. Res. 96 (Committee on Ways and Means).

3. See 81 CONG. REC. 1044, 75th Cong. 1st Sess., Feb. 9, 1937.

4. James M. Mead (N.Y.).

5. H.R. 1211 (Committee on Ways and Means).

6. 95 CONG. REC. 1057, 81st Cong. 1st Sess., Feb. 9, 1949.

The following amendment was offered:⁽⁷⁾

Amendment offered by Mr. Bailey: Page 3, after line 8, insert the following:

Sec. 7. During any calendar year after 1948 the total amounts of imported wood wire spring clothespins, or the total amount of any article of china, hand-made glassware or tableware, which may be entered or withdrawn from warehouse in the United States for consumption, shall not exceed 25 percent of the production within the United States during the preceding calendar year of clothespins, or of such article of china, hand-made glassware or tableware, as the case may be.

Mr. Jere Cooper, of Tennessee, raised the point of order that the amendment was not germane. Mr. Cleveland M. Bailey, of West Virginia, responding to the point of order, stated that, "there is too much competition against the hand-craft glass and pottery industries and (such industries need the protection of import quotas)." The Chairman,⁽⁸⁾ in sustaining the point of order, stated:

The amendment offered by the gentleman from West Virginia might have been germane to another statute, but it certainly is not germane to the bill under consideration.⁽⁹⁾

7. *Id.* at p. 1070.

8. Francis E. Walter (Pa.).

9. Another amendment having a similar purpose had been offered by Mr. Bailey immediately prior to the above proceedings, and had also

§ 33.3 To a bill to extend the authority of the President to enter into foreign-trade agreements under a section of the Tariff Act, an amendment providing that no reduction in duty shall be made on certain imports competing with articles produced by "handicraft methods" in the United States was held not germane.

On Feb. 9, 1949, during consideration of the Trade Agreements Act of 1949,⁽¹⁰⁾ the following amendment was offered:⁽¹¹⁾

Amendment offered by Mr. [Cleveland M.] Bailey [of West Virginia]: On page 3, after line 8, amend by adding a new section to be designated as a new section:

Sec. 7. No reduction in duty under the Tariff Act of 1930 rates shall be made on imports competing directly with articles produced by handicraft industries in the United States. Handicraft industries are defined as those in which the salaries and wages or direct and indirect labor constitute 50 percent or more of the costs of production and include only those groups of manu-

been ruled out of order. See §33.3, *infra*.

10. H.R. 1211 (Committee on Ways and Means).

11. 95 CONG. REC. 1069, 81st Cong. 1st Sess. See §33.2, *supra*, for further discussion of the act and proceedings related to those discussed in this section.

facturers, excluding contractors, producing by recognized handicraft methods, like or similar products, from which the Bureau of the Census can obtain and publish industrial statistics. The Tariff Commission shall make the final determination of these qualifications.

A point of order was raised against the amendment, as follows:⁽¹²⁾

MR. [JERE] COOPER [of Tennessee]: Mr. Chairman, I make the point of order against the amendment that it is not germane. It imposes duties and requirements upon the Bureau of the Census which are certainly not within the scope of the pending bill or the original act which is sought to be amended by the pending bill.

The Chairman⁽¹³⁾ sustained the point of order.

§ 33.4 To a bill extending the period during which the President is authorized to enter into foreign-trade agreements, an amendment directing the President to seek to withdraw or modify any past or future reciprocal trade agreement if a domestic industry is damaged thereby was held to be not germane.

In the 76th Congress, during consideration of a bill⁽¹⁴⁾ relating

12. 95 CONG. REC. 1070, 81st Cong. 1st Sess., Feb. 9, 1949.

13. Francis E. Walter (Pa.).

14. H.J. Res. 407 (Committee on Ways and Means).

to trade agreements as described above, the following amendment was offered:⁽¹⁵⁾

Page 1, line 8, after the period, insert the following:

If at any time an established domestic industry as a whole shall be damaged as a result of the inclusion of its product in a reciprocal-trade agreement, the President shall institute negotiations with the signatory country seeking to withdraw or sufficiently modify the concession made upon that product to remedy the damage inflicted upon said established domestic industry. . . .

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

MR. [JERE] COOPER [of Tennessee]: I do not desire to detain the Committee and the Chair further than to point out that the amendment contains provisions with respect to making it retroactive and, further, brings in entirely different and irrelevant matters, entirely foreign to the purposes of the resolution under consideration and, of course, is not germane to it.

The Chairman,⁽¹⁶⁾ who had already called attention to the provisions that would operate retroactively, sustained the point of order.

§ 33.5 To an amendment limiting the authority of the President in negotiating

15. 86 CONG. REC. 1913, 76th Cong. 3d Sess., Feb. 23, 1940.

16. Clifton A. Woodrum (Va.).

trade agreements by providing that such “authority . . . does not embrace authority to include in any trade agreement negotiations” certain excise taxes imposed under specified sections of the Revenue Act, an amendment proposing a similar limitation with respect to import duties under the Tariff Act was held to be not germane.

In the 76th Congress, during consideration of a trade agreements bill⁽¹⁷⁾ and an amendment thereto excluding consideration of certain excise taxes from trade agreement negotiations, an amendment was offered by Mr. Karl E. Mundt, of South Dakota,⁽¹⁸⁾ containing a similar provision with respect to import duties. The following exchange⁽¹⁹⁾ concerned a point of order raised by Mr. Jere Cooper, of Tennessee, against the amendment:

MR. COOPER: . . . The amendment here offered is not an amendment to the excise taxes of existing law, but seeks to amend the tariff act with respect to certain rates. I submit, therefore, that the amendment to the amendment is not germane. . .

- 17. H.J. Res. 407 (Committee on Ways and Means).
- 18. 86 CONG. REC. 1873, 76th Cong. 3d Sess., Feb. 23, 1940.
- 19. *Id.* at p. 1874.

THE CHAIRMAN:⁽²⁰⁾ The sections which the gentleman brings in by number include a number of different sections of schedule (7) of title I of the Tariff Act of 1930. The Chair would understand that to relate to sections which deal with import duties as distinguished from excise taxes.

MR. MUNDT: The distinction is not recognized, Mr. Chairman, by the Secretary of State, who holds that they are one and the same. . .

THE CHAIRMAN: Of course, the Chair cannot be advised as to what the ruling of the Secretary of State would be on it; but, fundamentally, if as a matter of fact the gentleman’s amendment brings into the picture a different class of taxes, his amendment is not germane to the Disney amendment.

MR. MUNDT: May I submit, Mr. Chairman, that the connecting feature between my amendment and the place where it picks up the Disney amendment is the coordinate conjunction “and,” and that they both are based on the same fundamental premise of exempting from further negotiations certain specific products—oil in one instance, and beef, eggs, and other specified farm products in the other. Thus it is strictly in line with the motive and the purpose and the objective of the Disney amendment. . .

MR. COOPER: . . . [T]he gentleman is here seeking to amend those provisions of the tariff act levying certain tariff rates and customs duties through the guise of offering an amendment to an amendment relating solely to excise taxes. . . .

THE CHAIRMAN: . . . [F]rom the information the Chair has it seems that

- 20. Clifton A. Woodrum (Va.).

the amendment offered by the gentleman, while most likely being germane to the resolution, is not germane to the Disney amendment, because it does seek to bring in, theoretically at least, a different class of taxes—tariff import taxes—whereas the Disney amendment refers entirely to excise taxes.

The Chair therefore sustains the point of order.

§ 33.6 To an amendment limiting the authority of the President in negotiating trade agreements by providing that such “authority . . . does not embrace authority to include in any trade agreement negotiations” certain excise taxes imposed under specified sections of the Revenue Act, an amendment was held to be not germane which sought to prohibit entry into American markets of those foreign products of lower total cost than the cost of production of competitive American products.

In the 76th Congress, during consideration of a trade agreements bill,⁽¹⁾ and an amendment thereto as described above, the following amendment was offered:⁽²⁾

1. H.J. Res. 407 (Committee on Ways and Means).
2. 86 CONG. REC. 1869, 76th Cong. 3d Sess., Feb. 23, 1940.

Amendment offered by Mr. [Lawrence J.] Connery [of Massachusetts]: “*Provided*, That no commodity or article shall be included in any foreign-trade agreement entered into which permits the entry into American markets of products of workers, farmers, or miners of foreign countries at total landed costs, all tariff duties paid, which total costs are less than the cost of production or wholesale selling price of competitive products of American workers, miners, or farmers where such American products are commercially available.”

Mr. Jere Cooper, of Tennessee, having raised the point of order that the amendment was not germane to the amendment under consideration, Mr. Connery stated:⁽³⁾

Mr. Chairman, it is my understanding that it is perfectly germane inasmuch as the amendment of the gentleman from Oklahoma is an amendment of limitation. My amendment is simply a further limitation on the gentleman’s amendment.

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

The point of order made by the gentleman from Tennessee [Mr. Cooper] is that the amendment of the gentleman from Massachusetts [Mr. Connery] is not germane to the pending amendment offered by the gentleman from Oklahoma [Mr. Disney]. The Disney amendment relates to the exclusion of certain excise taxes. The amendment

3. *Id.* at p. 1870.
4. Clifton A. Woodrum (Va.).

of the gentleman from Massachusetts introduces an entirely new feature and undertakes to limit the authority granted the President on the question of cost of production as well as the wholesale selling propositions. The Chair thinks that while the amendment would undoubtedly be germane to the resolution pending before the House, yet it is not germane to the Disney amendment, and sustains the point of order.

Approval by President of Sale of Helium

§ 33.7 To a bill authorizing the President under certain conditions to approve the sale of helium gas for medical, scientific, and commercial uses, an amendment prohibiting the sale of such gas to any foreign country engaged in specified activities was held to be germane.

In the 75th Congress, a bill⁽⁵⁾ was under consideration which stated in part:

(b) That helium not needed for Government use may be produced and sold upon payment in advance in quantities and under regulations approved by the President, for medical, scientific, and commercial use, including inflation of passenger-carrying airships: *Provided* . . . [that] the Federal Government

5. S. 1567 (Committee on Military Affairs). See relevant portions of the bill at 81 CONG. REC. 9647, 75th Cong. 1st Sess., Aug. 21, 1937.

shall have a right to repurchase helium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by said regulations.

The following amendment was offered:

Amendment offered by Mr. [Samuell] Dickstein [of New York]: Page 6, line 13, after the word "regulation" change the period to a colon and insert:

And provided further, That no helium shall be sold to any foreign country which . . . engages in . . . distribution . . . in the United States . . . of any propaganda . . . destructive to the democratic form of government of the United States.
. . .

Mr. R. Ewing Thomason, of Texas, raised the point of order that the amendment was not germane to the bill. The Chairman,⁽⁶⁾ in ruling on the point of order, stated:

[The bill] gives the President of the United States discretion and authority to dispose of helium. The amendment . . . places a limitation on the powers of the President, and says that under certain conditions the President will not be permitted to dispose of helium to those countries.

The Chair . . . overrules the point of order.⁽⁷⁾

6. Jack Nichols (Okla.).

7. 81 CONG. REC. 9653, 9654, 75th Cong. 1st Sess., Aug. 21, 1937.

Authority of President Regarding Transfer of Defense Equipment to Korea—Amendment Affecting Timetable of Transfer

§ 33.8 To a proposition conferring discretionary authority on a federal official, an amendment limiting the exercise of that authority is germane; thus, to a section of a bill authorizing the President to transfer as much defense equipment to the Republic of Korea as he determined necessary in conjunction with withdrawal of an unspecified number of United States troops, an amendment reducing the time period of the equipment transfer, in conjunction with withdrawal of a stated number of troops, was held germane as a restriction on the discretionary authority conferred in the bill.

During consideration of H.R. 12514 (the foreign assistance authorization for fiscal year 1979) on Aug. 1, 1978,⁽⁸⁾ the Chair overruled a point of order against the amendment described above. The section of the bill and the amend-

8. 124 CONG. REC. 23729, 23730, 23731, 95th Cong. 2d Sess.

ment offered thereto were as follows:

THE CHAIRMAN:⁽⁹⁾ The Clerk will read.

The Clerk read as follows:

SPECIAL SECURITY ASSISTANCE PROGRAM FOR THE MODERNIZATION OF THE GROUND FORCES OF THE REPUBLIC OF KOREA

Sec. 19. (a)(1) The President is authorized, until December 31, 1982—

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea; and

(B) to furnish to the Republic of Korea, without reimbursement, defense services (including technical and operational training) in Korea directly related to the United States Government-owned defense articles transferred to the Republic of Korea under this subsection.

(2) Any transfer under the authority of this section shall be made in accordance with all the terms and conditions of the Foreign Assistance Act of 1961 applicable to the furnishing of defense articles and defense services under chapter 2 of part II of that Act. . . .

MR. [SAMUEL S.] STRATTON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Stratton: On page 15, strike out line 12 and all that follows down through line 20 and insert the following:

9. Don Fuqua (Fla.).

Sec. 19. (a)(1) The President is authorized, until September 30, 1979—

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of not more than 6,000 troops of the 2nd Infantry Division and associated Army support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of those United States Army units scheduled to depart. . . .

MR. [LESTER L.] WOLFF [of New York]: Mr. Chairman, my point of order is this:

There is a limitation placed upon the President for the deployment of troops in Korea. Actually this amendment is subject to a point of order under the germaneness rule, rule XVI, clause 7, as it deals with a subject different from those under consideration in the bill.

The bill does not purport to deal with the deployment of U.S. combat forces abroad; it deals only with the authority to transfer equipment to the South Korean forces. This amendment may well be unconstitutional as an attempt on the President's constitutional power as Commander in Chief of all U.S. military forces.

