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]

. . . 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-

5. *Id.* at pp. 9394, 9395.

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

7. 103 CONG. REC. 9395, 85th Cong. 1st Sess., June 17, 1957.

8. See § 31.30, supra.

thorities and programs, in which case amendments restricting authorized funds to effect a change in the administration of substantive law may not be germane.[9]

As noted above,[10] it is not germane to make the effectiveness of an authorization contingent upon an unrelated determination involving issues within the jurisdiction of agencies and committees outside the purview of the pending bill.[11] But where an amendment seeks to adopt as a measure of the availability of certain authorizations contained in the bill a condition that is logically relevant and objectively discernible, the amendment does not present an unrelated contingency and is germane.[12]

Restrictions on expenditures, of course, are often sought to be imposed in furtherance of a larger policy or overriding aim. The precedents indicate that in such case, the germaneness of a proposed amendment should be determined from provisions of its text, rather than from the purposes which circumstances may suggest.[13]

9. See § 34.38, infra.
10. See the discussion in the introduction to § 31, supra.
11. See § 31.27, supra.
12. See § 31.16, supra.
13. See § 34.35, infra.

Increases in Public Debt Limit as Standard Affecting Availability of Funds

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

During consideration of House Joint Resolution 404 (continuing appropriations for fiscal year 1980), the Speaker overruled a point of order against the amendment described above. The proceedings of Sept. 25, 1979,[14] were as follows:

MR. [KENNETH B.] KRAMER [of Colorado]: Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 6, insert before line 13 the following: Notwithstanding any other provision of this joint resolution or any other provision of law, for any month immediately following any month during which the total public debt subject to the statutory debt limit, as reported in the monthly statement of the public debt published by the Department of the Treasury, indicates an increase from the level so reported during the preceding month, no part of the funds appropriated for the fiscal year ending September 30, 1980, by this Act or any other Act may be used to pay the salary of any Member of the Congress at a rate greater than 99 percent of the rate which would be payable without regard to this sentence. . . .

MR. [SILVIO O.] CONTE [of Massachusetts]: Mr. Speaker, I make the point of order that the amendment is not germane.

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

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

A joint resolution providing continuing appropriations for departments and agencies of government, to provide funds until the regular appropriation bills are enacted, is not a "general appropriation bill" within the meaning of clause 2 Rule XXI.

The restrictions against unauthorized items or legislation in a general appropriation bill or amendment thereto are not applicable to a joint resolution continuing appropriations, despite inclusion of diverse appropriations which are not "continuing" in nature.

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

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

THE SPEAKER:[15] The Chair is ready to rule on the point of order.

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14. 125 CONG. REC. 26150–52, 96th Cong. 1st Sess.

For further discussion of amendments which seek to adopt, as a measure of the availability of funds for particular purposes, a determination required to be made with respect to the existence of certain conditions, related expenditures, or the like, see the introduction to § 31, supra.

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

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

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

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

The gentleman's point of order is overruled.

Levels of Spending in Resolution on Budget as Measure of Spending Authority

§ 34.2 To a bill authorizing certain housing programs, an amendment restricting the amounts of direct spending authority in the bill for the next fiscal year to the pertinent levels set forth in the lower of the House or Senate levels as adopted in the concurrent resolution on the budget for that fiscal year was held germane as merely a measure of availability of funds in the bill which did not directly affect the Congressional budget process.

On June 11, 1987,[16] during consideration of H.R. 4, the Housing Authorization Act, the Chair overruled a point of order against the following amendment:

MR. [JOHN] HILER [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hiler: Page 353, after line 9, add the following new title and conform the table of contents accordingly:

TITLE VII—BUDGET ENFORCEMENT

SEC. 701. ENFORCEMENT PROVISIONS.

If this Act and the amendments made by this Act provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1988 in excess of the level established (for any budget function or subfunction applicable to programs authorized by this Act and the amendments made by this Act) by

16. 133 CONG. REC. 15540, 100th Cong. 1st Sess.

the concurrent resolution on the budget for such fiscal year as passed by the House of Representatives or the Senate (whichever is lower), each amount provided by this Act and the amendments made by this Act for such budget function or subfunction shall be reduced by an equal percentage to ensure compliance with such level.

SEC 702. DEFINITIONS.

For purposes of this title, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622). . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, this amendment is invalid on the face of it because it would commit the House to an improbability of action on the part of the other body, over which we have no jurisdiction whatsoever.

It is premised on an illusory contingency which may or may never happen. We do not even do that to the Appropriations Committee; so I object on the basis that it foists on the House an unacceptable mandate under the rules. . . .

MR. HILER: Mr. Chairman, I do not think the point of order is in place. It is clear that what we are doing with this amendment is trying to bring this bill within an appropriation budget level, as we do on many, many bills when we have similar kinds of language. I do not think the point of order should be sustained.

MR. [BRUCE F.] VENTO [of Minnesota]: Mr. Chairman, I rise to support the point of order, because this is an attempt to change the Budget Act which is not before us, to put in place a new mechanism and a unique mechanism for enforcement of the Budget Act, which is not a part of this legislation.

The fact is that it specifies and directs the Secretary in a certain way to enforce this on the Budget Act. It extends to the Budget Act that which cannot be amended. It goes to the reconciliation process and to other processes in the 1974 Budget Act, which is not the subject of this measure that is before us. However important the budget mechanisms that are in place, it is an attempt to modify them in a unique way and I think in a cumbersome way in terms of this issue. . . .

THE CHAIRMAN:[17] The Chair will rule that the amendment does not amend the Budget Act. The Budget Act is only a reference point, and levels in the budget resolution are measures of availability of funds authorized or provided by the pending bill.

The Chair will rule that it is not in violation of the rules of the House. No rule of the House requires the Chair to rule on or to determine the workability or unworkability of an amendment.

The Chair will rule that the amendment is germane and the point of order does not lie.

Expenditures Under Other Acts as Measure of Availability of Funds

§ 34.3 An amendment to an authorization bill which conditions the obligation or ex-

17. Brian J. Donnelly (Mass.).

penditure of funds therein by adopting as a measure of their availability the expenditure during that fiscal year of a comparable percentage of funds authorized by other Acts is germane so long as the amendment does not directly affect the use of other funds; thus, to a bill authorizing foreign economic and military assistance, an amendment providing that the percentage of funds obligated or expended pursuant to that Act at any time during fiscal 1974 shall not be more than 10 percent greater than percentages expended under certain other programs authorized by Congress was held to impose a germane limitation on the availability of funds authorized in the bill which did not directly affect the operation of other government programs.

During consideration of the Mutual Development and Cooperation Act of 1973,[18] on July 26, 1973,[19] the Chair overruled a point of order made against the following amendment:

MR. [GEORGE E.] DANIELSON [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Danielson: On page 53, after line 23, insert the following new section:

EQUITABLE EXPENDITURE OF FUNDS

Sec. 30. (a) Unless the Congress shall provide otherwise in language expressly made applicable to this section, at any time during the fiscal year 1974, the amount obligated or expended pursuant to this Act for any program or activity authorized by this Act, expressed as a percentage of the amount appropriated by law for purposes of such program or activity, shall not be more than 10 percentage points greater than the amount obligated or expended at that time for any other program or activity authorized by Act of Congress, expressed as a percentage of the amount appropriated by law for purposes of such other program or activity for the fiscal year 1974.

(b) For purposes of this section, the term "other program or activity" shall include any program or activity administered by or under the direction of the Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Department of Transportation, the Environmental Protection Agency, and the Veterans' Administration. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I insist on a point of order. . . .

[T]his bill deals solely with authorizations for appropriations for foreign aid. The amendment of the gentleman covers many programs of agencies: The

18. H.R. 9360.

19. 119 CONG. REC. 26210, 26211, 93d Cong. 1st Sess.

Department of Agriculture, the Department of Commerce, the Department of Labor, the Department of Housing and Urban Development, the Department of Health, Education, and Welfare, the Environmental Protection Agency, and the Veterans' Administration. It goes far afield from the present legislation, and therefore I insist on my point of order.

THE CHAIRMAN:[20] The Chair is ready to rule.

The Chair has examined the amendment, and observes that the amendment does not directly affect the obligation or expenditure of funds under other Government programs. Rather, the percentages obligated or expended under other programs merely serve as a measure or limit of percentages which can be obligated or expended under programs in the pending bill. For this reason, the Chair feels that the amendment is a germane restriction on the availability of funds authorized in the pending bill, and the Chair overrules the point of order.

Salaries of Members Who Voted Against Salary Increase

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

During consideration of House Joint Resolution 404 in the House on Sept. 25, 1979,[1] the Speaker overruled a point of order against the amendment described above, demonstrating that, to a proposition restricting the availability of funds to a certain category of recipients, an amendment further restricting the availability of those funds to a subcategory of the same recipients is germane. The proceedings were as follows:

H.J. RES. 404

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

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

20. Melvin Price (Ill.).

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

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

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

The Clerk read as follows:

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

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

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

The Clerk read as follows:

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

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

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

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

The Clerk read as follows:

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

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

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

THE SPEAKER:[2] . . . The Chair will rule that the Fisher substitute contains a selective restriction on the availability of funds in the bill by separating salaries of certain employees, as opposed to Members of the Congress of the United States, and that is in order. The amendment offered by the gentleman from New York (Mr. Peyser) is a further selective restriction on the availability of fiscal 1980 funds for the Members' pay.

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

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

Travel of House Committee

§ 34.5 To a resolution authorizing an investigation and incidental travel to be undertaken by a committee of the House, an amendment placing restrictions on the funds permitted to be used in such travel may be germane.

In the 88th Congress, a resolution[3] reported from the Committee on Rules was under consideration. The resolution stated:[4]

Resolved, That effective January 4, 1963, the Committee on Armed Services, acting as a whole or by subcommittee appointed by the chairman of the Committee on Armed Services, is authorized to conduct a full and complete investigation and study of all matters—

(1) relating to the procurement . . . and disposition of . . . equipment, supplies, and services, and the acquisition . . . and disposition of real property, by or within the Department of Defense. . . .

The following committee amendment was reported:

3. H. Res. 84 (Committee on Rules).

4. 109 CONG. REC. 1547, 88th Cong. 1st Sess., Jan. 31, 1963.

On page 3, after line 4, add the following paragraphs:

> Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided*, (1) That no member or employee of said committee shall receive or expend local currencies for subsistence an amount in excess of the maximum per diem rates approved for oversea travel as set forth in the Standardized Government Travel Regulations, as revised and amended by the Bureau of the Budget; (2) that no member or employee of said committee shall receive or expend an amount for transportation in excess of actual transportation costs; (3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee or its employees in any country where counterpart funds are available for this purpose. . . .

Mr. Abraham J. Multer, of New York, made the point of order that "the matter of the appropriation of funds and the authorization of the use of funds by any committee of the House is within the jurisdiction of the Committee on House Administration." He further stated:

> There is no authorization for the use of funds in the resolution as presented, yet they attempt by the same resolution now to limit the expenditures that may subsequently be authorized by the Committee on House Administration. . . .

The Speaker,[5] in overruling the point of order, stated:

> The resolution before the House does not deal with funds, but the authorization of funds, and is also a restriction on the use of funds that may be made available. The actual funds are matters that will be passed upon by the Committee on House Administration.

Funds for Expenses of Retiring Members

§ 34.6 To a portion of an amendment in the nature of a substitute providing that use of the contingent fund for committee investigations be confined to travel in the United States and that no appropriated funds be expended for committee expenses outside the United States where local currencies are available, an amendment providing that "notwithstanding any other provision of law, no part of any appropriation and no local currency" shall be available to pay any expenses in connection with travel outside the United States of retiring Members was ruled out as not germane, since it waived provisions of law not necessarily related to House committee travel.

5. John W. McCormack (Mass.).

On Oct. 8, 1974,[6] during consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees), the Chair sustained a point of order against the amendment described above. The amendment read, in part, as follows:

> The Clerk read as follows:
>
> Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington:
>
> Page 28, line 20, strike out "committee". . . .
>
> Page 29, after line 21, insert the following new subparagraph:
>
> "(2) Notwithstanding any other provision of law, no part of any appropriation and no local currency owned by the United States shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—
>
> "(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary or regular election until such time as he shall thereafter again become a Member; or
>
> "(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .
>
> MR. [NEAL] SMITH of Iowa: Mr. Chairman, I make a point of order against the amendment. . . .
>
> As I heard the amendment, I believe it is directed at some general laws of the United States, not just at the Rules of the House of Representatives. . . .
>
> MR. [WAYNE L.] HAYS [of Ohio]: . . . Mr. Chairman, I think the point of order should be sustained, because it goes far beyond the Rules of the House and it deals with appropriations. It puts jurisdictions on agencies. It puts additional duties on the Department of State, and while I do not know that this directly affects the point of order, it interferes with the 2-year elected term of a Member of Congress. . . .
>
> THE CHAIRMAN:[7] The Chair is ready to rule.
>
> The Chair has carefully examined the second amendment read by the Clerk. At the bottom of the page the paragraph starts out:
>
> > Notwithstanding any other provision of law, no funds authorized for a committee, no part of any appropriation shall be available—
>
> and so forth.
>
> This prefatory provision itself makes the amendment subject to a point of order. Therefore, the point of order is sustained, and the amendment is not in order.

§ 34.7 To a provision in an amendment in the nature of a substitute restricting the use of the House contingent fund for committee expenses to travel only in the United States and providing that no

6. 120 CONG. REC. 34463, 34464, 93d Cong. 2d Sess.

7. William H. Natcher (Ky.).

appropriated funds be used for committee expenses outside the country, where local currencies are available, an amendment prohibiting the use of funds "authorized for a committee" for expenses of retiring Members was held germane as a further restriction on the availability of committee funds.

During consideration of House Resolution 988 (to reform the structure, jurisdiction and procedures of House committees) in the Committee of the Whole, the Chair overruled a point of order in the circumstances described above. The proceedings of Oct. 8, 1974,[8] were as follows:

MR. [JOHN J.] DUNCAN [of Tennessee]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Duncan to the amendment in the nature of a substitute offered by Mrs. Hansen of Washington: Page 28, line 20, strike out "committee". . . .

Page 29, after line 21, insert the following new subparagraph:

"(2) No funds authorized for a committee shall be available for payment of any expenses, nor shall transportation be provided by the United States, in connection with travel outside the fifty States (including the District of Columbia) of the United States of—

"(A) any Delegate, Resident Commissioner, or Member of the House after he has been defeated as a candidate for nomination, or election, to a seat in the House in any primary or regular election until such time as he shall thereafter again become a Member; or

"(B) any Delegate, Resident Commissioner, or Member of the House after the adjournment sine die of the last session of a Congress if he is not a candidate for reelection in the next Congress. . . .

MR. [WAYNE L.] HAYS [of Ohio]: Mr. Chairman, I make a point of order against the amendment. It changes the Constitution of the United States wherein it reduces the term of office of a Member and takes away some of his prerogatives and privileges that he has for a 2-year term equal to other Members, and it in effect makes a second-class citizen of a Member who may decide to retire. . . .

THE CHAIRMAN:[9] The Chair is ready to rule.

The Chair cannot pass upon constitutional questions. The Chair can only pass upon the germaneness of the amendment offered by the gentleman from Tennessee.

The Chair notes that the amendment is directed to the portion of the Hansen amendment relating to funds for committee travel and unlike the language in the prior amendment against which the point of order was sustained, does not appear to be broader in effect than the language in the Hansen amendment. The Chair holds the amendment germane and overrules the point of order.

Parliamentarian's Note: The prior ruling referred to by the Chair is discussed in § 34.6, supra.

8. 120 CONG. REC. 34465, 93d Cong. 2d Sess.

9. William H. Natcher (Ky.).

Provision Authorizing Missile System Depending on Specified Conditions—Amendment Containing Unconditional Prohibition on Missile System for One Year

§ 34.8 To an amendment precluding the availability of an authorization for a program for part of a fiscal year and then permitting availability for the remainder of the year based upon a contingency, an amendment constituting a prohibition on the availability of the same funds for the entire fiscal year is a germane alternative; thus, where an amendment as amended authorized procurement of an MX missile system after a time certain during the fiscal year if the President determined that the Soviet Union was not limiting similar weapons, a subsequent amendment prohibiting the use of funds in that title as a one year moratorium on the MX program notwithstanding other language in the amendment was held germane as an unconditional prohibition for the same fiscal year.

During consideration of H.R. 5167 (the Military Procurement Authorization for fiscal 1985), on May 16, 1984,[10] the Chair overruled a point of order against the following amendment:

> MR. [NICHOLAS] MAVROULES [of Massachusetts]: Mr. Chairman, I offer an amendment to the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Mavroules to the amendment offered by Mr. Bennett: At the end of the section proposed to be added by the amendment add the following:
>
> MORATORIUM ON MX MISSILE PROCUREMENT
>
> Sec. 111. (a) Notwithstanding section 103(a) of this title, the maximum amount that may be appropriated for fiscal year 1985 for missiles for the Air Force is $5,942,700,000.
>
> (b) None of the funds appropriated pursuant to authorizations of appropriations in this title may be used for the MX missile program.
>
> (c) It is the intent of Congress that the denial of funds for procurement under the MX missile system program for fiscal year 1985 constitutes a moratorium on procurement of missiles under such program but does not constitute a unilateral termination of that program.

MR. [WILLIAM L.] DICKINSON [of Alabama]: Mr. Chairman, I reserve a point of order on the amendment.

> THE CHAIRMAN:[11] Does the gentleman from Alabama (Mr. Dickinson) insist on his point of order?

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10. 130 CONG. REC. 12566, 12567, 98th Cong. 2d Sess.

11. Dan Rostenkowski (Ill.).

MR. DICKINSON: The gentleman will insist on the point of order.

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

MR. DICKINSON: Mr. Chairman, without having had an opportunity to study it, and I have not, but let me attempt to, it appears that this is broader than the scope of what we have just worked on. And I think it takes out missiles for more than just the MX. At this point it affects 1984 money, and at this point, without having any prior notice, there is no chance for me or staff to study it. . . .

So I respectfully submit that it is not germane, Mr. Chairman. . . .

THE CHAIRMAN: The Chair would rule that the amendment offered by the gentleman from Massachusetts is germane to the Bennett amendment as amended and the Chair does not rule on the consistency of amendments and, therefore, rules that the amendment is in order.

Production of Chemical Weapons

§ 34.9 To an amendment only decreasing the fiscal year 1984 authorization for Army ammunition funds in Title I of the Defense Department authorization bill, a substitute adding language prohibiting use of any Defense Department funds for the production or procurement of binary chemical weapons was held to be not germane because addressing funds not addressed by the pending amendment.

During consideration of H.R. 2969 in the Committee of the Whole on June 15, 1983,[12] the Chair, in sustaining a point of order against the amendment described above, indicated that a substitute for an amendment must be germane to the amendment to which offered:

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000". . . .

MR. [ED] BETHUNE [of Arkansas]: Mr. Chairman, I offer an amendment as substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Bethune as a substitute for the amendment offered by Mr. Zablocki: Page 2, line 15, strike out "$2,272,500,000" and insert in lieu thereof "$2,157,900,000".

Page 10, after line 12, insert the following new section:

PROHIBITION ON PROCUREMENT OF BINARY CHEMICAL MUNITIONS AND RELATED PRODUCTION FACILITIES, EQUIPMENT, AND PRECURSOR CHEMICALS

Sec. 109. (a) None of the funds appropriated pursuant to the authorizations of appropriations in this title may be obligated or expended

12. 129 CONG. REC. 15803, 15809, 98th Cong. 1st Sess.

for procurement of binary chemical munitions or for production facilities, equipment, or precursor chemicals for such munitions.

(b) No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority. . . .

MR. [SAMUEL S.] STRATTON (of New York): Mr. Chairman, under section 109 of the amendment, on line 9, it says,

> No funds available to the Department of Defense may be made available for the production or procurement of binary chemical munitions (or for production facilities, equipment, or precursor chemicals for such munitions) through the use of reprogramming authority.

The point of order is that this bill is a bill that would authorize funds for fiscal year 1984 exclusively, whereas the amendment deals with funds that might have been made available to the Department of Defense in other ways, prior years, or subsequent year, and, therefore, is outside of the scope of the pending legislation and is, therefore, out of order. . . .

THE CHAIRMAN PRO TEMPORE:[13] The Chair will rule.

The Zablocki amendment addresses the Army ammunition funds authorized by title I of the pending bill. The Bethune substitute addresses other funds available to the Department of Defense not authorized by the pending title I and is not germane to the Zablocki amendment.

The Chair sustains the point of order.

Military Operations in North Vietnam

§ 34.10 To a bill authorizing supplemental appropriations for military procurement, research and development, and military construction, an amendment declaring it to be the sense of Congress that none of the funds therein authorized shall be used to carry out military operations in North Vietnam, was held to be germane.

In the 90th Congress, during consideration of a bill[14] comprising supplemental military authorizations for fiscal 1967, an amendment was offered[15] as described above. Mr. L. Mendel Rivers, of South Carolina, raised the point of order that the amendment was not germane to the bill.[16] The Chairman,[17] in ruling on the point of order, stated:

> The amendment relates only to funds authorized in this bill and is similar in concept to an amendment offered to the Foreign Assistance Act of 1950.

13. John P. Murtha (Pa.).

14. H.R. 4515 (Committee on Armed Services).

15. 113 CONG. REC. 5142, 5143, 90th Cong. 1st Sess., Mar. 2, 1967.

16. *Id.* at p. 5143.

17. Daniel D. Rostenkowski (Ill.).

That amendment provided that no money authorized by the bill should be granted to any country which violated the Charter of the United Nations.

It was thus a restriction on funds authorized by the bill.

Chairman [Oren] Harris of Arkansas ruled that it was germane—81st Congress, March 30, 1950, Record, page 4550.

The Chair thinks the present amendment simply places a restriction on authorizations contained in this bill and relates only to the funds in this bill.

The Chair holds that the amendment is germane.

Congressional Support for Geneva Accords

§ 34.11 To a bill authorizing military expenditures, an amendment providing that "none of the funds authorized herein" be used except in accordance with a congressional declaration of support for the Geneva accords of 1954 and 1962 was held to be not germane.[18]

Use of Funds To Relocate Vietnamese Evacuees in High Unemployment Areas in United States

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

During consideration of H.R. 6096[19] in the Committee of the Whole on Apr. 23, 1975,[20] Chairman Otis G. Pike, of New York, sustained a point of order and held that the following amendment went beyond the scope of the bill and was therefore not germane:

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

The Clerk read as follows:

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

"No funds authorized under this act shall be used directly or indirectly to transport Vietnamese refugees to any congressional district or

18. 113 CONG. REC. 5139, 90th Cong. 1st Sess., Mar. 2, 1967. See § 30.6, supra.

19. The Vietnam Humanitarian and Evacuation Assistance Act.

20. 121 CONG. REC. 11512, 94th Cong. 1st Sess.

create employment opportunities in any congressional district where the unemployment rate exceeds the national unemployment rate as defined by the Bureau of Labor Statistics of the United States Department of Labor.". . .

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

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

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

Funds for Deployment of Troops Beyond Specified Period

§ 34.13 To a bill authorizing funds and limited use of troops for a specific purpose, an amendment stating that "notwithstanding any other provision of this Act" funds authorized in the Act could not be used for deployment of troops beyond a certain period of time was held to be a proper limitation on use of funds and germane to the bill.

On Apr. 23, 1975,[1] during consideration of the Vietnam Humanitarian and Evacuation Assistance Act[2] in the Committee of the Whole, Chairman Otis G. Pike, of New York, overruling a point of order, held the following amendment to be germane:

MR. [STEPHEN J.] SOLARZ [of New York]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Solarz to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Page 1, line 5, insert "(a)" immediately after "Sec. 2.", and page 2, immediately after line 2, add the following new subsection:

(b) Notwithstanding any other provision of this Act, no funds authorized or made available under this Act may be used to finance, directly or indirectly, any combat activity, any involvement in hostilities, or any military or paramilitary operation, by the Armed Forces of the United States in, over, or off the shores of South Vietnam after the end of the 30-day period beginning on the first date after the date of enactment of this Act on which any American

1. 121 CONG. REC. 11508, 94th Cong. 1st Sess.
2. H.R. 6096.

ground combat forces are introduced into South Vietnam in conjunction with any program of evacuation as defined by Section 4 of this Act. . . .

MS. [ELIZABETH] HOLTZMAN [of New York]: Mr. Chairman, I make the point of order that the amendment is not germane. . . .

From the few brief words that I heard, the amendment talks about authorizing funds, authorizing the President to operate in combat areas after a 30-day period of time, and I do not know whether that has to do with any provision in the bill. I raise a point of order against it. . . .

MR. SOLARZ: . . . I think it is quite clear from the debate today that the President had the inherent constitutional authority to send American troops to evacuate American citizens and their dependents.

My amendment says, in effect, if any troops are sent in, they cannot be sent in for any more than 30 days. I think it is quite clear under the constitutional powers that this amendment is germane. . . .

MS. HOLTZMAN: . . . I did not understand that there was anything in the bill that authorized the President to engage our troops in combat in Laos or anyplace else and, therefore, it seems to me the gentleman's amendment is not germane and subject to a point of order. . . .

MR. [WAYNE L.] HAYS of Ohio: . . . There is no question in my mind, with all of the precedents I have heard around here for many years, that this is a germane amendment. It is simply a limitation of the proposed legislation, no more and no less. It limits the time that the President can do the things that this bill will give him permission to do for 30 days. It is that simple.

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

This amendment constitutes and states in its language, "Notwithstanding any other provision of this act, no funds authorized or made available under this act may be used to finance," et cetera.

It is a limitation on the funds authorized in the act.

The amendment is germane, and the point of order is overruled.

Assistance Barred for Country Engaging in Aggression

§ 34.14 To a bill to provide foreign economic assistance, an amendment proposing that none of the money therein authorized be granted to any country which violates the Charter of the United Nations or engages in acts of aggression was held to be germane.