MR. STRATTON: . . . I think my friend, the gentleman from New York (Mr. Wolff) has not read the amendment. The amendment simply makes several minor changes in the existing text of section 19 of the bill. For example, it puts in two or three additional words in section (a)(1)(A). It makes changes on page 17 and strikes out \$800 million and puts in \$90 million. On page 17, line 15, it changes the date from 1983 to 1979. It adds to the remaining section on page 18 addi-

tional reporting requirements beyond those called for in the original section.

This is absolutely in keeping with the bill itself. . . .

MR. WOLFF: . . . H.R. 12514 in no way seeks to dictate the level of troops to be maintained in Korea or, for that matter, elsewhere in the world. The fundamental purpose of the amendment is to limit the U.S. troops, as has been indicated in an amendment that this gentleman offered before and a point of order was raised upon. It seeks to limit the number of U.S. troops which may be withdrawn from Korea.

The fundamental purpose of H.R. 12514 is to authorize the appropriation of funds for the international security assistance program for fiscal year 1979. Therefore, the amendment is not germane to the bill, pursuant to clause 7 of House rule XVI. . . .

MR. STRATTON: . . . The gentleman's committee bill extends an authority to transfer equipment for 4 years, to December 31, 1982.

My amendment extends that authority only to the 30th of September 1979, and then says that during that period we are talking about, the withdrawal of 6,000 troops. If the House, if the President, or anybody else, wants to withdraw any more from Korea there is nothing in my amendment to prevent it. My amendment applies strictly to fiscal year 1979. . . .

THE CHAIRMAN: The Chair is ready to rule.

The gentleman from New York (Mr. Wolff) makes a point of order against the amendment offered by the gentleman from New York, one of the points being constitutionality.

The Chair would like to point out that the Chair is not prepared to rule on the constitutionality of legislation pending before the committee; however, as to the germaneness of the amendment, the Chair has examined the amendment offered by the gentleman from New York (Mr. Stratton). In the bill, as has been pointed out, beginning on page 15, line 14, it relates:

(A) to transfer, without reimbursement, to the Republic of Korea, in conjunction with the withdrawal of the 2d Infantry Division and support forces from Korea, such United States Government-owned defense articles as he may determine which are located in Korea in the custody of units of the United States Army scheduled to depart from Korea;

The amendment of the gentleman from New York sets a specific number which may be withdrawn, rather than following the language of a more general nature that is in the bill.

The Chair feels that the amendment meets the test of germaneness since it relates to the withdrawal of troops in Korea, a subject in the text of the bill.

The Chair, therefore, overrules the point of order.

President's Authority To Establish Priorities Among Users of Petroleum Products—Amendment To Impose Restrictions on Use for School Busing

§ 33.9 To a section of an amendment in the nature of a substitute conferring authority upon the president to establish rules for the order-

ing of priorities among users of petroleum products and requiring that vital services in areas of education and transportation shall receive high priority, an amendment restricting that regulatory authority by requiring that petroleum products allocated for public school transportation be used only between the student's home and the school closest thereto was held germane.

During consideration of the Energy Emergency Act⁽¹⁰⁾ in the Committee of the Whole on Dec. 13, 1973,⁽¹¹⁾ it was illustrated that to a provision delegating certain authority, an amendment proposing to limit such authority is germane. The proceedings were as follows:

SEC. 103. AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsections:

“(h)(1) If the President finds that, without such action, the objectives of subsection (b) cannot be attained, he may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide,

10. H.R. 11450.

11. 119 CONG. REC. 41267-69, 93d Cong. 1st Sess.

consistent with the objectives of subsection (b), an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. A top priority in such ordering shall be the maintenance of vital services (including, but not limited to new housing construction, education, health care, hospitals, public safety, energy production, agriculture, and transportation services, which are necessary to the preservation of health, safety, and the public welfare). . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by Mr. Staggers.

The Clerk read as follows:

Amendment offered by Mr. Dingell to the amendment in the nature of a substitute offered by Mr. Staggers: Page 7, line 21, strike out the first period and the quotation marks.

Page 7, insert after line 21 the following:

“(k)(1) Except as provided in paragraph (3) of this subsection, no provision of the regulation under subsection (a) (including a regulation under subsection (h)) may provide for allocation of any refined petroleum product to any person (including a State or political subdivision thereof, or State or local educational agency) if the product so allocated will be used for the transportation of any public school student to a school farther than the public school closest to his home offering educational courses for the grade level and course of study of the student within

the boundaries of the school attendance district wherein the student resides.

“(2) Any energy conservation plan proposed under section 105 of the Energy Emergency Act and any regulation under this section for allocation of petroleum products for transportation of public school students shall have as its purpose conserving refined petroleum products by reducing to the minimum the distance traveled by such students to and from the schools within the school attendance district in which the student resides. Such plans shall be formulated in consultation with the affected State and local educational agencies. . . .

MR. [BROCK] ADAMS [of Washington]: Mr. Chairman, I make a point of order against this amendment.

Mr. Chairman, I think this is one of the most important points of order that we will argue in this session of Congress.

As the Chair is well aware, under rule XXIII, the Chairman of the Committee can cite the point of order regardless of rulings of the Speaker.

The Chairman has full discretion.

Mr. Chairman, I make the point of order that this amendment is not germane. It is not germane under several propositions:

First, it does not apply to the fundamental purposes of the bill.

As is set forth in Cannon's precedents and in Hind's precedents, it is required that any amendment be to the fundamental purpose of the bill. The fact that the bill contains many subjects does not necessarily mean that another subject can be added.

I refer in particular to the ruling of the Chair in 5 Hind's Precedents, 5825, which states as follows:

While a Committee may report a bill embracing different subjects, it is not in order during consideration in the House to introduce a new subject by way of amendment.

Now, this subject, the busing of schoolchildren, is a new subject by way of amendment.

I also make the point of order, Mr. Chairman, that this must be germane to the particular section or paragraph to which it is offered. There is nothing in this paragraph on schoolbusing, and on the second page of the amendment, there is a reference to section 105 as well as to section 103.

Mr. Chairman, I make the point of order on the basis of germaneness that this is not germane, because it deals with a subject matter that is foreign to the subject matter of the particular paragraph. And I quote now from 8 Cannon's Precedents, 2918, which was a bill from the Committee on Interstate and Foreign Commerce, in which they were dealing with child labor in interstate commerce and an amendment was offered to apply this to foreign commerce, and the Chair ruled as follows:

It seems to the Chair that most of the gentlemen who argued in favor of this proposition have discussed the power of Congress to regulate both interstate and foreign commerce rather than the question of whether the proposition regulating foreign commerce is germane to a bill regulating interstate commerce. Two subjects are not necessarily germane to each other because they are related.

The Chair believes this is a bill to regulate child labor and interstate commerce and, therefore, that an amendment proposing to extend it to foreign commerce is a different matter and not in order.

Further, in Cannon's Precedents, under 2951, there is this proposition:

An amendment proposing to add an individual proposition to a bill embodying another individual proposition is not admissible even though the two propositions belong to the same class. To a bill providing for insurance for crews of vessels an amendment providing for insurance for sailors transported on such vessels was held not to be germane.

Now, in this bill, Mr. Chairman, we are providing for allocation of fuel products, and it seems to me that this precedent which provides that we cannot add an amendment applying to those who were being transported on a vessel, is directly in point, and that the amendment offered by the gentleman is not germane.

Mr. Chairman, I would further state that in this particular matter we are dealing with the fundamental purpose of the bill. The fundamental purpose of this bill is not to regulate the busing of children. That is before the Committee on Labor and Education.

Under the principles set forth in VIII Cannon's Precedents, section 2911, it is clearly stated of child labor, which was particularly involved there, that you could not extend the proposition.

Therefore, Mr. Chairman, because this is not germane to the section to which it is offered and because it involves not being germane to the fundamental purpose of the bill because it is not germane even though there are several subjects embraced in this bill, I therefore make a point of order against it. . . .

MR. [HARLEY O.] STAGGERS [of West Virginia]: Mr. Chairman, I, too, would like to make a point of order against the amendment because the Com-

mittee on the Judiciary spent a great deal of time considering the various constitutional problems associated with schoolbusing, and it comes properly within the jurisdiction of the Committee on Education and Labor and not this committee. I do not think that we should, in a bill dealing with trying to solve an economic crisis, deal with matters attempting to correct racial imbalances by means of busing of schoolchildren.

MR. ADAMS: Mr. Chairman, I finish my argument by stating in V Hinds' Precedents, section 5825, despite the fact that this bill has within it a number of different subjects, it is not in order to introduce a new subject by way of amendment.

Mr. Chairman, the regulation of schoolbusing through the allocation of fuel or the failure to allocate fuel is introducing a new subject into this bill. Even though there are many subjects involved in it, it is one that is not properly before the Committee at this time. . . .

MR. DINGELL: Mr. Chairman, my good friend from Washington has made a most eloquent and moving statement regarding germaneness. It is regrettable that he has apparently not read the amendment which he discusses, because I read in the amendment nothing which refers to matters under the jurisdiction of the Committee on the Judiciary, nothing relating to enforced schoolbusing, nothing relating to civil rights.

Quite to the contrary, Mr. Chairman, I read into the amendment the conservation of energy, the conservation of petroleum products, the conservation of refined petroleum products.

Mr. Chairman, my friend from Washington cited a great number of precedents, and again I say it is most regrettable that he has not bothered to read the amendment which is before us, because the amendment before us relates to the conservation of energy as does the bill before us.

For the assistance of the Chair and my good friend from Washington, for whom I have an abundance of affection and respect, I will read now from page 442 of the Rules of the House of Representatives, under rule XVI, clause 7, which is a rule relating to germaneness and which was not cited by my good friend from Washington, and to read under the annotations thereunder this language:

Whether or not an amendment be germane should be judged from the provisions of its text rather than from the purposes which circumstances may suggest.

The text is before the Chair. The Chair has read the text, I am sure, in his preparation for ruling upon the matter before us.

This amendment relates to allocations of products. It is specifically a prohibition upon the allocation of products. Section 103 to which this amendment is drafted is an amendment to the Emergency Petroleum Allocation Act of 1973. Section 103, as the Chair will note, at page 4, line 4, relates to priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence.

The amendment directs the President as to the way such users may re-

ceive oil. It refers in line 11 of that page 4 to transportation services. We transport hundreds of thousands of children in school buses. This relates to the kind of allocation and priority of the users of that kind of transportation.

Further down in the same page, page 4, it refers again at line 17 to the President to cause such adjustments in the allocation. Again, at line 19, the word "allocation"—as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product.

Again at the bottom of page 4, line 24, "The President shall provide for procedures by which any user of such oil or product for which priorities and entitlements are established under paragraphs 1 and 2."

It provides for petition and review and reclassification and modification of any determination regarding priorities.

At page 5, lines 1 through 4, and on the following page 6, under line 4, the term "allocation" is again referred to. . . .

THE CHAIRMAN:⁽¹²⁾ Unless there are other Members who desire to be heard on the point of order, the Chair is prepared to rule.

The Chair has had the opportunity to examine the amendment for some hours—in fact, for approximately 1 day. The Chair has diligently searched the precedents. The Chair finds that the point of order made by the gentleman from Washington (Mr. Adams) that the amendment offered by the gentleman from Michigan (Mr. Dingell) is not germane to the amendment in the nature of a substitute, is not good.

12. Richard Bolling (Mo.).

The Chair would like to describe why.

The amendment is offered to section 103 of the amendment in the nature of a substitute which deals with the authority of the President to establish rules for the ordering of priorities among users of petroleum products. Section 103 specifies that in ordering such priorities, the maintenance of vital services in the areas of education and transportation is to be emphasized.

The amendment of the gentleman from Michigan (Mr. Dingell) restricts the authority bestowed upon the President by the pending substitute and by the portion of the Emergency Petroleum Allocation Act which is proposed to be altered. The amendment refers to fuel allocation regulations to be issued under the act, and is germane.

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

Restriction on Official's Discretion To Interpret Laws Administered by Him

§ 33.10 To a title of a bill as perfected, limiting in several respects an executive official's authority to construe legal authorities transferred to him in the bill except as specifically permitted by law, an amendment further restricting that official's authority to construe under any circumstances certain laws to be administered by him was held germane as an

additional (although more restrictive) curtailment of existing authorities being transferred by the bill.

On June 11, 1979,⁽¹³⁾ the Committee of the Whole had under consideration H.R. 2444, the Department of Education Organization Act of 1979. The first title of the bill as amended, in addition to creating a new Department of Education, stated broad findings and purposes of the Department including the promotion of daily prayer in public schools, prohibited the construction of laws administered by the Department to authorize federal control of public education except as specifically authorized by federal statute, and prohibited the Department from withholding federal funds from educational entities because of curriculum except as specifically authorized by law. An amendment was offered prohibiting the construction of laws administered by the Department to authorize the issuance of regulations requiring the transportation of students or teachers to achieve racial balance or requiring other desegregation plans as a condition of federal assistance. The amendment was held germane as a further restriction, related to those in the title

13. 125 CONG. REC. 14226, 14233, 1423-38, 96th Cong. 1st Sess.

as perfected, on the construction of laws to be administered by the Secretary of Education. The proceedings were as follows:

THE CHAIRMAN: G5(14) Are there any amendments to section 2?

If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—FINDINGS AND PURPOSES

FINDINGS

SEC. 101. The Congress of the United States finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is a continuous need to ensure equal access for all Americans to educational opportunities of a high quality;

(3) the primary responsibility for education resides with States, localities, and private institutions . . .

(7) there is a need for improved coordination of Federal education and related programs; and

(8) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

PURPOSES

SEC. 102. The Congress therefore declares that the establishment of a Department of Education is in the public interest and will promote the general welfare of the United States. Establishment of this Department will help ensure that education issues receive proper treatment at the Federal level and will enable the Federal Government to coordinate its education activities more effec-

14. Lucien N. Nedzi (Mich.).

tively. The major purposes of the Department are:

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every American . . .

(5) to increase the accountability of Federal education programs to the President, the Congress, and the public;

(6) to encourage the increased involvement of the public, parents, and students in Federal education programs; and

(7) to improve the coordination of Federal education programs.

PROHIBITION AGAINST FEDERAL
CONTROL OF EDUCATION

Sec. 3. No provision of law relating to a program administered by the Secretary or by any other officer or agency of the executive branch of the Federal Government shall be construed to authorize the Secretary or any such officer or agency to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school or school system; over any accrediting agency or association; or over the selection of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent specifically authorized by law.

Subsequent amendments included the following:

Amendment offered by Mr. Walker: On page 56, in line 17, strike out the "and";

In line 19, strike out the period and insert in lieu thereof "; and"; and

After line 19, insert the following:

(8) to promote in all public schools providing elementary or secondary education a daily opportunity for

prayer or meditation, participation in which would be on a voluntary basis. . . .

Amendment offered by Mr. Skelton: Page 56, line 22, insert "(a)" immediately after "Sec. 103.", and on page 57, after line 7, insert the following new subsection:

(b) No funds provided under any program administered by the Secretary or the Department may be suspended, terminated or otherwise withheld from any educational institution, school or school system on the basis of any requirement imposed by the Secretary or the Department relating to curriculum, program of instruction, administration, personnel, the selection of library resources, textbooks or other instructional materials, except where specifically authorized by law. . . .

Amendment offered by Mr. Ashbrook: on page 57, line 7 strike "law."

And insert in lieu thereof the following language: "by federal statute. Regulations issued by the Department of Education shall not have the standing of a federal statute for the purposes of this section."

The amendment offered by Mr. Robert S. Walker, of Pennsylvania, was amended to change "promote" to "permit."⁽¹⁵⁾ Thereafter, the amendments offered by Mr. Walker, Mr. Ike Skelton, of Missouri, and Mr. John M. Ashbrook, of Ohio, were agreed to. Then Mr. Ashbrook offered a further amendment, as follows:

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

15. The amendment to the Walker amendment was offered by Mr. Arlen I. Erdahl (Minn.).

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 56, line 22, insert "(a)" after "Sec. 103." and page 57, after line 7 insert:

"(b) No provision of law shall be construed to authorize the Secretary to issue any regulation, rule, interpretation, guideline, or order which requires, as a condition of eligibility to receive Federal assistance, or otherwise, the transportation of students or teachers (or the formulation or adoption of any plan for such transportation) to achieve racial balance in or to carry out a plan for the desegregation of any educational institution, school, or school system."

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I reserve a point of order on the amendment.

THE CHAIRMAN: Does the gentleman wish to be heard on his point of order?
 . . .

MR. BROOKS: Mr. Chairman, I want to say that just a simple reading of the amendment says that it is going to try to make a plan of desegregation of any institution.

I do think we can have any such plan really in that fashion. I do want to make a point of order against the amendment under rule XVI, clause 7, which requires amendments to be germane to the subject under consideration.

In order to be germane, an amendment must have the same fundamental purpose as a bill under consideration.

The purpose of H.R. 2444 is to establish a Department of Education. It deals only with the organizational structure of that Department. Amendments affecting programs or assigning new duties to the Secretary or his assistants and employees that are not

now authorized by law are not consistent with that organizational purpose and therefore should be ruled out of order.

A further test might be that such an amendment would certainly not be sent to the Government Operations Committee if it were offered as a bill on the floor of this Congress. . . .

MR. ASHBROOK: Mr. Chairman, even the most strict reading of the preamble clause of this bill, which, as my colleague has indicated, has come out of the Government Operations Committee—not the Judiciary Committee, not the Education Committee, it has come out of the Government Operations Committee—even the most strict interpretation if you read the preamble, they talk about every facet of education, promoting education, making reports available; every particular facet of education that relates to elementary and secondary schools, is repositied in the Department of Education.

I do not think there is an American, let alone a Congressman, who believes that busing in one way or another is not a part of education. I do not believe there is a Member of this Chamber who believes in one way or another busing will not be under consideration by the newly created Department of Education, and for all those purposes, I believe it to be absolutely germane. I hope the Chair will so rule.

THE CHAIRMAN: The Chair is prepared to rule.

Section 103, title I, mandates how existing education laws are to be construed in several diverse respects. Section 103 does contain certain limitations upon the statutory constructions

of several authorities of the Secretary to control education programs.

The amendment is a further restriction on construction of other authority of the Secretary in construing existing education law, is germane to title I and the Chair therefore overrules the point of order.

Amendment Providing for Disapproval of Agency Regulations by Congress

§ 33.11 To a bill authorizing an agency to undertake certain activities, an amendment providing that agency regulations issued pursuant to that authority may be disapproved by Congress is a germane restriction upon the authority conferred in the bill so long as the disapproval mechanism does not directly amend the rules of the House; thus, although other committees of the House have jurisdiction over the Environmental Protection Agency's regulatory authority contained in various environmental laws, an amendment to a bill reported from the Committee on Science and Technology (having jurisdiction over environmental research and development) which restricts the internal regulations of that agency relating to its re-

search and development activities may be germane if limited to that phase of the agency's operations.

During consideration of H.R. 12704⁽¹⁶⁾ in the Committee of the Whole on May 4, 1976,⁽¹⁷⁾ the Chair overruled a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby authorized to be appropriated to the Environmental Protection Agency for the fiscal year ending September 30, 1977, for the following categories:

(1) Research, development, and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act, \$13,813,900.

(2) Research, development, and demonstration under section 301 of the Public Health Service Act, \$878,900.

(3) Research, development, and demonstration under the Safe Drinking Water Act, \$13,592,500. . . .

Amendment offered by Mr. Ketchum: Page 5, after line 7, add the following new section:

Sec. 6. Notwithstanding any other provision of law, no rule or regulation promulgated on or after the date of enactment of this Act by the Administrator of the Environmental Protection Agency, in connection

16. The environmental research, development and demonstration authorization for fiscal year 1977.

17. 122 CONG. REC. 12344-48, 94th Cong. 2d Sess.

with research, development, or demonstration under any of the Acts specified in subsection (a) of the first section of this Act, shall become effective unless . . . the Congress by concurrent resolution does not disapprove such rule or regulation within 60 days. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the bill before us has the purpose of authorizing appropriations to the Office of Research and Development of the Environmental Protection Agency for fiscal year 1977 with respect to certain specific areas.

One is research, development, and demonstration under the Federal Insecticide, Fungicide, and Rodenticide Act, which act, as I understand it, is an act wholly under the jurisdiction of the Committee on Agriculture, even with respect to its research operations; with respect to research, development, and demonstration under section 301 of the Public Health Service Act, which is an act which is generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Safe Drinking Water Act, which is an act generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Clean Air Act, which is also under the jurisdiction of the Committee on Interstate and Foreign Commerce generally; research, development, and demonstration under the Solid Waste Disposal Act, which is generally under the jurisdiction of the Committee on Interstate and Foreign Commerce; research, development, and demonstration under the Federal Water Pollution Control Act Amendments of 1972, which is

generally under the Committee on Public Works. . . .

Furthermore, this provision, as I read it, would make a rule or regulation which might include regulatory authority, but which would also include research, development, or demonstration within its reach, subject to what is called the congressional veto.

Thus, if a rule or regulation were made by the Administrator that affected both research and development and other functions of the agency clearly outside the jurisdiction of this committee, this amendment would reach, broadly, rules and regulations of very diverse character. . . .

The original rule, if vetoed by concurrent resolution by Congress, would in turn be subject to a veto by the President because the Constitution says that any act requiring the concurrence of both bodies must be submitted to the President and he may veto it.

So this amendment has great and broad reach far beyond the provisions of the bill, and I submit, Mr. Chairman, that it is therefore not germane to the bill itself. . . .

MR. [WILLIAM M.] KETCHUM [of California]: . . . If you will read the language of my regulatory reform-type amendment closely, you will see that it pertains only to rules and regulations connected with "research, development, or demonstration under any of the acts specified in subsection (a)." Therefore, the scope of my amendment is expressly limited to coincide with the scope of this bill. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I would like to join the gentleman from California (Mr. Ketchum) is his argument that

this is most assuredly within rule XVI of the House which requires germaneness, because in any such situation where a proposition confers broad discretionary power upon an executive official, it is perfectly within the rights of any Member to offer an amendment that directs that official to take certain actions prior to the expenditure of funds or the exercising of certain policies.

In chapter 28, paragraph 24.2 of Deschler's Procedure, the general rule is stated that points out the precedents on an authorization bill indicate that the authorization itself may be made contingent upon a future event if the event is related to the subject matter before the House. . . .

MR. ECKHARDT: . . . Rules and regulations, under almost all administrative agency acts or acts concerning a department of Government that has a rule or regulatory structure, are contained in a special section of a bill.

They generally deal with the action of that department or of that regulatory agency having to do with enforcement, but they also in many instances deal with matters of internal operation of the agency, which internal operation concerns both research and development and examination of projects, direction of personnel of highly technical proficiency, and other matters.

These matters are related not only to the ultimate regulation, but are related to certain research which occurs prior to the making of such final rules affecting the persons so regulated.

When we permit an amendment to a bill which purports only to deal with demonstration projects, et cetera,

under this committee's jurisdiction, with this whole complex subject of rulemaking, and provide an entirely new method of congressional review whereby a rule will not go into effect if Congress, by concurrent resolution, disapproves such rule or regulation, we vastly alter a section in each of these bills that deals not only with rules and regulations or, rather, with demonstration and research, but also is related to the whole operation of the bill.

One cannot go in and alter those sections piecemeal. And if we permit an amendment on the floor to provide for this kind of congressional review and then a subsequent presidential veto, we deal with a matter so integrally related with the rulemaking process in each of these bills—four of which I believe were under the jurisdiction of the Committee on Interstate and Foreign Commerce, one under the Committee on Agriculture and one under the Committee on Public Works and Transportation—that we invite utter confusion respecting where the dividing line is between the rule's application to research and development and the rule's application to other functions. . . .

THE CHAIRMAN:⁽¹⁸⁾ The Chair is prepared to rule.

The Chair would first point out that the research and development programs in the bill itself are very broad and diverse, as is illustrated by the six categories that are set forth on page 2, lines 1 through 15. In addition to that, based upon the language of the amendment itself, as well as the colloquy between the gentleman from California and the gentleman from Washington, the amendment is restricted to regula-

18. Neal Smith (Iowa).

tions promulgated in connection with research, development, and demonstration activities, under the acts that are specified in this bill. Therefore, it does not go to other research and development programs not specified in the bill and not within the Science and Technology Committee's jurisdiction.

The Chair would also point out that this amendment provides merely for a disapproval mechanism in a manner that does not change the Rules of the House, so it really is a limitation upon the authority granted under the act. The Chair cannot, of course, rule upon the constitutionality of such a disapproval procedure. Therefore, the Chair overrules the point of order and holds the amendment germane.

Authority of Federal Energy Administrator — Amendment To Direct Administrator To Restrict Petroleum Exports

§ 33.12 To a proposition conferring broad discretionary authority on an executive official, an amendment directing that official to take certain actions in the exercise of that authority is germane; thus, to an amendment in the nature of a substitute authorizing the Federal Energy Administrator to restrict exports of certain energy resources, an amendment directing that official to prohibit the exportation of petroleum products for use in military operations in Indo-

china was held germane as a delineation of the broad authority conferred by that substitute.

On Dec. 14, 1973,⁽¹⁹⁾ during consideration of H.R. 11450 (the Energy Emergency Act), the Chair held the following amendment to be germane to the amendment in the nature of a substitute to which it was offered:

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Ms. Holtzman to the amendment in the nature of a substitute offered by Mr. Staggers: Page 45, insert after line 9:

"SEC. 124. PROHIBITION OF PETROLEUM EXPORTS FOR MILITARY OPERATIONS IN INDOCHINA.

"In the exercise of his jurisdiction under the preceding section, and in order to conserve petroleum products for use in the United States, the Administrator shall prohibit the exportation of petroleum products for use, directly or indirectly, in military operations in South Vietnam, Cambodia or Laos." . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: Mr. Chairman, I make the point of order that this amendment is not germane to the bill since it deals with a subject matter that is under the jurisdiction of other committees of the

19. 119 CONG. REC. 41753, 93d Cong. 1st Sess.

House of Representatives, the Committee on Armed Services and the Committee on Foreign Affairs, as an example. . . .

MS. HOLTZMAN: Mr. Chairman, I do desire to be heard on the point of order.

Mr. Chairman, certainly the subject of petroleum products seems to be within the jurisdiction of this committee since we have been debating this matter for at least 3 days. So I would urge that that subject is germane, and that my amendment is germane to the bill.

THE CHAIRMAN:⁽²⁰⁾ The Chair is prepared to rule.

The language of the amendment in the nature of a substitute which appears at the bottom of page 44 reads in part as follows:

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products. . . .

The amendment offered by the gentlewoman from New York (Ms. Holtzman) is a further delineation of that type of authority. Therefore the Chair overrules the point of order made by the gentleman from North Carolina (Mr. Broyhill).