In the 81st Congress, during consideration of a bill [3] to provide foreign economic assistance, the following amendment was offered: [4]

Amendment offered by Mr. [Abraham J.] Multer [of New York]: On page 31, after line 10, insert the following:

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3. H.R. 7797 (Committee on Foreign Affairs).

4. 96 CONG. REC. 4550, 81st Cong. 2d Sess., Mar. 31, 1950.

> Title IV, section 401. No money under any of the previous titles of this bill, or any of the acts amended by this bill, shall be granted, lent, or used directly or indirectly, and no assistance provided for, shall be made available to . . . any country which violates any provisions of the Charter of the United Nations, or directly or indirectly engages in acts of aggression as determined by proclamation of the President of the United States of America, or by the United Nations, so long as such acts continue, nor to, for, or in any country which directly or indirectly sells, gives, or ships any material to any country to which American nationals cannot obtain licenses for the sale, gift, or shipment of similar materials unless the consent of the President shall have first been obtained.

Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane to the bill. The Chairman,[5] in ruling on the point of order, stated:

> The language of the amendment relates to a title of the bill.
>
> The point of order is overruled.

Operation of Early-warning System in Sinai—Amendment Making Funds Dependent on Reduction in United States Contribution to United Nations' Peacekeeping Forces

§ 34.15 To a joint resolution authorizing the use of American civilians to operate an early-warning system in the Sinai, an amendment providing that funds subsequently authorized to carry out the provisions of the resolution may only be used to the extent that the United States contribution to the United Nations' peacekeeping forces in the Middle East is proportionately reduced, there being no mention of the United Nations' peacekeeping role or of United States contributions thereto in the resolution, was held to go beyond the scope of the resolution and was ruled out as not germane.

During consideration of House Joint Resolution 683 (to implement the United States proposal for the early-warning system in the Sinai), the Chair sustained a point of order against the amendment described above. The proceedings of Oct. 8, 1975,[6] in the Committee of the Whole, were as follows:

> MR. [C. W.] YOUNG of Florida: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Young of Florida: Page 2, line 10, after the period insert the following new sentence: To the extent funds are authorized to carry out the provisions of this resolution, such funds may be

5. Oren Harris (Ark.).

6. 121 CONG. REC. 32430, 32431, 94th Cong. 1st Sess.

> used only to the extent that the United States contribution to the United Nations for the purpose of peacekeeping forces in the Middle East is reduced. . . .

MR. [THOMAS E.] MORGAN [of Pennsylvania]: Mr. Chairman, I raise a point of order against the amendment.

Mr. Chairman, the amendment is not germane under clause 7 of rule 16 because it deals with a subject matter which is not dealt with in this resolution. The resolution would authorize the stationing of American technicians in the Sinai.

The cost of this operation would come from the special requirements fund for the Middle East, under section 903 of the Foreign Assistance Act. Neither the resolution before the House, nor section 903 of the Foreign Assistance Act, deal with the U.N. peacekeeping force.

The U.S. participation in the U.N. peacekeeping force is authorized by different legislation. U.S. contribution to that force comes also from separate legislation. The amendment, by attempting to tie this resolution to U.S. contribution to the U.N. peacekeeping force, goes far afield from the purpose of this legislation. It would considerably broaden the scope of this legislation and is therefore not germane. . . .

MR. YOUNG of Florida: . . . The title of House Joint Resolution 683 reads:

> To implement the United States proposal for the early-warning system in Sinai.

The resolving clause says:

> That the President is authorized to implement the "United States Proposal for the Early-Warning System in Sinai"

Mr. Chairman, the vast authority to implement stressed in the title and resolving clause make this an extremely broad and encompassing piece of legislation, in fact, more so than most.

For example, according to the report and also according to my earlier colloquy with the chairman, implementation of this early warning proposal will require $20 million the first year of already appropriated funds or funds still to be appropriated.

Since this resolution authorizes the implementation of the proposal, without a doubt, it inherently authorizes the spending of the funds.

The Chair has ruled many times that amendments to place a limitation on appropriations bills are in order if said amendments are limiting in nature and do not include legislation. . . .

Further, Mr. Chairman, I submit that the language of the title and resolving clause of this resolution are in fact broad enough that this amendment be considered in order.

THE CHAIRMAN:[7] The Chair is prepared to rule.

The gentleman from Pennsylvania (Mr. Morgan) makes a point of order against the amendment offered by the gentleman from Florida (Mr. Young) on the grounds that it is not germane to the joint resolution.

The Chair observes that the resolution does not involve the role of the U.N., and that the amendment would broaden the scope of the pending measure in a significant manner. By requiring a reduction in the U.S. contribution to the U.N. peacekeeping force, in an

7. K. Gunn McKay (Utah).

amount necessary to accomplish the purpose of the joint resolution, the amendment would inject into the joint resolution the issue of the extent of U.S. participation in the U.N. peacekeeping force and the issue of the curtailment of the entire peacekeeping role of the United Nations in the Middle East. As stated in Cannon's Procedure, page 205, two subjects are not necessarily germane because related, and the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill, as indicated at page 199, Cannon's Procedure.

For the reasons stated, the Chair sustains the point of order.

Federal Aid Road Act—Restriction Affecting States Practicing Segregation

§ 34.16 To a bill to amend and supplement the Federal Aid Road Act, an amendment providing that no funds collected under the act be available to any state or subdivision in which segregation is practiced in restaurants, restrooms, or in road construction was held to be germane.

In the 84th Congress, a bill[8] was under consideration amending the Federal Aid Road Act. The following amendment was offered to the bill:[9]

Amendment offered by Mr. [Earl] Wilson of Indiana:

On page 32, following line 7, add a new section 19:

No funds collected under this act may be available to any State, city, or subdivision in which segregation is practiced in restaurants, restrooms, or in road construction. . . .

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

MR. [ROBERT E.] JONES [Jr.] of Alabama: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane. . . .

MR. WILSON [of Indiana]: . . . Here we are authorizing this great appropriation, under which we are going to spend billions of dollars in every State in the Union. Yet, there are some States in which the Negroes are not going to have a chance to work and earn part of this money to pay the taxes to build the highways, to earn money to pay the excise taxes on their trucks, to earn money to pay the extra cost of their tires.

. . . I think these Negroes should be given the opportunity to help build the highways because they are going to help to pay the taxes. I think they should be able to use the facilities, the restaurants, and the comfort stations, and so forth, that appear along the highways.

THE CHAIRMAN:[10] The gentleman from Indiana offers an amendment to provide for a limitation on the funds collected under the pending bill, to which the gentleman from Alabama [Mr. Jones] makes a point of order.

It is the opinion of the Chair that since the amendment refers to and

8. H.R. 7474 (Committee on Public Works).

9. 101 CONG. REC. 11710, 84th Cong. 1st Sess., July 27, 1955.

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

touches upon the funds collected under this act, limiting their use, the amendment is germane; therefore, the Chair overrules the point of order.

Branches of Air Force Practicing Segregation

§ 34.17 To that section of a supplemental appropriation bill making appropriations for the Air Force, an amendment providing that none of the funds appropriated therein be used in branches of the Department of the Air Force in which racial segregation exists was held to be germane.

In the 80th Congress, during consideration of a bill[11] comprising Supplemental National Defense Appropriations of 1948, an amendment was offered[12] as described above. 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 this amendment is not germane and it is, therefore, not in order on this bill; that it is legislation on an appropriation bill; that [it] imposes additional burdens and restrictions that are entirely out of place.
>
> This is an aircraft procurement bill. This is not a labor bill. . . .

In defending the amendment, the proponent, Mr. Adam C. Powell, Jr., of New York, stated:

> . . . This is an amendment which has limitations; it is negative; it is the type that has been ruled in order on previous appropriation bills.

The Chairman[13] overruled the point of order.

Persons or Corporations Practicing Discrimination in Employment

§ 34.18 To a bill on the Consent Calendar seeking to remove from a paragraph of an appropriation bill a provision that no loans be made for the construction of any public works except in pursuance of a specific authorization, an amendment was held to be not germane which provided that none of the funds appropriated in the same paragraph "shall be paid to any person, firm or corporation which refuses equality in employment because of race, color or creed."

In the 81st Congress, during consideration of a bill[14] relating to loans by federal agencies for the construction of certain public

11. H.R. 6226 (Committee on Appropriations).
12. 94 CONG. REC. 4543, 80th Cong. 2d Sess., Apr. 15, 1948.
13. Joseph P. O'Hara (Minn.).
14. H.R. 1771 (Committee on Public Works).

works, an amendment was offered[15] as described above. A point of order was raised against the amendment, as follows:[16]

> MR. [WILLIAM M.] WHITTINGTON [of Mississippi]: Mr. Speaker, I make a point of order against the amendment that it is not germane to the bill under consideration. It is not a limitation because there is no appropriation involved. The purpose of the pending bill is merely to remove a restriction on legislation already passed where appropriations have been made. This makes no appropriation whatever.

In defense of the amendment, the proponent stated as follows:[17]

> MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, my amendment refers to the First Deficiency Appropriation Act of 1946. This bill, H.R. 1771, seeks to make amendments to that act. I submit the amendment I have offered to the pending bill is a further amendment of the Federal Public Works section of that act. My amendment is a further proviso restricting the use of funds. . . .

The Speaker pro tempore,[18] without elaboration, sustained the point of order.

Actions Brought on Account of Discriminatory Practices of State and Local Governments

§ 34.19 To that title of a bill authorizing the Attorney General to participate in actions brought on account of discriminatory practices of state and local governments, an amendment to limit expenditures to carry out purposes of the title was held to be germane.

In the 88th Congress, during consideration of the Civil Rights Act of 1963,[19] the following amendment was offered:[20]

> Amendment offered by Mr. [Harold R.] Gross [of Iowa]: On page 50, line 3, after the word "title" insert a new section 305 to read as follows:
>
> In carrying out the provisions of title III of H.R. 7152 expenditures shall be limited to not more than $312,530.

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

> MR. [EMANUEL] CELLER [of New York]: Mr. Chairman, I make the point of order that the amendment of the gentleman from Iowa is not germane to the title of the bill. It would limit expenditures. The title itself makes no mention of expenditures; therefore, the amendment is not germane.

THE CHAIRMAN,[1] in ruling on the point of order, stated:

> The Chair will hold that the amendment is in the form of a limitation on

15. 95 CONG. REC. 7951, 81st Cong. 1st Sess., June 20, 1949.
16. *Id.* at pp. 7951, 7952.
17. *Id.* at p. 7952.
18. Jere Cooper (Tenn.).
19. H.R. 7152 (Committee on the Judiciary).
20. 110 CONG. REC. 2274, 88th Cong. 2d Sess., Feb. 6, 1964.
1. Eugene J. Keogh (N.Y.).

the authorizations of appropriations which may be made under the title; that there are sections authorizing activities for carrying out the provisions and of the title; and therefore the Chair overrules the point of order. . . .

Transportation Programs Intended To Overcome Racial Imbalance

§ 34.20 To a program authorizing federal financial assistance, an amendment limiting the uses to which those funds may be put is germane; thus, to a bill providing assistance for mass transportation programs, including language permitting school systems to be eligible applicants for schoolbus construction and operating subsidies where not in competition with private operators, an amendment prohibiting the use of funds authorized by the bill to implement transportation programs intended to overcome racial imbalance in school systems was held germane as a restriction on the availability of assistance contained in the bill.

On Aug. 15, 1974,[2] during consideration of H.R. 12859[3] in the Committee of the Whole, it was demonstrated that the germaneness of an amendment should be determined from provisions of its text rather than from the purposes which circumstances may suggest. The proceedings were as follows:

"§ 520. SCHOOLBUSES

"No Federal financial assistance shall be provided under this title for the construction or operation of facilities and equipment for use in providing public mass transportation service to any applicant for such assistance unless such applicant and the Secretary shall have first entered into an agreement that such applicant will not engage in schoolbus operations, exclusively for the transportation of students and school personnel, in competition with private schoolbus operators. This section shall not apply to an applicant with respect to operation of a schoolbus program if the applicant operates a school system in the area to be served and operates a separate and exclusive schoolbus program for this school system. This section shall not apply unless private schoolbus operators are able to provide adequate transportation, at reasonable rates, and in conformance with applicable safety standards; and this section shall not apply with respect to any State or local public body or agency thereof if it (or a direct predecessor in interest from which it acquired the function of so transporting schoolchildren and personnel along with facilities to be used therefor) was so engaged in schoolbus operations any time during the twelve-month period immediately prior to the

2. 120 CONG. REC. 28423, 28438, 28439, 93d Cong. 2d Sess.

3. The Federal Mass Transportation Act of 1974.

date of the enactment of this section. A violation of an agreement under this section shall bar such applicant from receiving any other Federal financial assistance under this title.

MR. [M. G.] SNYDER [of Kentucky]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Snyder: Page 68, line 4. After the period insert the following: "No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation), in order to carry out a plan of racial desegregation of any school or school system," . . .