—Amendment Imposing Ceiling Prices on Petroleum Products

§ 33.13 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the

20. Richard Bolling (Mo.).

energy needs of the Nation, amended to limit exercise of those functions “to the extent expressly authorized by other sections of the bill or any other provisions of law,” an amendment prescribing guidelines to be followed by the Administrator in establishing petroleum prices (a permissible limitation on the discretionary authority conferred in that section), but also directly imposing ceiling prices on petroleum products where the Administrator had not exercised his pricing authority pursuant to those guidelines, was held to directly change substantive law and was held to be not germane.

On Mar. 6, 1974,⁽¹⁾ during consideration of H.R. 11793⁽²⁾ in the Committee of the Whole, it was demonstrated that, while a proposition reorganizing existing discretionary governmental authority under a new agency may be amended by imposing limitations on the exercise of those functions, an amendment directly changing policies in the substantive law to

1. 120 CONG. REC. 5433–36, 93d Cong. 2d Sess.

2. Federal Energy Administration Act.

be administered by that agency is not germane.

MR. [JOHN E.] MOSS [of California]:
Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 18, line 11, insert "(a)" after "Sec. 5."

Page 20, after line 2 and after the Alexander amendment, insert the following:

(14) In administering any pricing authority, provide for equitable prices with respect to all sales of crude oil, residual fuel oil, and refined petroleum products in accordance with subsection (b) of this section.

(b)(1) Pricing authority of the Administrator shall be exercised so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of any regulation under pricing authority of the Administrator which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in

that field, the related price for that grade of crude oil for which prices are posted; and

(B) a maximum of \$1.35 per barrel. . . .

MR. [FRANK] HORTON [of New York]:
Mr. Chairman, the amendment offered by the gentleman from California (Mr. Moss) is nongermane to this reorganization bill, and section 5, under rule XVI, clause 7.

The committee yesterday amended section 5 of the bill before us so that the functions listed would clearly not confer any new authority on the FEA Administrator. The authority available to the FEA Administrator must come from other sections of this act, or provisions of other laws which are now in existence.

As the Chair pointed out yesterday, amendments must be germane to the bill as modified by the Committee of the Whole at the time they are offered, and not as originally referred to the committee. Therefore, amendments attempting to add policy or program powers to section 5 are nongermane to that section.

The subject matter of this amendment was not considered in the committee, and is not dealt with in any other provisions in this bill; it is a subject matter completely different from the matter under consideration.

In the interest of orderly legislation . . . the amendment should be ruled out of order. It is inappropriate to section 5, because section 5 does not add any new policy or program. It amends existing law, Mr. Chairman, in ways that are not affected by the bill which is now before the committee. For example, the Economic Stabilization Act, there are sections there that are in

this amendment that are not involved in this bill. . . .

MR. MOSS: . . . Section 5 of the bill before us requires the Administrator to:

Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise. . . .

The amendment I have offered is a limitation upon the Administrator. It says he cannot go back before the prices set in May of 1973 in the exercise of his authority, excepting that he may add a total of \$1.35, bringing to \$5.25 a barrel the effective price of crude oil. It does provide that there can, upon certain findings by the Administrator, be an increase to \$7.09. . . .

. . . We are limiting the discretion. We are limiting the authority which we are by this act itself, the proposed legislation in the Committee on Government Operations, granting to the Administrator. Clearly that is germane; clearly that is within the province of this committee and of this House to limit the scope of authority conferred or being conferred upon a new office. . . .

THE CHAIRMAN:⁽³⁾ The Chair is prepared to rule.

The gentleman from California (Mr. Moss) has offered a substantive amendment to section 5 of this bill. The amendment has been read in its entirety and will appear in the Record of the proceedings of today.

Against this amendment the gentleman from New York (Mr. Horton) has made a point of order as follows:

That the amendment offered by the gentleman from California (Mr. Moss) is not germane to the bill or to the section of the bill to which it is presently offered.

The Chair had, of course, anticipated that further questions regarding the germaneness of amendments to section 5 might arise today, and for that reason the Chair has reviewed the actions taken by the Committee of the Whole on yesterday.

The Chair has carefully read and fully attempted to analyze each line of the amendment offered by the gentleman from California (Mr. Moss).

The Chair has diligently endeavored to understand the full import and the total impact of the amendment which the gentleman from California (Mr. Moss) has offered. Section 5 of the bill was amended by the amendment offered yesterday by the gentleman from California (Mr. Holifield), so that the preface to that section now reads as follows:

To meet the energy needs of the Nation for the foreseeable future, the Administrator, to the extent expressly authorized by other sections of this Act or any other provisions of law. . . .

There follows in section 5 a list of functions which define the broad areas in which the Administrator may act. This list on enumeration of functions, as the Chair stated yesterday, is, of course, subject to germane amendment. Whether additional functions relating to the energy needs of the Nation, if added to this list by way of amendment, would be authorized by other provisions of this bill or by other law, is a legal question and not a parliamentary question.

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

Whether or not a function given the Administrator under section 5 is authorized by existing law is a matter that goes to the effect of the amendment and not to the question as to whether or not it is germane.

The Chair does not, under the precedents, rule on questions of the consistency of amendments or upon their legal effect. The question upon which the Chair must now rule is, "Is the amendment in its entirety as offered by the gentleman from California germane to section 5 of the bill H.R. 11793?"

The Chair will state that section 5 sets forth the functions of the Administrator, and on yesterday the Chair enumerated some of the functions. The section includes a broad range of functions and duties, and under the rules of germaneness other related functions could be added to the list by way of amendment. Functions or duties could also be limited by way of amendment, but substantive law cannot be changed by an amendment to a section dealing with functions.

Much of what the gentleman from California (Mr. Moss) and others have said is true. Much of the amendment offered deals with functions, and part of the amendment purports to modify the Administrator's functions; but portions of the amendment extend further than defining, restricting, or limiting the functions of the Administrator.

It should be borne in mind that section 5 of this bill relates to the functions of the Administrator of the Federal Energy Administration. Although part of the amendment does define and limit the functions of the Administrator, other portions of the amend-

ment place a mandatory burden on him or, even without action on his part, effectively change existing law and pricing authority.

Therefore, the Chair sustains the point of order made by the gentleman from New York.

—Amendment To Prohibit Administrator From Setting Domestic Oil Prices Above Certain Level

§ 33.14 To a section of a bill prescribing the functions of a new Federal Energy Administration in meeting the energy needs of the Nation, amended to limit exercise of those functions "to the extent expressly authorized by other sections of the bill or any other provisions of law," an amendment prohibiting the Administrator from setting ceiling prices for domestic crude oil above a designated level in the exercise of the authority transferred to him in the bill was held a germane limitation not directly amending existing law, on the discretionary authority conferred in that section.

During consideration of the Federal Energy Administration Act (H.R. 11793) in the Committee of the Whole on Mar. 6, 1974,⁽⁴⁾ the

4. 120 CONG. REC. 5444-46, 93d Cong. 2d Sess.

Chair overruled a point of order against the following amendment:

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dingell: Page 19 at the end of line 7 strike the semicolon and add the following: "The Administrator, in exercising the functions transferred by this Act, may not fix the price for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus \$1.30 per barrel; or \$5.25 per barrel plus 35 per centum thereof, if he finds it consistent with the purposes of this Act." . . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, this amendment amends a section of the Economic Stabilization Act that is not involved in this bill. For that reason and the other reasons I have previously stated, I make the point of order that this amendment is nongermane. . . .

MR. DINGELL: . . . Mr. Chairman, the question before us is, what is the nature of the amendment and to what statute does the amendment apply. The amendment is first of all, Mr. Chairman, a limitation on the powers which may be exercised.

As the Chair will observe, the amendment relates to section 5, which is entitled, "Functions," which appears in line 10 on page 18. The Chair will note that in the sections transferred under section 5 at line 3, page 19, the administrator shall, and then he is directed to do the following:

(5) Promote stability in energy prices to the consumer, promote free and open competition in all aspects

of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

Mr. Chairman, to recapitulate briefly, this amendment relates to functions which are transferred to the administrator from other agencies in Government. It refers specifically only to the powers which are vested in him by the transfers accomplished under this bill.

Referring to page 19, line 3, the administrator would have the duty transferred to him, and I am now quoting section 5:

Promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

Now, the administrator in exercising these functions as listed above would not be able to fix prices for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus the additional limitations which he could add if he were to feel that it were to be consistent with the purposes of the act.

Mr. Chairman, the amendment here is a limitation of the functions to be transferred and the powers which would be transferred. Clearly, this would then be a germane amendment because the amendment does not add, but rather subtracts, limits and restricts the functions and powers and prerogatives which would be vested in the administrator. It adds nothing that is not in the bill now, but rather limits significantly the powers which would be vested in the administrator.

For that reason, I submit to the Chair that the amendment is germane.

MR. [CHET] HOLIFIELD [of California]: Mr. Chairman, I rise in support of the point of order.

Mr. Chairman, in my opinion this amendment, by the use of the word "shall," imposes a mandate upon the Administrator. The authors have tried to draw this in the form of a limiting amendment. However, it actually says "shall." It says, "Shall fix the price for domestic crude oil," and then it goes on and says no higher than a certain amount and by a certain date and \$1.30 per barrel plus 35 percent of \$5.25, if he finds it consistent with the act. Therefore, actually, it mandates a duty upon the Administrator and it interferes, in my opinion, with the general mandate that he should stabilize the functions where the bill promotes stability in energy prices to the consumer.

That is the general statement of the objective, but it does not tell the Administrator how to do it. This tells the Administrator how to do it, and also imposes upon him certain limitations as to what he can do.

THE CHAIRMAN:⁽⁵⁾ The Chair is prepared to rule.

The gentleman from Michigan (Mr. Dingell) has offered an amendment to section 5 of the bill.

The gentleman from New York (Mr. Horton) has made a point of order against the amendment on the ground that it is not germane to the section under consideration. The gentleman from California, speaking in support of the point of order, has stated that the amendment mandates certain action by the Administrator.

The Chair has carefully studied the language of the amendment and does

not interpret any portion thereof as a mandate to set a certain price, because the language of the amendment, as read and to be printed in the Record at this point, does not say, "shall," but, rather, uses the words, "may not." Nor does the amendment amend existing law—the Economic Stabilization Act—as has been suggested.

Section 5 is a section that includes a broad range of functions and duties. It is clear that functions or duties enumerated therein could be limited by way of amendment.

The language of this amendment appears to limit the functions stated in section 5 of the bill, and the Chair, therefore, overrules the point of order.

MR. [CLARENCE J.] BROWN of Ohio: So that the Chair ruled that the language "may not" is permissive. Is that correct?

THE CHAIRMAN: The Chair will state in response to the inquiry of the gentleman from Ohio (Mr. Brown) that the Chair ruled that the language of the amendment was a limitation above which the Administrator could not go in exercising certain functions transferred to it under the provisions of this act.

—Amendment Directing Administrator To Issue Guidelines for Citizens' Fuel Use

§ 33.15 To a proposition conferring discretionary authority, an amendment adding a related function or limiting the exercise of that authority is germane; thus, to a section of a bill prescribing the func-

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

tions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment directing the Administrator to issue preliminary summer guidelines for citizens' fuel use was held germane as a further delineation of those functions.

On Mar. 5⁽⁶⁾ and 6,⁽⁷⁾ 1974, the Committee of the Whole had under consideration a section of the Federal Energy Administration Act (H.R. 11793) stating in part:

Sec. 5. To meet the energy needs of the Nation for the foreseeable future, the Administrator shall—

(1) advise the President and the Congress with respect to the establishment of a comprehensive national energy policy for the balance of the twentieth century, and in coordination with the Secretary of State, the integration of domestic and foreign policies relating to energy resource management;

(2) assess the adequacy of energy resources in meeting demands for the immediate and long-range future for all sectors of the economy and for the general public;

(3) develop effective arrangements for the participation of State and local governments in the resolution of energy problems;

6. 120 CONG. REC. 5301, 93d Cong. 2d Sess.

7. *Id.* at pp. 5436, 5437.

(4) develop plans and programs for dealing with energy production shortages;

(5) promote stability in energy prices to the consumer, promote free and open competition in all aspects of the energy field, prevent unreasonable profits within the various segments of the energy industry, and promote free enterprise;

(6) assure that programs are designed and implemented in a fair and efficient manner so as to minimize hardship and inequity while assuring that the priority needs of the Nation are met;

(7) develop and oversee the implementation of equitable voluntary and mandatory energy conservation programs and promote efficiencies in the use of energy resources;

(8) develop and recommend policies on import and export of energy resources;

(9) collect, evaluate, assemble, and analyze energy information on reserves, production and demand and related economic data;

(10) identify the need for and take action to expedite the development of energy resources;

(11) work with business, labor, consumer and other interests and obtain their cooperation; and

(12) perform such other functions as may be prescribed by law.

MR. [FRANK] HORTON [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the Record, and open to amendment at any point. . . .

There was no objection. . . .

MR. [BILL] GUNTER [of Florida]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendments offered by Mr. Gunter: Page 19, line 23, add the following new subsection:

“(11) Issue preliminary summer guidelines for citizen fuel use within 30 days of the enactment of this Act.

Page 19, line 23, strike out “(11)” and insert in lieu thereof “(12)”.

Page 20, line 1, strike out “(12)” and insert in lieu thereof “(13)”.

MR. HORTON: Mr. Chairman, I make a point of order against the amendments. Basically they are the same arguments I made before and also this sets up a policy or program which is outside the section and not a subject matter of this bill.

THE CHAIRMAN:⁽⁸⁾ Does the gentleman from Florida desire to be heard on the point of order?

MR. GUNTER: I do, Mr. Chairman.

Mr. Chairman, the amendment is rather simple and easy to understand. It requires the Administrator to issue within 30 days, upon enactment of this act, a preliminary summary. . . .

Mr. Chairman, the amendment as stated would simply require the Administrator, to issue within 30 days upon enactment of this act, preliminary summer guidelines for fuel use which, Mr. Chairman, I think falls within the framework of the section specifying the functions. I do not interpret this particular specification as outside of those programs which are spelled out in the committee report, and in the body of the act.

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Florida (Mr. Gunter) has offered an amendment to

section 5 of the bill, to which amend the gentleman from New York (Mr. Horton) has raised a point of order.

The Chair has carefully read the language of the amendment, and has carefully listened to the arguments made by the gentleman from New York (Mr. Horton), in support of his point of order, and the arguments made by the gentleman from Florida (Mr. Gunter), in opposition to the point of order.

In the opinion of the Chair, the language of the amendment as offered by the gentleman from Florida clearly relates to the functions of the Administrator, which are otherwise enumerated and defined within the section now under consideration.

The Chair finds nothing in the language of the amendment which mandates the Administrator any more than do the other functions enumerated, nor does the Chair find anything in the amendment which would in any way amend or seek to amend existing law.

The Chair does not rule now or at any other time on the consistency of amendments; the Chair, therefore, after analyzing the amendment and listening to the argument, rules that the amendment is germane and, therefore, overrules the point of order.

—Amendment To Prohibit Rationing Without Congressional Approval

§ 33.16 To a section of a bill prescribing the functions of a new Federal Energy Administration, an amendment prohibiting the promulgation

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

of petroleum rationing rules as an exercise of the authority conferred in that section, without prior approval by Congress (which did not constitute a change in House rules), was held a germane limitation on that discretionary authority.

On Mar. 6, 1974,⁽⁹⁾ during consideration of H.R. 11793⁽¹⁰⁾ in the Committee of the Whole, Chairman John J. Flynt, Jr., of Georgia, overruled a point of order against the following amendment:

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: Page 20, line 2, strike out the period and insert the following: “; *Provided however*, That none of the powers or functions granted to the Administrator under the terms of this Act shall permit the promulgation of any rule or rules providing for the establishment of a program for the rationing among classes of users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of users not similarly entitled, without the prior approval of Congress.”. . .

MR. [FRANK] HORTON [of New York]: Mr. Chairman, I make a point of order

9. 120 CONG. REC. 5439, 93d Cong. 2d Sess.

10. Federal Energy Administration Act.

against the amendment for the reasons that I have stated earlier. In addition, in effect it indirectly amends section 4 of the Emergency Petroleum Allocation Act, and it also gives specific negative direction to the administrator in a section which purports to outline the general powers or functions of the administrator. Therefore, I think it is a non-germane amendment, and I ask that the Chair declare it nongermane. . . .

MR. BAUMAN: . . . [T]he amendment specifically states that it applies to the limitations of the powers and functions granted to the administrator under the terms of this act. . . .

For the . . . reason that this is no more than a limitation on the powers granted in the bill, I think this is perfectly germane. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from Maryland (Mr. Bauman) has offered an amendment to section 5 of the bill. The gentleman from New York (Mr. Horton) has raised a point of order against the amendment on the ground of non-germaneness. The Chair has carefully read the amendment offered by the gentleman from Maryland (Mr. Bauman). It is well settled that section 5 includes a broad range of functions and duties of the administrator. It is clear that under the rules of germaneness, other related functions may be added to the list by way of amendment.

Also, the functions or duties therein enumerated may be limited by way of amendment.

The Chair feels that the amendment offered by the gentleman from Maryland is in the nature of a limitation

and, therefore, overrules the point of order.

—Limitation on Authority Regarding Setting of Prices for Propane Gas

§ 33.17 To a proposition conferring discretionary authority, an amendment limiting the exercise of that authority is germane; thus, to a section of a bill prescribing the functions of a new Federal Energy Administration by conferring wide discretionary powers upon the Administrator, an amendment limiting the authority of the Administrator in setting prices for propane gas by requiring an equitable allocation of costs of production based upon certain delineated standards was held germane where the amendment did not directly amend existing law.

During consideration of H.R. 11793⁽¹¹⁾ in the Committee of the Whole on Mar. 5, 1974,⁽¹²⁾ the Chair overruled a point of order against the following amendment:

MR. [BILL] ALEXANDER [of Arkansas]:
Mr. Chairman, I offer an amendment.

11. The Federal Energy Administration Act.

12. 120 CONG. REC. 5309, 5310, 93d Cong. 2d Sess.

The Clerk read as follows:

Amendment offered by Mr. Alexander: Page 20, after line 2, insert the following new subsection:

(13) in administering any pricing authority, by rule, provide for equitable allocation of all component costs of producing propane gas. Such rules may require that (a) only those costs directly related to the production of propane may be allocated by any producer to such gas for purposes of establishing any price for propane, and (b) prices for propane shall be based on the prices for propane in effect on May 15, 1973. . . .

Mr. Frank Horton, of New York, made the point of order that the amendment was not germane, and referred to the arguments he had successfully used against a prior amendment, which had sought directly to amend a statute not amended by the bill.⁽¹³⁾ In addition to arguing on the basis of committee jurisdiction of the subject matter of the bill and amendment, he had sought to establish that the bill's purpose was to change the organizational structure through which energy programs were administered, without changing substantive laws and without changing policies or granting authority to substantially change existing programs, so that an amendment which in effect sought to achieve the latter would not be germane.

MR. ALEXANDER: Mr. Chairman, the gentleman from New York in raising a

13. See 120 CONG. REC. 5306–08, 93d Cong. 2d Sess., Mar. 5, 1974.

point of order with reference to my amendment addresses himself to the transfer of functions, which is the entire basis of his argument.

I point out to the Chairman that the transfer of functions is achieved under section 6, page 20, of the bill entitled "Transfers."

My amendment, Mr. Chairman, is to section 5 entitled "Functions."

While this bill establishes a new Federal Energy Administration for administering the authority transferred to it by the enactment of this bill, it also grants authority to exercise the power of discretion.

Discretion with respect to the establishment of a comprehensive national energy policy for the balance of the 20th century.

Discretion to develop plans and programs for dealing with energy production shortages.

Discretion to promote stability in energy prices to the consumer.

Discretion to prevent unreasonable profits within the various segments of the energy industry.

And, discretion to assure that programs are designed and implemented in a fair and efficient manner so as to minimize hardships and inequity.

Mr. Chairman, inasmuch as the exercise of previous Federal discretion has in fact caused hardships and inequity—has in fact been unfair—I offer this amendment to limit the discretion of the Administrator granted in this bill so as to insure that he shall, by rule, assure that programs are in fact designed and implemented in a fair and efficient manner so as to minimize hardship and inequity.

THE CHAIRMAN:⁽¹⁴⁾ The Chair is prepared to rule.

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

The gentleman from Arkansas (Mr. Alexander) has offered an amendment on page 20, after line 2. . . .

The gentleman from New York (Mr. Horton) has raised a point of order against the amendment on the ground that it is a nongermane amendment and on the ground that it seeks to amend existing law.

The Chair has carefully examined the amendment offered by the gentleman from Arkansas (Mr. Alexander) and has listened carefully to the arguments made in support of the point of order by the gentleman from New York (Mr. Horton) and the arguments made against the point of order by the gentleman from Arkansas (Mr. Alexander). The Chair does not find anything in the amendment which seeks to amend any existing law.

The Chair has referred to volume VIII, Cannon's Precedents, sections 3022 and 3023, where it is stated that to a provision delegating certain powers a proposal to limit such powers is germane.

To a section authorizing the Interstate Commerce Commission to change rates, an amendment providing that the Commission in making such changes shall not increase rates was held to be germane.

To a proposal to grant certain authority, an amendment proposed to limit such authority is germane.

To a bill authorizing the imposition of war risk insurance to insure vessels, an amendment denying such insurance to vessels charging exorbitant rates was held to be germane.

The pending section, as the Chair points out, contains a list of functions or authority.

The Chair will again point out that committee jurisdiction is not the sole test of germaneness. The primary test is always the relationship of the amendment to the text of the bill to which it is offered.

Section 5 of the bill under consideration sets forth the functions of the Administrator. Under the provisions of section 5 the Administrator is directed to engage in the following:

To advise the President and the Congress on energy policies; assess the adequacy of energy resources; develop plans and programs for dealing with energy production shortages; promote stability in energy prices and prevent unreasonable profits; assure that programs are designed and implemented to assure the priority needs of the Nation are met; develop and oversee voluntary and mandatory energy conservation programs; recommend policies on import and export policy; and take action to expedite development of energy resources.

This section includes a broad range of powers; therefore it is clear that to the list functions so enumerated in this section, other related functions could be added by way of amendment. It is also clear that these functions or duties could be limited by way of amendment. For these reasons, the Chair overrules the point of order.

Energy Conservation Measures by Civil Aeronautics Board—Amendment To Require Congressional Approval of Revisions of Airline Flights

§ 33.18 To a section of an amendment in the nature of

a substitute providing that the Civil Aeronautics Board and other regulatory agencies shall have authority within their jurisdictions to take actions to conserve energy, an amendment requiring Congressional approval of revisions of scheduled airline flights (but not amending the rules of the House) was held germane as a restriction on the authority granted in that section.

During consideration of the Energy Emergency Act (H.R. 11450) in the Committee of the Whole on Dec. 14, 1973,⁽¹⁵⁾ the Chair held germane an amendment to the following section of an amendment in the nature of a substitute:

SEC. 107. REGULATED CARRIERS.

(a) Agency Authority.—The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts adminis-

15. 119 CONG. REC. 41746, 41747, 93d Cong. 1st Sess.

tered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person. . . .

(c) Reports.—Within sixty days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975, while continuing to provide for the public convenience and necessity. . . .

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

The Clerk read as follows:

Amendment offered by Mr. [Robert] McClory [of Illinois] to the amendment in the nature of a substitute offered by Mr. [Harley O.] Staggers [of West Virginia]: on Page 16 following line 14, add the following newparagraph and renumber the ensuing paragraphs accordingly:

“(c) The revision of regular airline schedules, including the elimination of scheduled flights shall be permitted only pursuant to authority granted by the Civil Aeronautics Board. In exercising this authority, the Civil Aeronautics Board shall report to both Houses of the Congress within 30 days following such approved revision of plane schedules or

elimination of regularly scheduled plane flights. The Civil Aeronautics Board shall be empowered to reinstate any such revised plane schedules or elimination of commercial air flights as to which both Houses of Congress shall by affirmative vote overrule any such orders of the Civil Aeronautics Board, and with respect to which the Congress shall find that such joint Congressional action shall not jeopardize the energy control purposes of this legislation.”

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, a point of order.

Mr. Chairman, the amendment offered by the gentleman substitutes an entirely new procedure and requires a proceedings essentially similar to or identical to that required by the Reorganization Act on reorganization in connection with actions to be taken by a Federal regulatory agency. Nowhere else in the bill which is now before us is any language imposing that kind of a procedure or process of congressional approval over the Federal regulatory agencies.

For that reason, Mr. Chairman, the amendment is not germane and falls as violative of the rule of germaneness. Since we are not engaging in an action or after an authority to the regulatory agency involved, but rather to set up an entirely new procedure involving congressional action, congressional approval of agency actions through a device which is totally different than that found anywhere else in the bill. . . .

THE CHAIRMAN:⁽¹⁶⁾ The Chair will rule.

The Chair has had an opportunity to examine the language appearing on

16. Richard Bolling (Mo.).

page 15, section 107. It appears to the Chair that insofar as the amendment is concerned, it represents a restriction in the exercise of the power outlined in section 107(a), so the Chair feels that the amendment is germane to the matter and overrules the point of order.

Broad Authority To Minimize Effect of Energy Emergency Act on Employment—Amendment Directing Particular Means to Assist Unemployed

§ 33.19 To a proposition conferring a broad authority to accomplish a particular result, an amendment authorizing and directing a specific approach to be taken in the exercise of such authority is germane; thus, to a section of an amendment in the nature of a substitute directing the president to minimize any adverse impact upon employment because of actions taken under the Energy Emergency Act to conserve energy resources, an amendment authorizing grants to states for assistance to individuals unemployed as the result of administration of that Act and not eligible for assistance under other unemployment compensation programs was held to be germane.

On Dec. 14, 1973,⁽¹⁷⁾ during consideration of H.R. 11450⁽¹⁸⁾ in the Committee of the Whole, it was demonstrated that a specific proposition is germane to a proposition more general in scope, Chairman Richard Bolling, of Missouri, holding an amendment to an amendment in the nature of a substitute to be germane, as indicated below:

SEC. 122. EMPLOYMENT IMPACT AND WORKER ASSISTANCE.

(a) Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

MR. [RONALD A.] SARASIN [of Connecticut]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute offered by the

17. 119 CONG. REC. 41732, 93d Cong. 1st Sess.

18. The Energy Emergency Act.

gentleman from West Virginia (Mr. Staggers).

The Clerk read as follows:

Amendment offered by Mr. Sarasin to the amendment in the nature of a substitute offered by Mr. Staggers: Page 44, after line 12, insert the following:

(b) The President is authorized and directed to make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred. . . .

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

I make a point of order that the amendment is not germane to the section. . . .

MR. [SAM M.] GIBBONS [of Florida]: Mr. Chairman, my point in supporting the point of order raised by the gentleman from Michigan is that the Un-

employment Compensation Act is not being amended in any place in this act. The gentleman in the well is attempting to amend the Unemployment Compensation Act.