MR. JAMES V. STANTON [of Ohio]: I do insist on my point of order, Mr. Chairman. I believe that the amendment as offered by the gentleman from Kentucky is totally unrelated to a national bus transportation policy that is being considered under this act. His amendment goes to a policy of social concern that he apparently has a deep commitment to, that I do not think should be considered in this bill, because this bill is dealing with physical property in transportation. It is not dealing with social causes involved in the gentleman's amendment. . . .

MR. SNYDER: . . . Certainly there is no question that what the gentleman says is absolutely correct. This is unrelated to the mass transit policy of this country, but it is absolutely related to the language of this bill and the exception to the prohibition that appears on line 13, page 67, relates not to the mass transit policy of this Nation, but to an individual school system that might operate a schoolbus system in connection with their school operation. There is where the prohibition is necessary if, in fact, the funds are not going to be used for this purpose.

THE CHAIRMAN:[4] The Chair is prepared to rule on the point of order.

The Chair would remind the committee that the germaneness of an amendment should be determined from provisions of its text, rather than from the purposes which circumstances may suggest (Hinds' Precedents, volume V, sections 5783, 5803).

Since the text of the amendment is related to a subject covered by the bill, which is to say there is money authorized in the bill for the construction and operation of buses which might be used for the transportation of students, it is germane to place a limitation on the uses for which that money may be directed.

Funds To Purchase Foreign-made Goods

§ 34.21 To a bill granting authorities to the federal government or authorizing the appropriation of funds, an amendment denying the use of those authorities or funds to purchase foreign-made goods or equipment is germane.

The proceedings of Dec. 4, 1980, during consideration of H.R. 6417,

4. James W. Symington (Mo.).

the Surface Transportation Act of 1980, are discussed in § 35.82, infra.

Funding Denied Unless Goods Produced by Slave Labor in Soviet Union are Barred From Customs Entry

§ 34.22 To a Senate amendment to a general appropriation bill prohibiting the availability of funds in any Act for salaries and expenses for the Office of the Assistant Secretary of Treasury for Enforcement and Operations after a date certain unless Congress enacts authorizing legislation for the Customs Service, a proposed substitute amendment restricting availability of funds in that bill for the same office unless specific categories of products, determined to have been produced by slave or convict labor in the Soviet Union, are barred from customs entry into the United States was conceded to be not germane as a condition totally unrelated to that contained in the Senate amendment.

On Nov. 7, 1985,[5] during consideration of H.R. 3036[6] in the Committee of the Whole, the Chair sustained a point of order against an amendment, thereby holding that to a proposition conditioning the availability of funds upon the enactment of an authorizing statute for an enforcing agency, a substitute proposal conditioning the availability of some of those funds upon a prohibition of certain imports into the United States was not germane, as establishing a contingency unrelated to that contained in the proposition to which offered. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[7] The Clerk will designate the first amendment in disagreement.
>
> The text of the amendment is as follows:
>
> > Senate amendment No. 3: Page 2, line 14, after "Annex" insert ": *Provided further,* That none of the funds contained in this or any other Act shall be available for the salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations, after March 1, 1986, unless United States Customs Service authorizing legislation is passed by the Congress."

5. 131 CONG. REC. 30984, 30985, 99th Cong. 1st Sess.
6. The Department of the Treasury and Postal Service Appropriations, fiscal 1986.
7. John P. Murtha (Pa.).

MR. [EDWARD R.] ROYBAL [of California]: Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Roybal moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "*Provided*, That none of the funds appropriated by this Act shall be available for the salaries and expenses of the Office of the Assistant Secretary of the Treasury for Enforcement and Operations if any of the following products of the Union of Soviet Socialist Republics are entered, or withdrawn from warehouse, for consumption in the customs territory of the United States after December 31, 1985, unless the Commissioner of Customs is provided with sufficient information pursuant to 19 CFR 12.43 attesting to the fact that the products have not been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions:

"(1) gold ore,

"(2) agricultural machinery . . .

"(8) any other product that the Commissioner of Customs determines to have been produced, manufactured, or mined (in whole or in part) by forced labor, convict labor, or indentured labor under penal sanctions: *Provided further*, That none of the funds appropriated by this Act shall be available to hinder or impede the Commissioner of Customs in making determinations tons in making determinations under subsection (8) of the preceding proviso". . . .

MR. [BILL] FRENZEL [of Minnesota]: Mr. Speaker, I make a point of order that the amendment is not germane to the Senate amendment numbered 3 under clause 7 of rule XVI of the rules of the House.

Senate amendment numbered 3 provides that no funds shall be available for salaries and expenses for the Office of the Assistant Secretary of the Treasury for Enforcement and Operations after March 1, 1986, unless Congress passes authorizing legislation for the U.S. Customs Service.

The proposed substitute amendment, on the other hand, prohibits funding of that office unless seven specific categories of products and other categories determined by the Commissioner of Customs to be produced by slave or convict labor in the Soviet Union are barred entry into the United States after December 31.

The amendment clearly raises new issues and involves subject matter quite different from the Senate amendment. It also constitutes legislation specifically to prohibit certain imports within the jurisdiction of another committee. . . .

MR. ROYBAL: Mr. Speaker, I rise in opposition to the point of order at this particular point, and I just would like to state that the original Senate amendment provided that none of the funds contained in this or any other act shall be available unless the U.S. Customs Service authorizing legislation is passed by the Congress. . . .

This provision is more restrictive than the amendment in the Senate bill in that, No. 1, it limits the prohibition of funds to those made available by this act only and it does not apply to any other act.

No. 2, the language included in the amendment could appropriately be included in the authorizing legislation designated in the Senate amendment. It, therefore, does not address any ad-

ditional topic, question, issue, or proposition not committed to committee or conference because the Customs authorizing legislation could contain all of the provisions included in the amendment.

It is the committee's position that the primary purpose of this provision is not to change the scope of existing law. The purpose of this amendment is to compel the U.S. Customs Service to enforce existing laws.

I would like to put the administration on notice that we expect them to start enforcing the law.

Having said that, Mr. Speaker, I concede the point of order.

THE SPEAKER PRO TEMPORE: The gentleman concedes the point of order, and the point of order of the gentleman from Minnesota [Mr. Frenzel] is sustained.

United States Payments to Asian Development Bank

§ 34.23 To be germane an amendment restricting authorized funds in a pending title must relate solely to those funds and may not apply to another related category of funds; thus, to a title of a bill authorizing a United States contribution to the Asian Development Fund, a special fund of the Asian Development Bank, and providing for accounting procedures by the Bank applicable to such contribution, an amendment restricting United States payments to the Bank for subscriptions in Bank stock, as well as payments to the special Fund, was held not germane since affecting funds not carried in the bill.

During consideration of H.R. 3829 [8] in the Committee of the Whole on Mar. 6, 1980,[9] the Chair sustained a point of order against the amendment described above. The proceedings were as follows:

The Clerk read as follows:

TITLE II—ASIAN DEVELOPMENT BANK

Sec. 201. The Asian Development Bank Act, as amended (22 U.S.C. 285 et seq.), is further amended by adding at the end the following new section:

"Sec. 24. (a) The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $445,000,000 to the Asian Development Fund, a special fund of the Bank: *Provided however*, That any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are hereby authorized to be appropriated without fiscal year limitation $445,000,000 for pay-

8. A bill increasing United States participation in international financial institutions.

9. 126 CONG. REC. 4960, 4970, 4971, 96th Cong. 2d Sess.

ment by the Secretary of the Treasury.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury shall pay the United States contribution to the Asian Development Fund authorized by this section by letter of credit in four annual installments. The Secretary of the Treasury is directed to take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.". . .

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 3, line 24, strike out "section" and insert in lieu thereof "sections".

Page 4, insert the following after line 21:

"Sec. 25. No payment may be made to the Bank by the Secretary of the Treasury for (1) the United States share of the increase in subscriptions to the paid-in capital stock and callable capital stock, or (2) the United States contribution to the Asian Development Fund, if Taiwan (before January 1, 1979, known as the Republic of China) is excluded from membership in the Bank."

Page 4, line 21, strike out the closed quotation marks and final period. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, the amendment is not germane to the bill before us. Chapter 28 of "Deschler's Procedure" sets forth many examples of and precedents indicating that an amendment must be germane to the bill before the committee.

In this instance, the amendment offered by the gentleman from New York would, if adopted, amend the relationship of the United States to the Asian Development Bank.

The bill before the committee in no way makes any reference to the Asian Development Fund.

I would argue that the gentleman's amendment is not germane and should be ruled out of order. . . .

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, the legislation before us is the general authorizing legislation for all of the various multilateral lending institutions covered by the bill. The terms of this bill before us are broad in scope, and in the case of the Asian Development Bank, they specifically, for instance, in title IV, section 401, direct the Secretary of the Treasury to instruct the Directors of the Asian Development Bank to take certain steps regarding some future contingent event described therein. There are a number of other restrictions placed upon the lending institutions described in this bill.

The gentleman from New York's amendment simply suggests an additional limitation of the same quality and type already included in this bill be imposed upon the Secretary of the Treasury as it pertains to the Asian Development Bank, one of the institutions that the bill authorizes. The amendment is germane. . . .

MR. SOLOMON: . . . I would just like to explain, in reference to the germaneness of the amendment, that this amendment would prohibit the U.S. participation in the Asian Development

Bank if Taiwan is excluded from membership in that particular bank.

The gentleman is talking about the Asian Development Fund, rather, capital stock, and the pending bill makes no reference to capital stock. We are talking about the Asian Development Fund.

So the gentleman's amendment properly is not germane to the subject matter under consideration.

MR. SOLOMON: With all due respect to the chairman, it is simply a limitation. It refers to title II, the Asian Development Bank. I would state that the amendment is germane.

MR. GONZALEZ: Mr. Chairman, if I may be heard further, I do so only to underline the major motivation for my point of order, and this is that our bill addresses itself to the Asian Development Fund. At no point is it considering the question of capitalization structure or the stock. . . .

THE CHAIRMAN:[10] The Chair would direct [a] question to the gentleman and ask whether or not the $445 million authorized to be contributed in title II, does it include in that the U.S. share of subscriptions to the paid-up in capital stock and the callable capital stock, as well as the contribution to the Asian Development Fund?

MR. GONZALEZ: No; if the distinguished chairman will look at page 4 of the bill, the first line, section 24(a):

> The United States Governor of the Bank is hereby authorized to contribute on behalf of the United States $445 million to the Asian Development Fund.

There is a distinction between the fund and the bank. The amendment of the gentleman addresses itself to the bank and the capitalization structure, et cetera, et cetera. . . .

THE CHAIRMAN: The Chair is prepared to rule.

Having examined title II, and concurring with the gentleman from Texas that the authorizations are entirely to the Asian Development Fund and without reference to the bank and without reference to either paid in capital stock or callable capital stock, the Chair is forced to rule that to that extent the amendment offered by the gentleman from New York (Mr. Solomon) is nongermane to title II of H.R. 3829.

Restriction on Funds for Abortions

§ 34.24 To the "general provisions" title of the annual Defense Department authorization bill, including authorizations for special pay to health professionals within the armed services and authorization ceilings on payments to physicians under the uniformed services health benefit program (CHAMPUS) as well as other miscellaneous provisions and authorizations, an amendment prohibiting the use of funds authorized by the bill to pay for abortions except where the life of the mother would be endangered if the fetus were carried to term

10. Robert Duncan (Ore.).

was held in order as a germane limitation on the use of the funds and authorities provided in the bill.

On Oct. 4, 1978,[11] the Committee of the Whole was considering an amendment to H.R. 14042 when a point of order was raised against the amendment on grounds that it was not germane. The proceedings were as follows:

MR. [ROBERT K.] DORNAN [of California]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dornan: Page 39, immediately after line 3, insert the following new section:

PROHIBITION ON USE OF FUNDS FOR ABORTIONS

Sec. 818. None of the funds authorized to be appropriated by this Act may be used to pay for abortions performed by any means except where the life of the mother is in danger if the fetus is carried to term, nor may such funds be used to promote or encourage abortion.

MR. [MENDEL J.] DAVIS [of South Carolina]: Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, I rise to make a point of order against the amendment on the basis of germaneness. In this bill, title I authorizes money for the procurement of major weapons systems for the Department of Defense.

Title II authorizes funds for R. & D. by the Department of Defense, and title VII authorizes funds for Civil Defense. However in the operation and maintenance of hospitals, medical clinics, payments for the services, and so forth, they are operated and paid for out of the O. & M. account and therefore not subject for authorization by this bill.

The amendment was introduced likewise on the appropriation bill. That is where it should have been, because that is where the moneys are, but, Mr. Chairman, to burden this bill with a nongermane amendment going to a limitation of funds that are not authorized by this bill is improper, and I would hope the Chair would sustain the point of order.

THE CHAIRMAN:[12] Does the gentleman from California (Mr. Dornan) care to be heard on that point of order?

MR. DORNAN: Yes, Mr. Chairman.

The distinguished gentleman from South Carolina did not mention title VIII. If my colleagues will turn to title VIII of this bill they will see a section entitled "Extension of Authority for Special Pay for Health Professionals." This impacts of course in some areas on abortion. On page 29 they will see the heading "Ceiling for Payments to Physicians Under CHAMPUS." It was this very program that first called my attention to how far we had moved in supporting and encouraging abortion with Defense dollars, because it was under this program in a military medical journal where they began to outline how vigorously they were going to move in the area of abortion far and beyond the movement we have seen, contrary to the wishes of the President and of Mr. Califano even in HEW.

11. 124 CONG. REC. 33529, 33530, 95th Cong. 2d Sess.

12. Dan Rostenkowski (Ill.).

So I believe it is not only germane, it is super-germane to this bill. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment offered by the gentleman from California (Mr. Dornan) and noted the arguments made by the gentleman from South Carolina (Mr. Davis). There are in title VIII authorizations for appropriations for certain programs involving military personnel as well as ceilings for payments and limitations with respect to the expenditure of funds involving personnel. It is for this reason and because of the specific provisions in title VIII mentioned by the gentleman from California that the Chair overrules the point of order and sustains the germaneness of the amendment.

The gentleman from California (Mr. Dornan) is recognized for 5 minutes in support of his amendment.

Education Bill—Funds for Teaching or Counseling as to Use of Abortion

§ 34.25 To a title of a bill establishing a new Department of Education, containing findings and purposes and setting forth restrictions on the authority of the new department to exercise federal control over education, an amendment denying the use of funds under federal programs to assist the teaching of or counseling as to the use of abortion was ruled out of order as not germane, being unrelated to the fundamental purpose of the title to restrict federal control over public education and curricula, inasmuch as it sought to address funding authority rather than legal restrictions.

On June 12, 1979,[13] the Chair sustained a point of order against an amendment to a title of a bill[14] which restricted the authority of an entity to exercise control over institutions for which it was to administer funding under existing laws, holding that the amendment, which curtailed the authority of the agency to provide funds for certain reasons, was not germane. The proceedings were as follows:

MR. [John M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: On page 57, after line 7 insert new section:

PROHIBITION AGAINST ABORTION EDUCATIONAL EXPENDITURE

Sec. 104. 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

13. 125 CONG. REC. 14464, 14465, 96th Cong. 1st Sess.

14. H.R. 2444, Department of Education Organization Act of 1979.

> construed to authorize the Secretary or any such officer to fund, control, supervise, or to assist in any manner, directly or indirectly, the teaching of abortion as a method of family planning, or counseling the use of abortion by students or others, or the practice of abortion, through or in conjunction with the National Defense Education Act of 1958 (P.L. 85–864), as amended; the Elementary and Secondary Education Act of 1965 (P.L. 80–10), as amended; the Higher Education Act of 1965 (P.L. 89–329), as amended; the Adult Education Act (P.L. 89–750), as amended; or any other federally sponsored educational program, except as explicitly provided by statute. . . .

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I would say (the germaneness rule) requires an amendment to be germane to the subject under consideration and to be germane the amendment must have the same fundamental purpose as the bill under consideration. This amendment does not and I would like to speak on it if I might. . . .

Mr. Chairman, this amendment has the effect of amending statutes not before the House. The amendment imposes an additional restriction on the expenditure of funds that are not now in the law. The amendment is not related to Federal control but is a direct restriction on Federal funding.

Mr. Chairman, the prior amendments to this title have been ruled proper as clarifying the intent of the legislation, not to extend the authority of the Federal Government in the areas of discrimination and religion. They did not undermine or add new restrictions to the authority but merely offer to prevent its undue expansion.

This amendment would curtail, in a manner not previously considered by the committee of substantive jurisdiction, existing authority to assist biological and health educational programs and rather than protecting the local authority from Federal control will add a new restriction and extend Federal control over that local authority. This is not a matter appropriate to a reorganization bill. It is not a decision that is within the jurisdiction of the Committee on Government Operations and should not be approved, "except as explicitly provided by statute." It just does not eliminate a flaw in this amendment because it simply leads us in circles. In effect, the amendment says no provision of law shall be construed to do so and so except as explicitly provided by statute. Of course, no provision of the law can be construed to do anything except as provided by statute. . . .

MR. ASHBROOK: . . . I would indicate that my colleague, the gentleman from Texas, is correct in indicating that my amendment would attach to several provisions of law; however, under this reorganization that is precisely what we are doing. We are bringing the administration provisions of law, of statutes heretofore enacted under the jurisdiction of the new Secretary of Education.

I would also point out that on page 90 in section 437 the General Education Provision Act is specifically referred to.

The Speaker in November of 1971 in a direct ruling similar to this indicated where the General Education Provision Act is brought before the Congress, that opens up the provisions that are covered by the General Education Provisions Act.

Even beyond that, I limited the amendment to specific educational acts

that under this reorganization are brought under the jurisdiction of the new Secretary of the Cabinet office to be created.

I think the rulings of the Chair in the past days, yesterday and today, clearly indicate that this amendment as a limitation on programs administered by the Secretary of the new department to be created would be germane.

THE CHAIRMAN:[15] The Chair is prepared to rule.

The gentleman from Texas makes the point of order against the amendment offered by the gentleman from Ohio on the grounds that it is not germane to the bill.

The Chair might state that the precedent cited by the gentleman from Ohio did not involve a reorganization bill.

The amendment which the gentleman from Ohio has offered would provide that no provision of law shall be construed to authorize the Secretary of Education or any other officer to fund, control, or assist the teaching of abortion as a family planning method or the counseling or use of the practice of abortion in connection with federally sponsored educational programs, except where explicitly provided by statute.

The gentleman has argued in opposition to the point of order that the provisions of title I as perfected by the Committee of the Whole yesterday already limit in various respects the authority of the Department of Education and other Federal officials to control the activities of local educational agencies receiving Federal funds for educational purposes.

The provisions of section 103 of the bill as amended contain restrictions on the authority of the Federal Government to exercise control over the local discretionary use of Federal funds and to require eligibility standards for the receipt of such funds; but it is contrary to the fundamental purpose of those limitations to directly change the Secretary's authority to provide funds to local educational agencies.

Nothing in the bill before the Committee of the Whole, which is essentially an organizational bill, changes the authority to provide Federal funds for educational purposes under those laws whose administration is transferred to the new Department.

Title I, as amended, remains restricted in scope to expressions of policy which indicate that the authorities being transferred by this bill are not to be construed as being expanded to permit increased Federal control over local educational policies.

For the reasons stated, the Chair sustains the point of order.

Amendment Denying Assistance to Health Centers in States That Permit Public Bath Houses

§ 34.26 It is not germane to condition assistance to a particular class of recipient covered by a bill upon an unrelated contingency, such as action or inaction by another class of recipient or agent not covered by the bill; thus,

15. Lucien N. Nedzi (Mich.).

to a bill only relating to federal funding and programs for community and migrant health centers not operated by state governments, an amendment denying assistance under the bill to any health center located in any state which permitted the operation of public bath houses was ruled out as imposing a nongermane contingency to bar the use of funds, since state governments were not recipients of funds in, or otherwise affected by, the provisions of the bill.

During consideration of H.R. 2418 (Health Services Amendments of 1985), in the Committee of the Whole on Mar. 5, 1986,[16] the Chair sustained a point of order against the following amendment:

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

The Clerk read as follows:

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

SEC. 7. GRANT CONDITION.

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

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

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

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

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

MR. WAXMAN: Mr. Chairman, if I might be heard further on this amend-

16. 132 CONG. REC. 3613, 99th Cong. 2d Sess.

ment. An amendment delaying the operation of proposed legislation pending an unrelated contingency is not germane. The funds granted under this program are to private entities, not to State governments.

To permit that those funds be cut off to private entities because of the inaction by State government is not germane because it is a contingency that cannot be met by the organization to which the funds would be granted. Chapter 28, section 24, provides that an amendment making the implementation of Federal legislation contingent upon the enactment of unrelated State legislation is not germane.

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

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

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

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

An earlier ruling of September 25, 1975, which appears in Deschler's Procedures of the House at page 596, states, "That an amendment is not germane if it makes the effectiveness of a bill contingent upon an unrelated event or determination."

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

Federal Energy Administration Hearings To Be Conducted in Specified Areas

§ 34.27 To a bill extending the existence of the Federal Energy Administration and authorizing appropriations for that agency, an amendment requiring that agency to promulgate regulations to assure that the agency hearings funded by the bill are conducted in the areas to be affected by that agency's actions was held germane as a restriction on the use of funds authorized by the bill.

On June 1, 1976,[18] during consideration of H.R. 12169, Chairman William H. Natcher, of Ken-

17. Neal Smith (Iowa).

18. 122 CONG. REC. 16057, 16058, 94th Cong. 2d Sess.

tucky, overruled a point of order against an amendment to the bill. The proceedings were as follows:

The Clerk read as follows:

Amendment offered by Mr. Lagomarsino: Page 10, immediately after line 4, insert the following:

REQUIREMENTS FOR HEARINGS IN AREAS AFFECTED BY RULES AND REGULATIONS OF THE ADMINISTRATOR

Sec. 3. Section 7(i)(1) is amended by adding after subparagraph (C) the following new subparagraph:

"(D)(i) The Administrator shall, not later than 60 days after the date of the enactment of this subparagraph, prescribe and implement rules to assure that any hearing the expenses of which are paid by any funds authorized to be appropriated under this Act shall—

"(I) if such hearing concerns a single unit of local government or the residents thereof, be held within the boundaries of such unit;

"(II) if such hearing concerns a single geographic area within a State or the residents thereof, be held within the boundaries of such area; or

"(III) if such hearing concerns a single State or the residents thereof, be held within such State. . . ."

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

[T]he amendment is not germane. If my colleagues will observe, we have a lengthy amendment here which embodies a number of things including extensive requirements for hearings in different parts of the country. But in addition to this it vests broad new discretion in the Administrator of FEA by saying that he can have a hearing or not have a hearing, or determine none is appropriate.

It also provides new quasi-judicial powers to the Administrator of the FEA to consolidate these hearings, raising great questions. There is also a series of cross-references to a large number of other parts of the Federal Energy Agency Act and of the EPCA, and as a result it is impossible to discern very quickly just what discretions and what authorities and what requirements are imposed upon the Administrator. . . .

MR. [ROBERT J.] LAGOMARSINO [of California]: Mr. Chairman, to alleviate any doubts any of my colleagues may have regarding the germaneness of this amendment, let me stress this is an amendment dealing not with just any hearings but would be one specifically tied to any hearing with respect to the disagreement over an expenditure of FEA funds. My amendment would assure that in connection with the administrative expenses paid out for FEA, the hearings—and it does not require any hearings to be held which are not now required to be held—will be held within the jurisdictions affected. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentleman from California (Mr. Lagomarsino) is limited to hearings paid for by the funds authorized in this bill. The amendment restricts the uses to which such funds may be used and is germane. The Chair therefore overrules the point of order.

Contracts for Development of Synthetic Fuels—Prohibition Against Contracts With Major Oil Producers

§ 34.28 To a bill authorizing appropriations to enter into contracts for the development of synthetic fuels, an amendment prohibiting the use of the funds authorized to enter into contracts with any major oil company was held germane.

During consideration of the Defense Production Act Amendments of 1979[19] in the Committee of the Whole, it was demonstrated that to a bill authorizing appropriations and providing contracting authority, an amendment restricting the use of the authorization or contracting authority for the benefit of a certain class of recipients is germane. The proceedings of June 26, 1979,[20] were as follows:

> Amendment offered by Mr. Udall: On page 11, after line 2, insert the following:
>
> "(3) by inserting "(1)" before the first word of section (a) and by inserting the following after the last sentence.
>
> "(2) No funds authorized in subparagraph (1) above to carry out the purposes of Sections 305(d)(3) and 305(d)(5) may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company. For the purposes of this section:
>
> "(A) The term 'major oil company' means any person, association, or corporation which, together with its affiliates, either produces or refines a daily world-wide volume of 1,600,000 barrels of crude oil, natural gas liquids equivalents, and natural gas equivalents". . . .

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, according to rule XVI, clause 7—that is the germaneness rule of the House—one of the tests is the jurisdiction of the committee of jurisdiction. Certainly a bill of this nature which we are talking about, when we have sort of a divestiture of certain oil companies, legislation of this sort should come from the Committee on the Judiciary.

Second, the title of the bill is another test of jurisdiction. According to the title, this is a bill "to amend the Defense Production Act of 1950 to extend the authority granted by such act and to provide for the purchase of synthetic fuels and synthetic chemical feedstocks, and for other purposes."

Certainly that does not come under germaneness test and the defense title of the bill. If there is any purpose to this bill, it is to provide for the production because of defense purposes, and this is an attempt to interfere and stop a substantial section of our country from participating in the program.

So, Mr. Chairman, I think certainly under rule XVI, clause 7, my argument stands up. . . .

MR. [MORRIS K.] UDALL [of Arizona]: . . . The amendment is carefully draft-

19. H.R. 3930.

20. 125 CONG. REC. 16694–96, 96th Cong. 1st Sess.

ed as a limitation on authorization. It says, "No funds authorized . . . to carry out the purposes of sections" so-and-so "may be used to contract for the purchase or the commitment to purchase any amount of synthetic fuel or synthetic chemical feedstock with any major oil company."

The amendment is clearly germane to the bill. . . .