I happen to be rather familiar with it; it is one of the acts that is within the jurisdiction of the Committee on Ways and Means, and I am sure it is not within the scope of this act at all.

. . . .

MR. DINGELL: . . . As the Chair will note, the bill in subsection (a) of section 122, which is amended, provides for the President taking certain actions to minimize the impact of the adverse effect of the act. In the second part, the President is directed to perform a study.

As the Chair will note, the amendment offered by my good friend from Connecticut—and I commend him for offering it; it is an amendment that appears to have a great deal of merit—but I would point out it is not an amendment which is germane, because the amendment directs the President and the States to provide for individual unemployed and to make payments for unemployment.

It relates to the eligibility of unemployed for compensation and Federal grants which in turn support the unemployment compensation, and also authorizes appropriations, which is not authorized in the act before us.

It is for those reasons, since some of the provisions are carried elsewhere in the bill or in the section before us, it is obvious the amendment is not germane. . . .

MR. SARASIN: . . . On line 7, page 44, the first section of paragraph A, it says:

Carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment.

It is the responsibility of various agencies. I do not see that this amendment I have offered to authorize the President to make grants to States providing assistance to any individual unemployed, if such unemployment is resulting from the administration and enforcement of this act, is nongermane.

It would seem to me that it certainly is a logical extension of what is in here within section 122 as it now stands.

THE CHAIRMAN: The Chair is ready to rule.

The Chair will state that the section sought to be amended by the amendment offered by the gentleman from Connecticut (Mr. Sarasin), as he has just read it, directs the President, in carrying out his responsibilities under this act, that he shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this act upon unemployment.

The amendment does not amend another act. It seeks to provide an authorization for a specific approach for the carrying out of the broad authority bestowed upon the President to "minimize" adverse impact of actions taken under the act.

Therefore, the Chair overrules the point of order, and, under clause 6 of rule XXIII, recognizes the gentleman for 5 minutes.

Authority of Price Control Administrator

§ 33.20 To a bill amending the Price Control Act of 1942 and

containing provisions relating to powers of the Administrator under that act, an amendment was held to be germane which proposed further restrictions and limitations on the authority of the Administrator and employees of the Office of Price Administration, especially with respect to the authority to impose penalties.

In the 78th Congress, during consideration of a bill⁽¹⁹⁾ to extend the period of operation of the Emergency Price Control Act of 1942, the following amendment was offered:⁽²⁰⁾

Amendment offered by Mr. [John] Jennings [Jr., of Tennessee]: On page 12, line 2, add a new paragraph as follows:

Sec. 2. Section 201 of the Emergency Price Control Act of 1942, as amended, is amended by adding at the end thereof the following new subsection:

"(f) . . . No person, who in good faith acts upon a written interpretation of any . . . regulation . . . of the Office of Price Administration made by any official authorized by the Price Administrator . . . shall be subjected to any penalty . . . unless such interpretation shall have been revoked and notice of such revocation shall have been given. . . ."

19. H.R. 4941 (Committee on Banking and Currency).

20. 90 CONG. REC. 5713, 78th Cong. 2d Sess., June 10, 1944.

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

MR. [A. S. MIKE] MONRONEY [of Oklahoma]: Mr. Chairman, I make the point of order against the amendment that it is not germane to this bill. It involves the rationing powers conferred on the O.P.A. by Executive order under authority of the Second War Powers Act, and thus is not germane to price control.

The Chairman,⁽¹⁾ in ruling on the point of order, stated:⁽²⁾

. . . [T]he pending bill provides for amendment to the Emergency Price Control Act of 1942 and contains provisions relating to the Administrator of that act and imposes certain limitations and restrictions on the Administrator. The Chair is of the opinion that the pending amendment also seeks to impose certain restrictions and limitations on the Administrator of the Emergency Price Control Act of 1942. Therefore, the Chair overrules the point of order.

***Price and Wage Stabilization—
Jurisdiction of Bureau of Internal Revenue***

§ 33.21 To a bill amending and extending an act providing for price and wage stabilization, an amendment was held to be germane which sought to give to the Bureau of In-

1. Jere Cooper (Tenn.).
2. 90 CONG. REC. 5714, 78th Cong. 2d Sess., June 10, 1944.

ternal Revenue jurisdiction over stabilization of salaries of executive and professional personnel, and which incorporated by reference certain definitions of terms contained in existing laws.

In the 82d Congress, during consideration of the Defense Production Act Amendments of 1952,⁽³⁾ the following amendment was offered:⁽⁴⁾

Amendment offered by Mr. Cole of Kansas: Page 9, line 3, insert a new section as follows:

Sec. 110. Notwithstanding the other provisions of this section, administration of salary stabilization for executive, administrative, supervisory, and professional personnel shall be under the jurisdiction of the Bureau of Internal Revenue, under stabilization policies promulgated by the Economic Stabilization Administrator. The term "supervisory personnel" as used herein shall have the same meaning as the term "supervisor" as defined by the "Labor-Management Relations Act, 1947," and the terms "executive," "administrative," and "professional" shall have the same meaning as the corresponding terms as defined in existing regulations of the Administrator for the purposes of the Fair Labor Standards Act.

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

3. H.R. 821 (Committee on Banking and Currency).
4. 98 CONG. REC. 8061, 82d Cong. 2d Sess., June 25, 1952.

MR. [ABRAHAM J.] MULTER [of New York]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill but attempts to amend other legislation that is not before us. It attempts to impose other duties upon the Bureau of Internal Revenue, Treasury Department, and also attempts to change the Fair Labor Standards Act.

Mr. Albert M. Cole, of Kansas, who had offered the amendment, stated:

The amendment . . . merely transfers the responsibility of salary stabilization from the Wage Stabilization Board to the Bureau of Internal Revenue. . . .

Mr. Jesse P. Wolcott, of Michigan, also speaking in defense of the amendment, stated:

. . . The manner of stabilizing salaries and wages surely is not only germane to the bill, because the bill compels the President to stabilize wages and salaries when he controls prices, but in this particular section he is compelled to stabilize wages and salaries, even though the present act was silent on the manner in which he stabilizes salaries. An amendment which provides the machinery for stabilization of salaries would surely be in order.

The Chairman,⁽⁵⁾ in ruling on the point of order, stated:⁽⁶⁾

The Chair is of the opinion that the amendment offered by the gentleman

from Kansas [Mr. Cole] proposes to change the existing provisions of section 403 of the Defense Production Act of 1950 as amended) by making specific, whereas 403 now leaves discretion.

The Chair is of the opinion, therefore, that the amendment offered by the gentleman from Kansas [Mr. Cole] is germane. . . .

Discretion of Interstate Commerce Commission in Establishing Rates of Common Carriers

§ 33.22 To a bill granting discretion to the Interstate Commerce Commission in establishing rates charged by common carriers, an amendment prohibiting rate increases was held to be not germane.

In the 75th Congress, during consideration of a bill⁽⁷⁾ to amend the Interstate Commerce Act, the following amendment was offered:⁽⁸⁾

Amendment offered by Mr. [John R.] Murdock of Arizona: On page 2, line 17, after the word "act", strike out the period, insert a colon and the words "And provided further, That rates, fares, or charges existing at the time of the passage of this act to or from

5. Wilbur D. Mills (Ark.).

6. 98 CONG. REC. 8062, 82d Cong. 2d Sess., June 25, 1952.

7. H.R. 1668 (Committee on Interstate and Foreign Commerce).

8. 81 CONG. REC. 3486, 75th Cong. 1st Sess., Apr. 14, 1937.

points other than water ports shall not be increased.”

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

MR. [SAMUEL P.] PETTENGILL [of Indiana]: Mr. Chairman, I make the point of order that the amendment is not germane, because, as I understand it, if agreed to, it would freeze every rate, fare, and charge in the United States, and would forever forbid the Interstate Commerce Commission to permit any change thereafter to be made. Therefore it is not germane to the section of the bill or to the bill itself which was intended to give the Interstate Commerce Commission full authority from time to time to agree to the raising or lowering of rates.

The Chairman,⁽⁹⁾ rejecting the argument that “the purpose of this bill is the fixing of rates,” sustained the point of order. The Chairman commented that the amendment sought “to accomplish directly the opposite purpose to that set forth in the bill.”

Authority of Carriers of Coal by Pipeline—Reference to Rules Affecting Contracts of Railroad Carriers as Measure of Duration of Contracts of Coal Carriers

§ 33.23 An amendment limiting authorities conferred in a bill may be germane if re-

9. J. Mark Wilcox (Fla.).

stricted to those authorities, though incorporating as a term of measurement qualifications applicable to authorities beyond the scope of the bill; thus, to a bill authorizing the carriage of coal by pipeline and the exercise of the power of eminent domain by carriers licensed under the bill, an amendment limiting the duration of contracts by a “carrier” to the maximum duration of similar contracts by railroad carriers was held germane as a limitation on powers granted in the bill (“carrier” being defined in the bill as a carrier of coal by coal pipeline subject to the provisions of the bill), which did not limit authorities of rail-carriers.

On July 19, 1978,⁽¹⁰⁾ during consideration of H.R. 1609 (the Coal Pipeline Act of 1978) in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

MR. [RICHARD H.] ICHORD [of Missouri]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ichord: At the end of section 5 of the amendment in the nature of a substitute, add the following new subsection:

10. 124 CONG. REC. 21703, 21704, 95th Cong. 2d Sess.

(h) No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carrier by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I . . . insist on my point of order. . . .

Mr. Chairman, I think this amendment is doing much more than affecting just coal slurry pipelines. The provision is as follows:

No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carrier by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act.

As I read this amendment it amends the Interstate Commerce Act to provide that the period of time permissible or required or limit for a railroad to permit a contract is applicable to all other carriers. . . .

MR. ICHORD: Mr. Chairman, I would point out to the Chair that it does not touch the Interstate Commerce Act at all. It does not touch the operations of railroads at all. All it says is that these contracts shall not be permitted to be longer than those permitted by the railroads.

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

The Chair has had opportunity to study this amendment. The term “car-

rier” as defined in the Udall substitute which would apply to this amendment means carrier of coal by coal pipeline. It does not refer to other types of carriers. The limitation involved in the amendment offered by the gentleman from Missouri (Mr. Ichord) applies to the duration of contracts of coal slurry pipeline carriers. It only refers to the duration of railroad contracts as a term of measurement. It does not seek to reach out to contracts of other types of carriers beyond the coal pipeline carriers and, therefore, does not affect railroad contracts or any carriers in other ways. Therefore, the amendment is germane.

The point of order is overruled.

Authorization of Funds To Carry Out Urban Mass Transportation Act—“Buy America” Restrictions on Contracts Not Requiring Use of American-made Goods

§ 33.24 To a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment prohibiting the use of those authorities or funds to purchase foreign-made goods or equipment is germane; thus, to an amendment in the nature of a substitute comprehensively amending the Urban Mass Transportation Act and authorizing the appropriation of funds to carry out that

11. Robert N. Giaimo (Conn.).

Act, an amendment amending the Act to prohibit the obligation of funds authorized to be appropriated thereunder for certain contracts unless a certain percentage of American-made goods be used pursuant to the contract was held germane, as a restriction on the broad authorities granted in the bill, and as an incorporation of provisions of another Act which in effect already amended the Urban Mass Transportation Act.

On Dec. 4, 1980,⁽¹²⁾ during consideration of the Surface Transportation Act of 1980 (H.R. 6417) in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

Amendment offered by Mr. [James L.] Oberstar [of Minnesota] to the amendment in the nature of a substitute offered by Mr. Howard, as amended: Page 44, after line 7, insert the following:

BUY AMERICA

Sec. 225. (a) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

“(h)(1) Notwithstanding any other provision of law, the Secretary of

Transportation shall not obligate any funds authorized to be appropriated by this Act for any project contract whose total cost exceeds \$500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States at least 50 per centum from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project contract. . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Chairman, I make a point of order against the amendment offered by the gentleman from Minnesota (Mr. Oberstar). . . .

Mr. Chairman, the Oberstar amendment seeks to introduce a new subject which is part neither of this bill nor of the statute which this bill seeks to amend. The Oberstar amendment would introduce a Buy America requirement, through which funds will be limited, into the Urban Mass Transit Act of 1964, where none now exists, and in so doing, it repeals the similar provision that currently exists in the Surface Transportation Assistance Act of 1978. It is an attempt to amend the Surface Transportation Assistance Act of 1978 by adding to the statute which this bill amends and repealing it where it currently exists.

It may be argued that the amendments made by this bill are sufficiently broad to open the entire 1964 act for amendment. But the 1964 act contains no such domestic content provision.

The Oberstar amendment introduces a new subject, and couching it in language that tacks the provision on at the end of the existing section of the

12. 126 CONG. REC. 32169, 32170, 96th Cong. 2d Sess.

1964 act is not enough to make it germane.

The Oberstar amendment really amends the Surface Transportation Act of 1978, an act which itself amended the 1964 act.

I submit that regardless of whether H.R. 6417 is broad enough to open the entire 1964 act for amendment, it is not broad enough to open other acts for amendments as well, and neither is it broad enough to render germane any new subject, even though not addressed either in this bill or the act it omits. . . .

MR. OBERSTAR: . . . I rise in opposition to the point of order.

Mr. Chairman, the amendment that I am offering is to the Howard substitute, which is substantially broad enough to admit an amendment dealing with the Buy America Act, which is a part of the original Urban Mass Transit Act. There was a Buy America provision in the Surface Transportation Assistance Act of 1978, which provided that a final manufactured article should be substantially all-American produced and established the 10-percent price differential between foreign and domestic bids.