MR. [BRUCE F.] VENTO [of Minnesota]: . . . Mr. Chairman, I rise to suggest that the point of order is not well taken. The provisions of this act that provide for an opportunity for Government-based cooperation provides for the limitation on the size of the contract in terms of 100-billion-a-day equivalent synthetic fuels. It has all sorts of parameters in the nature of purchases by contractors and the nature of the agreement. I think this is one further limitation that is in order in terms of this legislation. . . .

THE CHAIRMAN:[1] The Chair is prepared to rule.

The Chair cannot see any questions of germaneness raised by the amendment offered by the gentleman from Arizona (Mr. Udall). It appears to the Chair to be simply an additional restriction or condition on the contracting authority granted under this act and, therefore, to be germane.

The Chair overrules the point of order.

Direction to Department of Energy Concerning Purchase of Alternative Fuels

§ 34.29 To a title of the annual Department of Energy authorization bill, providing limitations and directions on the use of operating expenses for the entire Department funded throughout the bill, and specifically limiting the use of funds for physical facilities and for the purchase of gasoline for use of the Department, an amendment providing procedures for the Department to follow in purchasing alternative fuels for use in its vehicles during the fiscal year covered by the bill, was held germane as a further related restriction or direction on the use of operating funds for the fiscal year.

During consideration of H.R. 3000 in the Committee of the Whole on Oct. 18, 1979,[2] the Chair overruled a point of order, demonstrating that to a title of an annual authorization bill containing both limitations on the use of funds and directions to the agency for the fiscal year covered by the bill, an amendment adding further directions to that agency to be followed during the same period is germane. The proceedings were as follows:

1. Gerry E. Studds (Mass.).

2. 125 CONG. REC. 28795, 28796, 28798–800, 96th Cong. 1st Sess.

LIMITATION OF REPROGRAMMING OF FUNDS

Sec. 801. (a)(1) Subject to the limitations of sections 201(b) and 802, no amount appropriated pursuant to this Act (other than title I) may be used for any program, function, or purpose in excess of the amount expressly authorized to be appropriated for that program, function, or purpose by this Act, nor may the amount available for any program, function, or purpose from sums appropriated pursuant to this Act (other than title I) be reduced by more than 5 percent of the total of the sums appropriated pursuant to this Act for such program, function, or purpose or by more than $10,000,000 (whichever is the lesser) . . .

"(e) Not later than 120 days after the close of a fiscal year, the Secretary shall prepare and transmit to the Congress a report on—

"(1) revenues received during such fiscal year from uranium enrichment activities and other programs, and . . .

LIMITATION OF FUNDS FOR FACILITIES FOR DEPARTMENT OF ENERGY

Sec. 809. No funds authorized to be appropriated by this Act may be used for the renovation . . . of facilities to provide temporary or permanent space for personnel relocated as a result of the establishment and activation of the Department of Energy and for which funds were appropriated by chapter V of title I of the Supplemental Appropriations Act, 1978.

LIMITATION ON USE OF GASOLINE BY DEPARTMENT

Sec. 810. No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or to reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of motor gasoline purchased . . . during the fiscal year ending September 30, 1979, by any component of the Department for which funds are authorized to be appropriated by this Act. . . .

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

The Clerk read as follows:

Amendment offered by Mr. Dannemeyer: Page 78, line 11, insert "(a)" after "Sec. 810.".

Page 78, after line 20, insert the following new subsection:

(b)(1) The Secretary of Energy shall advertise in the Federal Register to request bids from distributors of alternative fuels produced in the United States for the purchase of such alternative fuels for use during the fiscal year ending September 30, 1980, in motor vehicles owned by the Department of Energy.

(2) The Secretary shall require that each such distributor who submits such a bid include in such bid an agreement—

(A) to provide a quantity of an alternative fuel—

(i) which will produce an amount of energy which is not less than the amount of energy produced by 200,000 gallons of motor gasoline, and

(ii) the cost of which does not exceed the cost that the Secretary would incur to purchase 200,000 gallons of motor gasoline,

(B) to pay any amount, as determined by the Secretary, by which any cost of constructing, operating, and maintaining any facility for the storage of such alternative fuel ex-

ceeds the cost of constructing, operating, and maintaining any facility for the storage of motor gasoline that would have been incurred if such motor gasoline had been purchased by the Secretary in lieu of such alternative fuel. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the rules of the House require that amendments to legislation shall be germane, first, to the bill, and second, to the portion of the bill to which they are directed.

Mr. Chairman, without addressing at this particular moment whether or not the amendment is germane to the bill, I will address the second point, which is the lack of germaneness of the amendment to the portion of the bill to which it is offered.

Mr. Chairman, if the Chair will observe, the portion of the bill to which the amendment is offered, it can be observed it is a limitation on the use of gasoline by a department. It then is a limitation on funds, which reads as follows:

> No funds authorized to be appropriated pursuant to this Act for the fiscal year ending September 30, 1980, may be used to purchase motor gasoline or reimburse any other Federal agency for motor gasoline in an amount which exceeds 85 percent of the amount of the motor gasoline purchase.

In other words, we have here a limitation. The proposal that is offered by my dear friend, the gentleman from California, is one which would set up a rather large program which would require the Secretary of Energy to do a whole series of things, none of which are consistent with or which are relevant to this limitation. . . .

MR. DANNEMEYER: Mr. Chairman, section 810 of the committee bill which is before the committee now for its consideration contains a restriction on the use of funds during the existing fiscal year for the purchase of motor gasoline. That is in section 810 of the bill before the committee.

For instance, it provides that the Department of Energy is required to reduce its consumption of gasoline by not less than 15 percent during this 1980 fiscal year.

That is the very thrust of this proposed amendment. It is designed also to reduce the quantity of gasoline that is being consumed by the Department of Energy through the medium of soliciting alternative sources of supply. It is not specific; it just says, "alternative fuels" in the proposed amendment. . . .

THE CHAIRMAN PRO TEMPORE:[3] The Chair is prepared to rule.

The Chair will observe that the rules of the House require that the amendment first be germane to the pending portion of the bill to which it is offered.

Title VIII deals with operating funds and personnel expenses of the entire Department of Energy for the fiscal year 1980. The amendment appears to the Chair to be confined to fiscal year 1980 and to constitute an appropriate restriction or direction on how the Department uses its operating funds for the fiscal year in question, and it is, therefore, germane.

The Chair, therefore, overrules the point of order.

Administrative Services Related to Construction of Electrical Power Facilities

§ 34.30 To that paragraph of the Agriculture Appropria-

3. Gerry E. Studds (Mass.).

tions Bill making appropriations for the Rural Electrification Administration, an amendment was held to be germane which provided that "during the period of the war . . . no part of [the appropriation in the paragraph] shall be expended for administrative services which have to do with the construction of any facilities for the production . . . of electric power in any area now receiving central station service."

In the 77th Congress, during consideration of the Agricultural Appropriations Bill of 1943,[4] an amendment was offered[5] to a paragraph of the bill in an attempt to place restrictions, in the manner described above, on the expenditure of the appropriation in that paragraph. Mr. John E. Rankin, of Mississippi, raised the point of order that the amendment was not germane, and that it constituted legislation on an appropriation bill. He stated:[6]

> I call the attention of the Chair to the fact that the duties of the Rural Electrification Administration are already prescribed in existing law. This amendment attempts to change that, which makes it purely legislation on an appropriation bill. Besides, as I pointed out a moment ago, this expense account has nothing whatever to do with the disposition of the money borrowed by the rural electrification cooperatives from the R.F.C. or through the R.F.C. . . .

The following exchange[7] ensued between Mr. Malcolm C. Tarver, of Georgia, who spoke in support of the point of order, and the Chairman:[8]

> MR. TARVER: Mr. Chairman, may I offer an observation in connection with this argument? The limitation which the gentleman seeks to impose upon the administrative expenses cannot be germane to this paragraph of the bill, which has nothing to do with administrative expenses but merely with the item of loans. The item of administrative expenses has already been passed.
>
> THE CHAIRMAN: The Chair would call attention to the fact that the amendment is offered to the total amount for rural electrification, which includes everything for rural electrification.

Subsequently, the Chairman overruled the point of order. He stated:

> The gentleman from Mississippi makes the point of order [that the amendment] is not germane. The Chair feels that the present amend-

4. H.R. 6709 (Committee on Appropriations).
5. 88 CONG. REC. 2445, 77th Cong. 2d Sess., Mar. 13, 1942.
6. *Id.* at pp. 2445, 2446.
7. *Id.* at p. 2446.
8. The Chairman was Robert Ramspeck (Ga.).

ment . . . being limited to the amount proposed to be appropriated for the Rural Electrification Administration, and being a limitation only upon the expenditure of those funds, is in order. . . .

Prior to the above ruling, the Chairman had ruled that a similar amendment, providing that no part of the money appropriated "under this bill" should be expended for the stated purposes, was not germane to the paragraph in question. Inclusion of the quoted language, the Chairman indicated, rendered the amendment improper at that point, "since the amendment is directed to the entire bill."[9]

Funds for Nuclear Regulatory Commission—Amendment Affecting Exports of Uranium

§ 34.31 It is germane to a bill authorizing appropriations for an agency, to prohibit the use of such funds for any purpose to which the funds may otherwise be applied; thus, to a bill authorizing appropriations for all the annual activities of the Nuclear Regulatory Commission, including review and approval of exports of uranium, an amendment prohibiting the use of funds authorized in the bill to review, process or approve exports of certain uranium was held germane.

On Nov. 5, 1981,[10] during consideration of the Nuclear Regulatory Commission authorization bill for fiscal years 1982 and 1983,[11] the Chair overruled a point of order against the following amendment:

The Clerk read as follows:

Amendment offered by Mr. Markey: Page 16, after line 20, insert the following:

Sec. 14. (a) Except as provided in subsection (b), no part of any funds authorized to be appropriated by the Act may be used by the Nuclear Regulatory Commission to review, process, or approve any application for a license to export uranium enriched to greater than 20 percent U–235.

(b) The prohibition contained in subsection (a) shall not apply to any application for a license to export uranium if such uranium is exported for use in reactors which the Nuclear Regulatory Commission determines cannot feasibly be converted to low enriched uranium. . . .

MR. [JAMES T.] BROYHILL [of North Carolina]: . . . Mr. Chairman, I make a point of order against this amendment. I make the point of order against the amendment on the grounds that the amendment is not germane to the bill and the amendment is not germane to the nature of the substitute

9. See the proceedings at 88 CONG. REC. 2445, 77th Cong. 2d Sess., Mar. 13, 1942.

10. 127 CONG. REC. 26715, 26716, 97th Cong. 1st Sess.

11. H.R. 4255.

that is before us and thus is in violation of clause 7 of rule XVI of the rules of the House.

Proceeding further with my argument, I would point out that the measure before us, the purpose is to authorize appropriations through the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act.

In addition, the bill before us makes other changes in the authority of the NRC, granting them rights to issue temporary operating licenses to nuclear-powered electric generating plants and also gives (discretion to the NRC) to report to the Congress on their recommendations for reducing the licensing time for nuclear-powered electric generating facilities.

Now the amendment as proposed by the gentleman from Massachusetts (Mr. Markey) is an amendment to entirely different sections of the act. It sets up new criteria governing the exportation of certain nuclear material. That subject matter is found nowhere in the bill before us.

The bill before us does not address in any way the question of exportation of nuclear matter. In fact, the question of criteria governing the export of nuclear material is found in an entirely different section of the act, section 127. . . .

I would remind the Chair that not only should the fundamental purpose of an amendment be germane to the fundamental purpose of the bill, but also any amendment seeking to restrict the use of funds must be limited to the subject matter and scope of the provision sought to be amended. I do not believe that the amendment meets either test.

I would also question whether an amendment of this nature involving exportation of material to foreign countries might also fall within the jurisdiction of the Committee on Foreign Affairs. Their jurisdiction is over measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

I am questioning whether or not there might be jurisdiction of another committee involved here.

For all these reasons, Mr. Chairman, I feel it is imperative that this amendment is not germane and would urge the Chair to sustain the point of order. . . .

MR. [EDWARD J.] MARKEY [of Massachusetts]: Mr. Chairman, what we have before us at this time is the Nuclear Regulatory Commission authorization. The Nuclear Regulatory Commission is for all purposes, for all funding. This is merely a limitation on the expenditure of those funds from one of those functions.

Clearly, it is germane within the definition of the functions of the Nuclear Regulatory Commission to place a restriction upon the expenditure of funds for these purposes. . . .

THE CHAIRMAN:[12] The Chair is prepared to rule.

The gentleman from North Carolina makes a point of order that the amendment offered by the gentleman from Massachusetts is not germane to the bill and is in violation of clause 7, rule XVI, of the rules of the House.

The bill before the Committee is a general authorization bill for the Nuclear Regulatory Commission which

12. Dan Glickman (Kan.).

provides funds for a variety of functions of the Nuclear Regulatory Commission, including nuclear reactor regulations, instructions and enforcement standards development, nuclear materials safety, safeguards, nuclear regulatory research program, technical support administration and international programs.

The amendment offered by the gentleman from Massachusetts merely limits whatever funds are available under this authorization bill for the issuing of export licenses, that is, those funds that are used by the Nuclear Regulatory Commission to review, process, or approve any application for license to export uranium. If there are no funds authorized to perform those activities, the amendment would not be relevant; but the amendment merely restricts whatever role the NRC has with respect to the export of enriched uranium and it goes no further.

In addition, in the Interior Committee report the chairman of the Foreign Affairs Committee in a letter to the chairman of the Interior and Insular Affairs Committee states, and I read from his letter:

> We have paid particular attention to activities within both the Office of International Programs and the Office of Nuclear Material Safety and Safeguards, both of which have major responsibilities under the Nuclear Nonproliferation Act of 1978 to upgrade international standards, strengthen the export and import licensing process, and explore further international cooperation in the area of nuclear health and safety.

The letter goes on to relate those activities to the operation of the Nuclear Regulatory Commission.

So the Chair finds that the amendment offered by the gentleman from Massachusetts is germane and the point of order is overruled.

Funds for Airport Access Road

§ 34.32 To a bill appropriating funds for an additional Washington airport, an amendment placing a limit on the amount of the appropriation permitted to be used for the construction of an authorized access road was held to be germane.

In the 86th Congress, during consideration of the Supplemental Appropriation Act of 1960,[13] an amendment was offered[14] as described above. Ruling on a point of order raised by Mr. Harold R. Gross, of Iowa, the Chairman[15] stated:

> The gentleman from Texas offers an amendment . . . to which the gentleman from Iowa (Mr. Gross) has made a point of order on the grounds that the amendment is not germane and that it constitutes legislation on an appropriation bill.
>
> The Chair is constrained to hold that inasmuch as the access roads were authorized by legislation creating the airport and that the amount of $400,000 is a limitation on the purposes for which funds may be used, that it is

13. H.R. 7978 (Committee on Appropriations).

14. 105 CONG. REC. 12121, 86th Cong. 1st Sess., June 29, 1959.

15. Paul J. Kilday (Tex.).

germane to the bill and is not legislation.

The Chair overrules the point of order.

Salaries Within Public Housing Administration

§ 34.33 To a general appropriation bill, an amendment providing that no part of an appropriation therein for "defense housing" be used for administrative expenses or salaries within the Public Housing Administration "so long as that agency proceeds with" certain projects was held to be germane.

In the 82d Congress, during consideration of a supplemental appropriation bill,[16] the following amendment was offered:[17]

Amendment offered by Mr. [Gordon L.] McDonough [of California]: On page 14, line 18, after the period, insert the following: "No part of this appropriation may be used for administrative expenses or to pay salaries to any employee within the Public Housing Administration or for any other purposes so long as that agency proceeds with any public-housing project after such project has been rejected or previous approval thereof canceled by the governing body of the locality by resolution or otherwise or by public vote and the governing body has recognized local liability to reimburse the Federal Government for funds, if any, advanced on such project prior to such cancellations."

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

MR. [ALBERT] THOMAS [of Texas]: Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the bill, and it introduces new subject matter.

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

. . . The Chair has had opportunity to examine this amendment, and is of the opinion that it is merely a limitation upon the manner in which, and the purpose for which, the money can be used and therefore is germane and overrules the point of order.

Payments to Persons Who Strike Against Government

§ 34.34 To a bill proposing to establish a national housing objective and the policy to be followed in the attainment thereof, an amendment providing that no part of any appropriation, loan, or expenditure authorized in the act be paid to any person who engages in a strike against the government or who seeks the overthrow of the government was held to be germane.

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

17. 98 CONG. REC. 8353, 82d Cong. 2d Sess., June 27, 1952.

18. Francis E. Walter (Pa.).

In the 81st Congress, during consideration of the Housing Act of 1949,[19] an amendment was offered[20] as described above. The following exchange[1] concerned a point of order raised against the amendment:

> MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I make the point of order against the amendment that it is not germane to this bill. . . .
>
> MR. [BEN F.] JENSEN [of Iowa]: Mr. Chairman, a similar provision has been placed in every appropriation bill which this House has passed during this session of Congress. . . . [The provision] is a limitation which is in effect in both appropriation and authorization bills.
>
> MR. PATMAN: Mr. Chairman, this is not an appropriation bill. In an appropriation bill it probably would be in order.
>
> MR. JENSEN: This bill has the effect of an appropriation bill.
>
> THE CHAIRMAN:[2] . . . The legislation before the committee authorizes loans and other funds to be used, consequently the Chair overrules the point of order.

Lease of Property by National Park Service to Concessioners

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

During consideration of H.R. 14231[3] in the Committee of the Whole on June 25, 1976,[4] the Chair overruled a point of order against the following amendment:

> MR. [SIDNEY R.] YATES [of Illinois]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Yates: On page 10, line 2, strike the period, insert a semicolon and the following: *Provided*, That the National Park Service shall not lease the facilities located at 900 Ohio Drive in the District of Columbia on any other basis than the fair market rental value generally pertaining for such premises in the area.
>
> MR. [GILBERT] GUDE [of Maryland]: Mr. Chairman, I offer an amendment as a substitute for the amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Gude as a substitute for the amendment

19. H.R. 4009 (Committee on Banking and Currency).

20. 95 CONG. REC. 8659, 8660, 81st Cong. 1st Sess., June 29, 1949.

1. *Id.* at p. 8660.

2. Hale Boggs (La.).

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

4. 122 CONG. REC. 20548–50, 94th Cong. 2d Sess.

offered by Mr. Yates: On page 27, between lines 18 and 19, insert the following:

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

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

Mr. Chairman, while this amendment has the appearance of a simple limitation, as a matter of fact, it is much more than that. The amendment prohibits the use of funds in the bill for use by a national park concessioner of a National Park Service building. The intent of the amendment is to evict the concessioner from the building. At the present time, the concessioner which occupies the building pays an annual rent and also pays for utilities and routine maintenance. If the concessioner vacates the building, the National Park Service must assume responsibility for maintenance and utility costs. The National Park Service estimates these costs to be about $26,000 per year.

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

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

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

THE CHAIRMAN:[5] The Chair is prepared to rule.

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

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

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

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

Amendment To Limit Use of Funds by Agency Funded in Previous Title of Bill

§ 34.36 An amendment limiting the use of funds by a particular agency funded in a

5. Walter Flowers (Ala.).

general appropriations bill may be germane to more than one portion of the bill, and so may be offered, for example, to the paragraph carrying such funds or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill; thus, where the last title of a general appropriations bill contains general provisions applying to funds carried throughout the bill, an amendment offered to that title which limits the use of funds by an agency funded in a previous title of the bill may be germane.

On July 16, 1979,[6] during consideration of the Treasury, Postal Service and General Government Appropriations for fiscal 1980,[7] in the Committee of the Whole, the Chair overruled a point of order against the following amendment:

> MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment. The Clerk read as follows:
>
> Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:
>
> Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws. . . .
>
> MR. [TOM] STEED [of Oklahoma]: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .
>
> MR. SYMMS: Mr. Chairman, the amendment does not legislate on an appropriation bill. It is only a limitation of spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.
>
> THE CHAIRMAN:[8] The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

Parliamentarian's Note: In this bill, there were "general provisions" in the Internal Revenue Service title applicable only to that agency, as well as a general provisions title at the end of the bill containing limitations and legislation applicable to all agencies funded by the bill. Thus in this case the amendment could have been germane at three places in the bill.

6. 125 CONG. REC. 18807, 96th Cong. 1st Sess.

7. H.R. 4393.

8. Richardson Preyer (N.C.).

Application of Separate Substantive Law to Operations of Agency as Nongermane Despite Language Restricting Amendment's Effects to "Use of Funds in the Bill"

§ 34.37 The mere recitation that the application of separate substantive law cited in an amendment is only "with respect to the use of funds in the bill" for an agency does not assure that the amendment is confined in its application to a restriction on the use of funds (and therefore germane to a proposition containing other such funding restrictions), where the laws being applied are not directly related to funding but rather are statutes governing the conduct of individuals and the relationship of government agencies to each other; thus, to a proposal to restrict availability of funds to an agency for a year and amending the organic law as it relates to the internal functions of that agency, an amendment not only placing further restrictions on funding but also applying to the operation of that agency provisions of separate criminal and other law not otherwise applicable thereto is nongermane, even though it is offered "with respect to the use of funds in the bill," as going beyond the limitation on funding and issues of organization to the positive enactment and enlargement of the applicability of those separate laws.

During consideration of H.R. 2991 [9] in the House on Oct. 26, 1989,[10] the Speaker sustained a point of order in the circumstances described above. The proceedings were as follows:

> THE SPEAKER PRO TEMPORE:[11] The Clerk will designate the next amendment in disagreement.
>
> The text of the amendment is as follows:
>
> > Senate amendment No. 179: Page 19, after line 16, insert:
> >
> > Sec. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:
> >
> > (1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1)

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9. The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990.

10. 135 CONG. REC. p. __, **101st Cong. 1st Sess.**

11. David R. Nagle (Iowa).

shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census . . . *Provided,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient . . . *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies . . . *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing . . . *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to parts 1607 and 1612 of the Corporation's regulations) shall expire if such action is directed by a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That none of the funds appropriated under this Act or under any prior Act for the Legal Services Corporation shall be used to consider, develop, or implement any system for the competitive award of grants or contracts until such action is authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts . . . subsequent to confirmation such new Board of Directors shall develop and implement a proposed system for the competitive award of all grants and contracts, *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1990 to all grantees receiving funds under sections 1006(a)(1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1989, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1990, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act . . . *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1989, shall not become effective until after October 1, 1990, or until authorized pursuant to a majority vote of a Board of Directors of the Legal Services Corporation composed of eleven individuals nominated by the President after January 20, 1989, and subsequently confirmed by the United States Senate: *Provided further,* That, notwithstanding any decision or action of the President of the

Corporation after September 7, 1989, funds appropriated under this Act or any prior Acts shall not be denied, for the period October 1, 1989 through December 31, 1990, to any grantee or contractor which in fiscal year 1989 received funding appropriated under any prior Act, as a result of activities which have found by an independent hearing officer appointed by the President of the Corporation prior to October 1, 1989, not to constitute grounds for a denial of refunding, and any decisions or action of the President of the Corporation reversing or setting aside such decision of an independent hearing officer concerning section 1010(c) of the Act rendered in fiscal year 1989 shall be null or void. . . .

MR. [CHARLES W.] STENHOLM [of Texas]: Mr. Speaker, I offer a preferential motion. . . .

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

The Clerk read as follows:

Mr. Stenholm moves that the House concur in the Senate amendment No. 179 with the following amendment: In lieu of the matter proposed to be inserted by the Senate, insert the following:

Sec. 608. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1990 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1990 at not less than $8.98 per poor person within the geographical area of each grantee or contractor under the 1980 census . . . *Provided*, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act . . . *Provided further*, That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)) . . .

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nation-

ality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 202(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso . . .

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act . . . *Provided further,* That if a Presidential Order pursuant to Public Law 100–119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1990, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order . . . Provided further, That, with respect to the use of funds appropriated by this Act to the Legal Services Corporation—

(1) for purposes of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(2) for purposes of sections 3729 through 3733 of title 31, United States Code, the term 'United States Government' shall include the Legal Services Corporation;

(3) for purposes of section 3801 of title 31, United States Code, the term "authority" includes the Legal Services Corporation, and the provisions of section 3801 through 3812 of title 31, United States Code, shall apply to all parties with whom the Corporation makes grants or contracts under sections 1006(a)(1) and 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) and 2996e(a)(3));

(4) applicants for financial assistance from the Legal Services Corporation shall file applications supported by written declaration pursuant to section 1746 of title 28, United States Code, and such declarations shall be subject to sections 1621(2) and 1622 of title 18, United States Code, relating to perjury;

(5) for purposes of sections 716 and 717 of title 31, United States Code, the Legal Services Corporation shall be considered to be a department or agency of the United States Government;

(6) for purposes of section 1516 of title 18, United States Code, as added by section 7078 of the Anti-Drug Abuse Act of 1988 (Public Law 100–680)—

(A) the term "Federal auditor" shall include any auditor employed or retained on a contractual basis by the Legal Services Corporation,

(B) the term "contract" shall include any grant or contract made by the Legal Services Corporation, and

(C) the term "person", as used in subsection (a) of such section, shall include any grantee or contractor receiving financial assistance under section 1006(a)(1) or 1006(a)(3) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(1) or 2996e(a)(3)); and

(7) funds provided by the Legal Services Corporation under section 1006 of the Legal Services Corporation Act (42 U.S.C. 2996e) shall be deemed to be Federal appropriations when used by a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation. . . .

MR. [BRUCE A.] MORRISON of Connecticut: Mr. Speaker, I make a point of order against the motion on the grounds that it violates rule XVI, clause 7, of the rules of the House of Representatives in that the subject matter of the proposed amendment is not germane to the matter under consideration.

The proposed motion deals with eight different issues relevant to the operation of the Legal Services Corporation and funds provided thereunder.