My amendment would broaden that language, which is existing law somewhat, and is perfectly in order because it is an amendment to the Howard substitute and is restricted entirely to the language of the Urban Mass Transportation Act and does not, as the gentleman from Minnesota suggested, go beyond the provisions of the Urban Mass Transportation Act. . . .

THE CHAIRMAN PRO TEMPORE:⁽¹³⁾
The Chair is prepared to rule.

The Chair has heard the arguments of both the maker of the point of order and the opponent of it, and the Chair is constrained to agree with the gentleman from Minnesota (Mr. Oberstar) that the amendment amends only the Urban Mass Transportation Act. That law in 1978 was in effect amended by the Buy America title contained in the Surface Transportation Assistance Act, and the pending amendment only alters the effect of the 1978 law as it relates to authorities under UMTA. On two previous occasions, Buy America amendments have been held germane when offered to bills, comprehensively amending existing laws and drafted as restrictions on authorities contained in those laws.

The first was on May 7, 1959, when Chairman Bass held germane to a bill permitting the Tennessee Valley Authority to raise capital by issuance of bonds, an amendment prohibiting use of such funds to purchase foreign-made equipment. On another occasion perhaps the gentleman from Minnesota (Mr. Frenzel) will recall, when he made a similar point of order to the Outer Continental Shelf Lands Act amendments; and the chairman of the committee at that time, the gentleman from Kentucky (Mr. Natcher), on July 21, 1976, held the amendment to be in order. These precedents are contained in Deschler's Procedure, chapter 28, sections 4.27 and 23.7.

The Chair, therefore, overrules the point of order.

Authority of Secretary of Interior

§ 33.25 To that section of a bill authorizing the Secretary of

13. Gerry E. Studds (Mass.).

the Interior to promulgate regulations in order to put the bill's provisions into effect, an amendment limiting the Secretary's authority by requiring him, before promulgating such regulations, to consult with persons who would be affected by the regulations was held to be germane.

In the 75th Congress, a bill⁽¹⁴⁾ was under consideration to provide subsistence for Eskimos and other natives of Alaska in all branches of the reindeer industry. The bill stated in part:

Sec. 12. The Secretary of the Interior is hereby authorized to promulgate such rules and regulations as, in his judgment, are necessary to carry into effect the provisions of this act.

The following amendment was offered:

Amendment offered by Mr. Dimond: Page 7, line 21, after the period, insert the following:

Prior to the promulgation of any such rules and regulations the Secretary of the Interior shall endeavor to ascertain the views of the natives of Alaska who may be affected thereby as to the nature of the rules and regulations desirable for making effective the provisions of this act. . . .

Mr. John Taber, of New York, raised the point of order that the

¹⁴. S. 1722 (Committee on Territories).

amendment was not germane to the bill. Mr. Anthony J. Dimond, of Alaska, in response to the point of order, stated:

The proposed amendment merely provides that prior to the making and promulgation of such rules and regulations, the Secretary of the Interior shall consult with the natives affected and endeavor to ascertain their wishes. It does not take away any power conferred by the act upon the Secretary of the Interior. It is intensely and intimately related to the provisions of section 12.

The Chairman,⁽¹⁵⁾ overruled the point of order.⁽¹⁶⁾

Authority of Secretary of Agriculture

§ 33.26 To a bill granting authority to an executive officer to employ persons to assist in exercising powers and duties conferred by the act, an amendment placing limitations upon such authority by specifying certain requirements as to the employment or separation of persons was held to be germane.

¹⁵. Arthur H. Greenwood (Ind.).

¹⁶. See the proceedings at 81 CONG. REC. 9491, 75th Cong. 1st Sess., Aug. 20, 1937.

On June 29, 1937, the farm tenancy bill⁽¹⁷⁾ was under consideration which stated in part:⁽¹⁸⁾

TITLE IV—GENERAL PROVISIONS

FARM SECURITY ADMINISTRATION

Section 41. (a) The Secretary shall establish in the Department of Agriculture a Farm Security Administration to assist him in the exercise of the powers and duties conferred by this act.

(b) For the purposes of this act, the Secretary shall have power to—

(1) Appoint (without regard to the civil-service laws and regulations) and fix the compensation of such officers and employees as may be necessary. . . .

The following amendment was offered:⁽¹⁹⁾

Amendment offered by Mr. Faddis: On page 11, line 25, after the word "Territory", strike out the period, insert a semicolon and the following:

Provided hereafter, That appointment of persons to the Federal service for employment within the District of Columbia under the provisions of this act, whether such appointment be within the classified civil service or otherwise, shall be apportioned among the several States and the District of Columbia upon the basis of population as ascertained at the last preceding census.

In making separations from the Federal service . . . of persons em-

ployed within the District of Columbia under the provisions of this act, the appointing power shall give preference in retention to appointees from States that have not received their share of appointments according to population. . . .

Mr. Marvin Jones, of Texas, raised the point of order that the amendment was not germane to the paragraph or to the bill. He stated:⁽²⁰⁾

. . . The second paragraph of the amendment treats with making separations from the Federal service through furloughs and otherwise, it deals with employment in the District of Columbia, and so forth.

Mr. Charles I. Faddis, of Pennsylvania, in response to the point of order, stated:

. . . The portion of the amendment referred to by the gentleman from Texas as treating with separations refers to separations from the Federal service of those coming under the provisions of this bill.

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

The bill under consideration seeks to vest in the Secretary of Agriculture, by the language beginning in line 3, on page 11, authority to employ certain persons in connection with the operation of the business, the duties and responsibilities of making acquisitions of land, and making those lands available to the classes of persons embraced in the bill.

17. H.R. 7562 (Committee on Agriculture).

18. 81 CONG. REC. 6574, 75th Cong. 1st Sess., June 29, 1937.

19. *Id.* at pp. 6578, 6579.

20. *Id.* at p. 6579

1. William J. Driver (Ark.).

The amendment under consideration is nothing more nor less than a mere limitation on the authority granted by the bill.

The Chair therefore rules that the amendment is germane to the bill.

National Aeronautics and Space Administration—Authority of Administrator

§ 33.27 To a bill authorizing funds for the National Aeronautics and Space Administration, an amendment was held to be germane which prohibited the Administrator from entering contracts for “support” services except where certain comparisons had been made between the cost of such contracts and the cost of obtaining the services by directly hiring employees.

In the 90th Congress, during consideration of a bill⁽²⁾ authorizing appropriations for the National Aeronautics and Space Administration, the following amendment was offered:⁽³⁾

Amendment offered by Mr. Hardy to H.R. 10340, as reported: On page 5, after line 22, insert the following:

(h) After January 1, 1968, no support service contract in the amount

2. H.R. 10340 (Committee on Science and Astronautics).

3. 113 CONG. REC. 17748, 90th Cong. 1st Sess., June 28, 1967.

of \$100,000 or more shall be awarded, renewed or extended unless—

(1) A study has been made showing the relative cost of obtaining the services through contract and through direct hire employees . . . and

(2) The Administrator has made a written determination (with respect to cost or necessity of obtaining services by the methods specified).

The Administrator shall maintain a central file of the determinations made pursuant to clause (2) of this subsection and shall make them available upon request to the Senate and the House of Representatives. . . . As used in this subsection the term “support service contract” does not include contracts for the production of commercial and industrial products or for the construction of facilities.

Mr. George P. Miller, of California, raised the point of order that the amendment was not germane to the bill. In defense of the amendment, the proponent, Mr. Porter Hardy, Jr., of Virginia, stated:

. . . The bill provides authorizations for NASA’s operations, and this amendment would simply require that on their service contracts—and the bill provides for service contracts—this amendment would be a limitation upon the manner in which they could engage in service contracts.

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

It appears to the Chair that the amendment offered by the gentleman from Virginia (Mr. Hardy) relates to

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

contracts under the terms of the authorization bill now under consideration.

The Chair is constrained to rule that the amendment is germane. . . .

Authority of Administrator of Veterans' Affairs To Establish Interest Rates for Loans

§ 33.28 To the proposition that the Administrator of Veterans' Affairs be authorized to establish a maximum interest rate for loans, an amendment stating that "the rate fixed shall not be higher than the FHA rate" was held germane.

In the 91st Congress, a bill⁽⁵⁾ was under consideration extending the authority of the Administrator of Veterans' Affairs to set interest rates on mortgages. An amendment was offered⁽⁶⁾ as described above. The following exchange concerned a point of order raised against the amendment.

MR. [JOHN P.] SAYLOR [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment.

THE CHAIRMAN:⁽⁷⁾ The gentleman makes his point too late. The gentleman from Texas was recognized.

MR. SAYLOR: Mr. Chairman, I was on my feet trying to get recogni-

tion. . . . [The Chair then stated that he would hear Mr. Saylor on the point of order.]

Mr. Chairman, my point of order is that the gentleman's amendment comes too late. The committee amendment has been adopted.

THE CHAIRMAN: The committee amendment, as amended, is still pending. . . .

MR. [OLIN E.] TEAGUE [of Texas]: Mr. Chairman, a further point of order, and I was on my feet when the gentleman offered his amendment. His amendment is not germane to this bill. . . .

MR. GERALD R. FORD [of Michigan]: Mr. Chairman, the gentleman from Pennsylvania made a point of order and the Chairman recognized the gentleman for that purpose. The Chair never ruled against the point of order of the gentleman from Pennsylvania. . . .

THE CHAIRMAN: The Chair intended to rule against the point of order of the gentleman from Pennsylvania because the premise of his point of order was not factual. The gentleman from Pennsylvania made the point of order on the hypothesis that the committee amendment to the bill had been adopted. . . .

Subsequently, the Chairman, overruling the point of order raised by Mr. Teague, stated:

The gentleman from Texas (Mr. Patman) offered an amendment to the amendment of the committee. The committee amendment gives the Administrator authority to set the interest and the amendment of the gentleman from Texas (Mr. Patman) establishes a maximum interest.

5. H.R. 13369 (Committee on Veterans' Affairs).
6. 115 CONG. REC. 27351, 91st Cong. 1st Sess., Sept. 29, 1969.
7. Charles E. Bennett (Fla.).

Participation in International Development Association—Direction to United States Representative To Oppose Certain Loans

§ 33.29 To a bill containing diverse sections (1) continuing United States participation under the International Development Association Act; and (2) repealing existing law which prohibited United States citizens from holding gold, an amendment adding a new section at the end of the bill directing the United States representative to IDA to oppose loans to nations not party to a nuclear non-proliferation treaty was held in order as a germane restriction on authority contained in section 1 of the bill.

On July 2, 1974,⁽⁸⁾ during consideration of the International Development Association Act⁽⁹⁾ in the Committee of the Whole, the Chair overruled a point of order against an amendment, as indicated below:

MR. [CLARENCE D.] LONG of Maryland: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

8. 120 CONG. REC. 22029, 93d Cong. 2d Sess.

9. H.R. 15465.

Amendment offered by Mr. Long of Maryland: Page 2, immediately after line 20, insert the following:

Sec. 3. The International Development Association Act (22 U.S.C. 284 et seq.) is amended by inserting at the end thereof the following:

“Sec. 15. The United States Governor is authorized and directed to vote against any loan or other utilization of the funds of the Association for the benefit of any country which develops any nuclear explosive device, unless the country is or becomes a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483).”

Redesignate the succeeding section accordingly.

MR. [CHARLES W.] WHALEN [Jr., of Ohio]: Mr. Chairman, I raise a point of order against the amendment. . . . [T]he Chair has ruled that the amendment previously offered by the gentleman from New York (Mr. Biaggi) was out of order because it should have been offered during the committee's consideration of section 1 which deals directly with the International Development Association.

Mr. Chairman, this is a very similar amendment to the one previously ruled out of order, except it creates a new section instead of amending an existing one.

This is an effort to thwart the Chair's earlier ruling. Therefore, Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN:⁽¹⁰⁾ Does the gentleman from Maryland care to be heard on the point of order?

MR. LONG of Maryland: I should respond by saying that the gentleman's objection is specious. The amendment

10. John Brademas (Ind.).

is a genuine amendment. It fits in logically in the place that it is offered. I see no substance at all to the point of order.

THE CHAIRMAN: The Chair is prepared to rule on the point of order raised by the gentleman from Ohio.

The Chair would observe that when the gentleman from New York (Mr. Biaggi) offered his amendment it was ruled out of order because section 2 of the bill had already been read; but since the pending amendment is offered as a separate subsequent section, as a new section 3, the amendment is in order and the Chair overrules the point of order.

The gentleman from Maryland is recognized.

Parliamentarian's Note: An amendment in the form of a new section at the end of a bill need not necessarily be germane to the preceding section of the bill, it being sufficient where the bill contains diverse subjects that the amendment relate to the bill as a whole.⁽¹¹⁾

Authority of Export-Import Bank—Amendment To Require Consideration of Nuclear Regulatory Commission Data in Transactions Involving Nuclear Reactor Sales

§ 33.30 To a bill extending the authorities of one agency, including requirements for consultation with several

other agencies, an amendment requiring that agency to perform a function based upon an analysis furnished by yet another agency was held germane as an additional limitation on the authority of the agency being extended which did not separately mandate the performance of an unrelated function by another agency.

On July 27, 1978,⁽¹²⁾ the Committee of the Whole had under consideration H.R. 12151, a bill amending and extending the authorities of the Export-Import Bank. The bill incorporated existing and new requirements for cooperation and consultation by that agency with other designated government agencies. An amendment was offered to require, in the case of transactions involving nuclear reactor sales, that the Bank first undertake an evaluation based upon an analysis by the Nuclear Regulatory Commission of regulatory and safety practices of recipient countries. The amendment was held germane as an additional limitation on the authority of the Export-Import Bank to finance certain commercial transactions which did not separately mandate the performance of an

11. 8 Cannon's Precedents §2935.

12. 124 CONG. REC. 23107, 23108, 95th Cong. 2d Sess.

unrelated function by another agency. The proceedings were as follows:

MR. [JOHN J.] CAVANAUGH [of Nebraska]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cavanaugh: Page 5, after line 6, add the following new section and renumber all successive sections accordingly:

Sec. 10. Section 2(b)(3) of the Export-Import Bank Act of 1945 is further amended by inserting at the end thereof the following:

“; and

“(C) in the case of any transaction involving the sale of a nuclear reactor, an evaluation based upon an analysis prepared by the Nuclear Regulatory Commission (i) describing the nuclear regulatory organization and practices of the recipient country, and (ii) indicating the extent to which the Health and Safety standards adopted and implemented by the recipient country are consistent with those established by the Nuclear Regulatory Commission, and, where applicable, with International Atomic Energy Agency’s standards and recommendations.” . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I make a point of order against the language of the amendment on the ground that it violates rule XVI, clause 7, of the rules of the House and is not germane to the subject matter before us.

The bill before us deals with amendments to the Export-Import Bank Act, and this pending amendment, although it goes to a section of the act and does pertain to the export of nuclear technology, does not confine itself to that.

If the Chair will address himself to section 2(b)(3) of the Export-Import Bank Act of 1945, the Chair will find that the only requirements imposed there for reporting are those on the president of the Bank to give Congress a complete analysis of the proposed loans to be made. The section does not in fact impose any duties on anyone else or any other agency.

Section 2(b)(4) also imposes duties on the Secretary of State, as well as the Board of Directors of the Bank.

The gentleman’s amendment, however, goes beyond anything in the present act and requires a scientific analysis by the Nuclear Regulatory Commission, which is not heretofore mentioned in the act, describing completely both the aspects of the organization and the practices of the recipient country, and even beyond that, the health and safety standards applied within that country.

I am informed by the Nuclear Regulatory Commission that it has no jurisdiction under existing law to address the question of nuclear exports in this matter. Neither the Atomic Energy Act of 1954 nor the Nuclear Nonproliferation Act of 1978 requires the Nuclear Regulatory Commission to review the health and safety standards of the recipient nations of nuclear exports. It has neither the staff nor the funding previously authorized to carry out these duties which are newly imposed by this language.

So, Mr. Chairman, this amendment is beyond the scope of the legislation now before the committee and is outside the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I would submit it is not germane to the bill before us. . . .

MR. CAVANAUGH: . . . Mr. Chairman, the arguments of the gentleman from Maryland (Mr. Bauman) do not primarily go to the issue of germaneness here. He vastly expands his argument to the question of the capability of the agency, and those should be substantive arguments based on requirements set out in my amendment. The issue here is whether or not this Congress can, through this legislation, require reports to it on a specific transaction involving the sale of nuclear facilities and whether it can require interagency cooperation in order to achieve that. The entire history of the legislation is replete with interagency cooperation provisions reflecting all aspects of the Federal Government.

The Small Business Administration is mandated by this legislation to cooperate with Ex-Im, as is the Commodity Credit Corporation, and more specifically, with regard to sections 2(b)(3) and 2(b)(4) to which this amendment is particularly germane, the Secretary of State already has analogous responsibilities mandated by Ex-Im legislation conferring particular responsibilities on the Secretary of State and in fact requiring the Secretary of State to similarly, as this amendment provides, examine cooperation with the International Atomic Energy Agency. . . .

MR. BAUMAN: Mr. Chairman, the gentleman from Nebraska (Mr. Cavanaugh) conveniently ignored my major point. Under the rule of germaneness, the amendment must be germane to the proposition before us.

The gentleman cites as his authority that the present act, the Export-Import Bank Act, in 2 sections requires certain reporting regarding the export of

nuclear materials or the financing of them by the Board of the Bank and by the Secretary of State.

The gentleman's amendment goes far beyond that and imposes, for the first time, on a completely different governmental entity, the Nuclear Regulatory Commission, certain judgments to be made, as I have described, as to what the recipient country is doing regarding nuclear matters for health and safety, and to describe completely that country's nuclear capabilities and organization. It even goes so far as to require the NRC to apply the International Atomic Energy Agency's standards, which are not under their jurisdiction, adding still a fourth agency.

Nothing in the present law supports that extension of the power of the Export-Import Bank to make these judgments or to require them from another agency. Therefore, I feel that it is not germane, and the gentleman has not addressed the fact that there is no statutory law which allows the NRC to engage in these practices, nor is there anything in the law that this bill seeks to amend that covers the matters the amendment addresses. . . .

MR. CAVANAUGH: Mr. Chairman, first of all, this amendment does not, as the gentleman from Maryland has stated, require the imposition of IAEA standards or NRC standards on this transaction. It simply requires that the Export-Import Bank provide the Congress with an evaluation based upon an analysis performed by the NRC, and in no way expands the authority of Exim to the imposition of foreign standards or, indeed, of any standards, but simply a compilation of information which is peculiarly within the ex-

pertise of the NRC, and it would be impossible for the Export-Import Bank to accomplish its appropriate legislative mandate or evaluation to the Congress preliminary to an extension of credit for the sale of nuclear facilities. . . .

MR. [HAROLD L.] VOLKMER [of Missouri]: Mr. Chairman, in speaking on the point of order, very briefly, a careful reading of the amendment shows that the amendment itself does not in any way impose on the NRC any additional duties. Clearly this Congress could provide that the Export-Import Bank would not export any nuclear energy or nuclear reactor information and technology. And if the Export-Import Bank is unable to provide this information which is called for in this amendment, my reading of it is they prohibit the exportation of it and the subsidy of it. A careful reading will show it does not impose on the NRC any additional duty.

THE CHAIRMAN:⁽¹³⁾ The Chair is ready to rule on the point of order.

The amendment is drafted as a further condition to be imposed on the Bank before it may approve certain transactions.

From page 20 of the report it is evident that the Eximbank is already required by the bill and by the section of law being amended to consult with and seek the cooperation of diverse Government resources and agencies, including the Small Business Administration, the Commodity Credit Corporation, the Department of State, and the President himself.

For example, on page 20 the report indicates that the Commodity Credit

Corporation is called upon to perform new functions in cooperation with the Eximbank.

In addition, section 2(b)(4) of the act already requires that the Bank be in receipt of information relating to compliance with the International Atomic Energy Agency standards.

The Chair will also turn to chapter 28, section 23.1 of Deschler's Procedure, which reads as follows:

To a bill authorizing the procurement of military weapons for the fiscal year, an amendment prohibiting procurement from 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. 116 CONG. REC. 14481, 91st Cong. 2d Sess., May 6, 1970.

The Chair also refers to chapter 28, section 24.21 of Deschler's Procedure, which reads as follows:

To a section of a bill reported from the Committee on International Relations authorizing appropriations for humanitarian and evacuation assistance to war refugees in South Vietnam, an amendment making that authorization contingent upon a report to Congress on the costs of a portion of the evacuation program, but not requiring the implementation of any new program (within the jurisdiction of another committee) was held germane as a related contingency. 121 CONG. REC. p.—, 94th Cong. 1st Sess., Apr. 23, 1975 [H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act].

Therefore, the Chair rules the amendment is germane as a restriction on the authority of the Eximbank.

Accordingly the Chair overrules the point of order.

13. Norman Y. Mineta (Calif.).

Enforcement of Voting Rights

§ 33.31 To a bill authorizing proceedings instituted by the Attorney General in federal courts to obtain injunctive relief for citizens deprived of voting rights, an amendment was held to be germane which sought to guarantee a right to a speedy and public trial by jury in certain cases of contempt related to orders issued in such proceedings.

In the 85th Congress, a bill⁽¹⁴⁾ was under consideration to provide means of protecting civil rights of persons within the jurisdiction of the United States. An amendment was offered⁽¹⁵⁾ as described above. A point of order was raised against the amendment, as follows:⁽¹⁶⁾

MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment . . . is not germane. . . .

Mr. Chairman, the instant bill provides authority in Attorney General to file an action for injunction for the enforcement of civil rights created under old statutes. . . . We provide no method of procedure after the injunction is applied for. . . .

- 14. H.R. 6127 (Committee on the Judiciary).
- 15. 103 CONG. REC. 9184, 9185, 85th Cong. 1st Sess., June 14, 1957.
- 16. *Id.* at p. 9185.

The Chairman,⁽¹⁷⁾ in overruling the point of order, cited the principle that, “to a proposal to grant certain authority an amendment proposing to limit such authority is germane,” and stated:⁽¹⁸⁾

. . . The Chair holds that the amendment is a restriction upon the Attorney General and the courts. It deals with procedures and not penalties, and in the opinion of the Chair is germane.⁽¹⁹⁾

—Amendment Limiting Jurisdiction of Courts in Contempt Cases

§ 33.32 To a bill giving federal courts authority in civil actions for injunctive relief for citizens alleging deprivation of their right to vote, an amendment limiting the jurisdiction of the courts so that no person could be tried for contempt except within the judicial district wherein the alleged contempt occurred, was held to be germane.

- 17. Aime J. Forand (R.I.).
- 18. 103 CONG. REC. 9187, 85th Cong. 1st Sess., June 14, 1957.
- 19. An amendment having a similar purpose was subsequently held to be germane to the same bill. See the proceedings at 103 CONG. REC. 9365, 85th Cong. 1st Sess., June 17, 1957.

In the 85th Congress, a bill⁽²⁰⁾ was under consideration to provide means of further securing and protecting the civil rights of persons within the jurisdiction of the United States. The following amendment was offered:⁽¹⁾

Amendment offered by Mr. Brooks of Louisiana: On page 12, line 4, after the period insert, "No person shall be tried for contempt of any such restraining order or injunction except within the judicial district wherein the alleged contempt occurred."

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

MR. [BYRON G.] ROGERS [of Colorado]: Mr. Chairman, I make the point of order against the amendment that it is not germane to any legislation here and would seek to change the jurisdiction of the court that might have charge of the contempt proceeding. It relates purely to venues and has nothing whatsoever to do with the legislation here, as it relates to jurisdiction.

Mr. Overton Brooks, of Louisiana, speaking in response to the point of order, stated:

Mr. Chairman, this amendment involves substantially the same principle as the original amendment presented to the Chair for decision which is known as the trial by jury amendment. It simply provides procedure within

the framework of the terms of this bill for carrying out the terms of the bill. It does not add anything to it. It provides additional procedure. . . .

The Chairman,⁽²⁾ alluding to that part of the bill sought to be amended and noting that "the amendment has to do with practically the same subject," overruled the point of order.

—Amendment Relating to Jurisdiction of State Courts

§ 33.33 To a bill vesting jurisdiction in the District Courts over certain civil actions for protection of voting rights, amendments to preserve the jurisdiction of the state courts over elections were held to be germane.

In the 85th Congress, during consideration of a bill⁽³⁾ as described above, the following amendments were offered:⁽⁴⁾

Amendments offered by Mr. Hempill: At the end of line 12, on page 10, of the bill, add a new section, to be known as (par. sixth), section 121, of the bill (42 U.S.C. 1935), which will read as follows:

Sixth: Nothing herein contained shall deprive the courts of record of

20. H.R. 6127 (Committee on the Judiciary).

1. 103 CONG. REC. 9374, 85th Cong. 1st Sess., June 17, 1957.

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

3. H.R. 6127 (Committee on the Judiciary).

4. 103 CONG. REC. 9394, 85th Cong. 1st Sess., June 17, 1957.

the several States of their jurisdiction over elections, nor shall this legislation preempt the right of the several States in jurisdiction over all elections within the several States.

Amend at the end of line 13, page 12, of the bill by inserting therein a subparagraph (E), section 131 of the bill (sec. 2004 of the Revised Statutes (42 U.S.C. 1971)):

(E) Nothing herein contained shall deprive the courts of record of the several States of their jurisdiction over elections. . . .

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

MR. [KENNETH B.] KEATING [of New York]: I make the point of order against the amendment that it is not germane to the bill. It provides for election machinery, which certainly has nothing to do with this legislation.

In defending the amendment, the proponent, Mr. Robert W. Hemphill, of South Carolina, stated:⁽⁵⁾

The specific language of the statutes in question, which are the statutes referred to in the bill and which are the statutes sought to be amended by this legislation and by these amendments, takes up the question of voting in elections. My amendments take up the same question.

The Chairman,⁽⁶⁾ in ruling on the point of order, stated:⁽⁷⁾

5. *Id.* at pp. 9394, 9395.
6. Aime J. Forand (R.I.).
7. 103 CONG. REC. 9395, 85th Cong. 1st Sess., June 17, 1957.

. . . The gentleman from South Carolina (Mr. Hemphill) offers two amendments, both dealing with the jurisdiction of the courts of the several States over elections. The amendments are offered to sections of the bill that have to do with voting, therefore with elections. For that reason the Chair holds that the amendments are germane and overrules the point of order.

§ 34.—Restrictions on Use or Availability of Funds

Amendments that merely place restrictions on the use of funds that are authorized or referred to in the bill are frequently held to be germane. As in other cases, however, the extent of the restriction or the manner in which it is sought to be imposed may affect the propriety of the amendment. Thus, to a bill authorizing funds for a given purpose, an amendment placing restrictions on funds authorized or appropriated in other bills and in prior years will be ruled out as not germane.⁽⁸⁾

While it is normally germane to limit the uses to which an authorization carried in a bill may be applied, that principle applies more appropriately to annual authorization bills reported from the committees of jurisdiction, rather than to a (re)organization bill creating a new department and transferring thereto existing au-

8. See § 31.30, *supra*.