Six of the eight issues are not addressed at all in the underlying amendment. These six issues are as follows: First, prohibition on redistricting activity—the 19th proviso; second, protection against theft and fraud—the 20th proviso; third, procedural safeguards for agricultural litigation—the 21st proviso; fourth, timekeeping—the 22d proviso; fifth, authority of local governing boards—the 23d proviso; and sixth, earmarking of certain funds—the 24th proviso.

With regard to the seventh issue addressed by the motion, that dealing with the regulation of nonpublic resources—also addressed in the 24th proviso—the proposed motion is substantially broader than the provision dealing with nonpublic resources contained in the Senate amendment. The Senate amendment would prevent the Corporation from implementing pro-

posed regulations that would place restrictions on nonpublic resources. The proposed amendment, on the other hand, would amend the Legal Services Act to extend existing restrictions on the use of private funds to "all nonpublic funds and in-kind services used or obtained by that person or entity." Current restrictions in the act apply only to funds provided for the purpose of providing legal services and not other activities for which funds may be received.

The last issue in the proposed amendment is the amendment dealing with competition—the 25th proviso. The underlying Senate amendment would prohibit the implementation of a competitive bidding process unless done under the authority of a confirmed board of directors composed of members named by the current president. The motion under consideration here, however, goes considerably beyond the question of whether the current board may implement a competitive bidding process. In addition, to that question, the proposed amendment would eliminate critical procedural safeguards against termination or defunding or existing LSC grantees within the context of a competitive bidding process.

In addition to the foregoing, the provisions of the motion relating to theft and fraud—the 20th proviso—would criminalize activity not previously subject to Federal criminal statutes. The amendment proposes to do so by applying the provisions of sections 286, 287, 641, 1001, and 1002 of title 18, United States Code to the Legal Services Corporation. In addition, the amendment would make applications for financial assistance subject to section 1746 of title 28, United States Code, and sections 1621(2) and 1622 of title 18, United States Code, relating to perjury. The underlying Senate amendment makes no reference to federal criminal statutes and such conduct is not now covered by such acts.

Also, the theft and fraud provisions—the 20th proviso—would make sections 716 and 717 of title 31, United States Code, relating to audits by the Controller General and the evaluation of programs and activities of the U.S. Government, applicable to the Legal Services Corporation. That section of the amendment also provides that funds provided to the Legal Services Corporation shall be "deemed to be Federal appropriations when used by a contractor, grantee, subcontractor, or subgrantee of the Legal Services Corporation." Those issues are not dealt with in any way in the underlying Senate amendment and deal with subject matter properly within the jurisdiction of the Committee on Government Operations.

Finally, the 21st provision, which places limits on the ability of employees of Legal Services supported programs to represent farm workers is a substantial intrusion on the jurisdiction of the Committee on Education and Labor in that it would subtantially diminish the ability of farm workers to assert their Federal rights under the Migrant and Seasonal Agricultural Workers Act, and would set up barriers not contemplated in that act for the exercise of such rights. The amendment would require that, before a legal services attorney could file a suit on behalf of such a farm worker to vindicate Federal rights, the farm worker would have to exhaust all administra-

tive remedies and participate in negotiations and in mediation programs, if available. In each case, the name of the farm worker would have to be revealed to the grower. Finally, attorneys could not act without receiving a "documented request from the named worker or employer."

Mr. Speaker, on all these grounds, I ask that the amendment be ruled not in order. . . .

MR. STENHOLM: . . . I would respond to the point of germaneness by simply pointing out that our amendment is germane to the Rudman amendment, which is the purpose for which we offer this amendment.

The Rudman amendment has already had all points of order relating to authorizing in the appropriation bill waived by the rule under which we are being considered today.

The second point that I would make is that every item in our amendment refers to how these appropriations are or are not supposed to be spent. . . .

THE SPEAKER PRO TEMPORE: Do any other Members desire to be heard on the point of order?

If not, the Chair is prepared to rule.

The gentleman from Connecticut (Mr. Morrison) makes the point of order that the amendment offered by the gentleman from Texas (Mr. Stenholm) is not germane to the Senate amendment No. 179. As described on pages 82 and 83 of the joint statement of the managers, Senate amendment No. 179 is a comprehensive series of restrictions on Legal Services Corporation activities accomplished by means of funding restrictions on the Legal Services Corporation and its grantees.

In addition to the various funding restrictions in the Senate amendment, changes in the Legal Services Corporation law governing corporation activities, a directive that the Corporation reconstitute its board of directors, are included. The Senate amendment does not, however, incorporate provisions of criminal law, the False Claims Act and other laws requiring the furnishing of information to the General Accounting Office.

The proposed amendment, in addition to the inclusion of additional funding restrictions, attempts to indirectly apply substantive provisions of Federal criminal law and other laws to render the Legal Services Corporation an agency of a department of the U.S. Government for purposes of prosecution of certain activity and the furnishing of information. While these incorporations of provisions of law are prefaced as being "with respect to the use of funds appropriated by this act to the Legal Services Corporation," it appears that these provisions in the amendment go beyond merely a restriction on the use of funds and constitute an application of other Federal law for the period covered by the appropriation in the bill.

On June 16, 1983, the Chair ruled nongermane an amendment conditioning the availability to certain recipients of the funds in an authorization bill upon their compliance with Federal law not otherwise applicable to those recipients and within the jurisdiction of other House committees.

In the opinion of the Chair, that portion of the proposed amendment which incorporates several provisions of law not contained in the Senate amendment and enacts those provisions as positive law applicable to the Legal Services Corporation and its grantees

for the period fiscal 1990 renders the amendment not germane.

The Chair sustains the point of order.

Bill Creating New Department and Transferring Administration of Existing Laws Thereto—Amendments Changing Substantive Laws Being Administered

§ 34.38 Although it is ordinarily germane by way of amendment to limit the uses to which an authorization of appropriations carried in a bill may be applied, that principle normally applies to annual authorization bills reported by the committees having legislative and oversight jurisdiction over the statutes for which the funds are authorized; but where the Committee on Government Operations has reported an organizational bill to create a new department in the executive branch, which transfers the administration of existing statutes and programs to that department without modifying such statutes and programs, and which contains a general authorization of appropriations for the department to carry out its functions under the Act, such a bill is not necessarily open to amendments which change the substantive laws to be administered.

On June 19, 1979, the Committee of the Whole had under consideration H.R. 2444, reported from the Committee on Government Operations, to establish a new Department of Education, and transferring to such Department the administration of federally funded programs within the jurisdiction of other committees. The bill contained an authorization of appropriations to carry out its provisions and to enable the Department to perform the functions transferred to it, subject to existing laws limiting appropriations applicable to any of those functions.[12] An amendment was offered[13] to prohibit the use of any funds appropriated under such authorization to provide for transportation of students or teachers for purposes of establishing racial or ethnic quotas in schools. The amendment was ruled out as not germane, on the grounds that the bill was merely organizational in nature and only transferred the administration of

12. 125 CONG. REC. 14717, 96th Cong. 1st Sess., June 13, 1979.

13. 125 CONG. REC. 15570, 96th Cong. 1st Sess., June 19, 1979.

educational laws to the Department without modifying those laws; and because the amendment would impinge on the jurisdiction of other House committees having jurisdiction over those basic laws. The proceedings were as follows:

AUTHORIZATION OF APPROPRIATIONS

Sec. 436. Subject to any limitation on appropriations applicable with respect to any function transferred to the Department or the Secretary, there are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act and to enable the Department and the Secretary to perform any function or conduct any office that may be vested in the Department or the Secretary. Funds appropriated in accordance with this section shall remain available until expended.

Amendment offered by Mr. Dornan: Page 90, after line 6, insert the following new section and redesignate the following sections accordingly:

PROHIBITION AGAINST THE USE OF PERSONNEL FUNDS TO FORCE RACIAL/ETHNIC QUOTA BUSING

Sec. 437. No funds appropriated under the authorization contained in section 436 may be used to assign Department of Education personnel to promote or to provide for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to establish racial or ethnic school attendance quotas or guidelines in any school or school system, or for the transportation of students or teachers (of for the purchase of equipment for such transportation) in order to carry out such a plan in any school or school system.

MR. [JACK] BROOKS [of Texas]: Mr. Chairman, I make a point of order against the amendment. . . . [T]he language of section 436 that says that this authorization is subject to any limitation applicable with respect to any function transferred to the department, was added to the bill to negate any inference that this section authorizes any funds for programs so transferred.

Now, the section is designed to authorize only those additional appropriations which are necessary to establish and operate the department. Funds provided to public and private entities under the programs of the department are not authorized by this section, but by legislation subject to the jurisdiction of other committees and not now before the house.

An amendment to limit or constrain the use of those funds is, therefore, not germane to this bill. . . .

MR. [ROBERT K.] DORNAN [of California]: . . . Mr. Chairman, I may be supporting the bill. I do not think this is a frivolous amendment. I believe it is germane.

So as not to waste the time of this body or of this committee, I asked the parliamentarian last week to take an initial look at this. He said that it might take some further study, but that it looked germane at first view.

What it attempts to do, if it appears slightly redundant, is to make sure that the Department of Education is not crippled by the burden of reverse discrimination dealing with quotas, busing or teacher transfers. The teacher transfer problem is one to which my own brother has been subjected after teaching in a Los Angeles school system for 12 years.

I will accept whatever ruling the Chair issues to this one section and

not legislating in an appropriations bill, to point out areas in which money cannot be spent and to allocate any personnel to carry out someone else's school plan or to have a brand new department of education suffering under the burden of coming up with their own, I think would get the new department off to a bad footing for this or what I expect to be a whole new administration starting on January 20 of 1981. . . .

THE CHAIRMAN:[14] The Chair is prepared to rule.

The Chair recognizes that amendments are ordinarily germane which limit the uses to which an authorization of appropriations or an appropriation for an existing program may be put; however, the Chair knows of no precedent applying that principle to a bill which is only organizational in nature. Ordinarily, bills authorizing or making appropriations to carry out existing statutes emerge from the committees which have reported such statutes and which during the authorization and appropriation process have exercised oversight over the manner in which those programs are and should be carried out; but the fundamental issue involved with the pending bill is not whether those programs should be carried out as it is with annual authorizations or appropriations, but who should administer them. . . .

To allow as germane the amendment proposed by the gentleman from California would be to impinge upon the jurisdiction of the committees responsible for overseeing and authorizing the administration of the laws transferred by the pending legislation, and would broaden its scope beyond an organizational bill to one also modifying and limiting the programs proposed to be transferred intact to the new department.

The Chair believes that it is important to understand the impact which section 436 has upon the bill.

In this regard, the Chair will focus upon the first clause in that section, which on its face renders the authorization for appropriations subject to any limitations on appropriations applicable with respect to any function transferred to the department or secretary. Since the basic purpose of this bill is to create a new departmental entity to carry out existing educational programs and policies, it is reasonable to infer that the thrust of section 436 is merely to assure under the rules of the House that appropriations both for substantive educational programs and for administrative expenses of the new department as an organizational entity will continue to be considered as authorized by and subject to provisions of existing law.

Thus, amendments to section 436 which attempt to restrict the availability of funds authorized therein in ways which are not addressed by existing law, such as the denial of funds to pay salaries and expenses to persons who promulgate regulations relating to some newly stated aspect of educational policy, are beyond the scope of title IV. Title IV establishes an administrative structure within the new department to carry out presently enacted educational programs and policies. Such a title should not, in an organizational bill, be open to amendments which redirect the administration of educational programs in ways

14. Lucien N. Nedzi (Mich.).

not precisely contemplated by existing law.

Accordingly, the Chair sustains the point of order.

E. RELATION OF AMENDMENT OR BILL TO EXISTING LAW

§ 35. Amendments to Bills Which Amend Existing Law

It has been held that the rule of germaneness applies to the relationship between a proposed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend,[15] except where the bill is a continuation or re-enactment of existing law, in which case amendments seeking to modify the law being extended in a germane manner may be germane to the bill,[16] or where the bill so comprehensively or diversely amends an existing law as to permit amendments which are germane to other provisions of that law.[17] Thus, the germaneness of an amendment that proposes to change existing law may depend on the extent to which the bill itself seeks to change the law. A bill comprehensively amending several sections of existing law may be sufficiently broad in scope to admit as germane an amendment which is germane to another section of that law not amended by the bill.[18] But where a bill amends existing law in one narrow particular, an amendment proposing to modify such existing law in other particulars will generally be ruled out as not germane.[19] As an example, if a bill seeks only to modify the penalty provisions of a law proscribing specified conduct, an amendment will not be germane if it seeks to broaden the scope or alter the applicability of such law.[20] It is generally held, therefore, that, to a bill amending existing law in one particular, an amendment proposing to modify an unrelated section of the law[1] or relating to terms of that law that are not referred to in the bill[2] is not ger-

15. See § 18.7, supra.

16. See 8 Cannon's Precedents § 2941, cited in § 35.7, infra.

17. See §§ 35.49, 35.78, 35.81, 35.93, 35.95, infra.

18. See § 35.78, infra.

19. See, for example, §§ 35.23, 35.48, 41.12, infra.

20. See § 41.12, infra.

1. See § 35.48, 35.69, infra.

2. See §§ 35.16, 35.25, 41.5, infra.

To a bill amending one section of existing law to accomplish a par-